



# Protecting Internally Displaced Persons: a Handbook for National Human Rights Institutions



Front cover photo: Burkina Faso. An internally displaced woman sells blocks of cement in Koumkouli, Kaya, a neighbourhood housing both host and displaced people (2021).

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A 30-year-old Nigerian woman was forced to flee to Diffa in 2019, when heavy rains flooded her crop fields and house in Chitemari, Niger (2021). © UNHCR/Sylvain Cherkaoui

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# FOREWORD

Over 50 million people were estimated to be internally displaced by the end of 2020 due to conflict, disasters, human rights violations and violence. Given the multiple drivers of displacement, human rights infringements are often experienced before, during and after displacement and can be difficult to detect and resolve. Human rights infringements are often wide-reaching in their impact, affecting internally displaced people (IDPs), host communities and local authorities.

National Human Rights Institutions (NHRIs) are vital to protecting the human rights of the internally displaced. NHRIs monitor the human rights situation of IDPs before and during displacement, as well as their progress towards durable solutions; report on their human rights violations, including discrimination, and investigate individual complaints and conduct inquiries into serious violations of IDPs' human rights. Additionally, NHRIs work with legislative bodies to develop national and local laws, policies and regulations; conduct campaigns to raise public awareness of IDPs, and work with IDPs.

This handbook analyses the role and activities of NHRIs in addressing the human rights dimensions of internal displacement. It provides an overview of good practices, experiences and lessons learned, and serves as a practical tool for NHRIs and other stakeholders around the world. It builds on the work by the Special Rapporteur on the human rights of internally displaced persons, the Global Alliance of National Human Rights Institutions (GANHRI), and the UN system and its partners that support NHRIs through capacity-building and resources.

The handbook finds that, despite the many challenges facing NHRIs, including threats and risks, NHRIs have a leading role in ensuring that human rights are an intrinsic part of responses to, and prevention of, internal displacement. They are an important bridge between international stakeholders, national authorities, civil society and populations affected by internal displacement. Yet, while NHRIs collaborate with governments and stakeholders, they remain independent. Their ability to act without interference has helped them establish trust with affected populations where there is scepticism about law and authority figures. This trust also allows NHRIs to support IDPs and the surrounding community by collecting and analysing valuable information and data to advise decision makers on how to resolve conflicts, and by developing policies and strategies to protect and find durable solutions for IDPs.

To this end, the UN system, GANHRI and our partners will continue to provide support to NHRIs across the globe as they seek to promote respect for the rights of IDPs in line with international human rights standards and the Sustainable Development Goals (SDGs).

This handbook is a clear reflection of our joint commitment to work together to help NHRIs to fulfil their mandates and stand up for human rights.



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# PURPOSE OF THIS HANDBOOK

National Human Rights Institutions (NHRIs) are established in accordance with the Paris Principles, either by constitution or statute, and have a broad mandate. They hold States accountable to their national, regional and global human rights obligations, with special attention given to the most vulnerable people. Increasingly, some of the most vulnerable people across the world are those on the move, either voluntarily or forcibly. While many forcibly displaced persons seek refuge in other countries, most flee within their national borders as internally displaced persons (IDPs).

As noted in the report presented to the Human Rights Council by the UN Special Rapporteur on the human rights of internally displaced persons in 2019 examining the role of NHRIs in relation to internal displacement due to all causes, NHRIs have a critical role to play in promoting and protecting the human rights of IDPs and other displacement-affected communities across all phases of displacement, from prevention to durable solutions.<sup>1</sup>

The report was built on previous work carried out by the Special Rapporteur in collaboration with the Global Alliance of National Human Rights Institutions (GANHRI), the Office of the United Nations High Commissioner for Refugees (UNHCR), the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Development Programme (UNDP). In February 2018, these actors co-organized a round table to:

- take stock of policy and operational responses of NHRIs at the local, national and regional level;
- enable NHRIs to exchange experiences and strategies relating to the protection of IDPs;
- discuss challenges, and identify key lessons and emerging good practices as well as concrete recommendations on how the role of NHRIs in promoting and protecting the human rights of IDPs can be strengthened and supported.

In March 2019, a follow-up event specifically looked at NHRIs' role in addressing the root causes of internal displacement. The development of a practical guidance tool that NHRIs could use, bringing together existing knowledge and expertise, was a clear recommendation resulting from these discussions. This work builds on the Special Rapporteur's report on the role of NHRIs in internal displacement situations, and also aims to support the dissemination of its findings and recommendations.

This handbook is intended primarily as a guide for NHRIs to build a deeper understanding of:

1. the Guiding Principles on Internal Displacement and other relevant international and regional standards, key concepts, causes and effects related to internal displacement;
2. the essential role of NHRIs in preventing forced and arbitrary displacement, and in promoting and protecting the human rights of IDPs in emergency settings and in their search for durable solutions, including by providing concrete examples of existing good practices;
3. how NHRIs can work with each other, with GANHRI and their regional or subregional networks, as well as with other regional and global partners, to advance the human rights of IDPs.

This handbook was developed during the COVID-19 pandemic, which has had a dramatic impact on the most vulnerable, among them many IDPs. Witnessing this impact has served as a harsh reminder of the importance of a human rights-based approach that prioritizes the respect, promotion, protection and fulfilment of the rights of all, particularly those in vulnerable situations. The fundamental role NHRIs can play has therefore never been clearer.



*Special Rapporteur on the human rights of IDPs opening the 2018 roundtable with NHRIs (credit: UNHCR)*



*A Chadian farmer, 75, was forced to flee to Baga Sola in Lake Chad Province after Teteoua, his village, was attacked by Boko Haram militants in 2015 (2021). © UNHCR/Sylvain Cherkaoui*

## PART 1: UNDERSTANDING INTERNAL DISPLACEMENT

### 1.1 WHO ARE INTERNALLY DISPLACED PERSONS? WHAT HUMAN RIGHTS CHALLENGES DO THEY FACE?

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At the end of 2020, over 55 million people were estimated to be internally displaced worldwide.<sup>2</sup> They were forced to flee their homes because of conflict, violence, human rights violations, disasters and the adverse effects of climate change. Unlike refugees, they did not cross borders to seek safety. Nevertheless, displacement is a continuum – from internal to cross-border and vice versa – hence the need for a continuum of protection and solutions for all those forcibly displaced.

The impact of internal displacement on IDPs, as well as on the local authorities and communities that host them, can be devastating. Loss of access to homes, lands, livelihoods, personal documentation, family members, and social networks can negatively affect the ability of IDPs to assert and enjoy a range of fundamental rights.<sup>3</sup> Forced displacement also impacts people differently depending on their age, gender and other diversity factors; very often IDPs suffer from multiple and cross-cutting discrimination and human rights violations throughout the displacement cycle.



Wherever IDPs choose to settle, their basic needs are often severely neglected. Areas of refuge may lack or have inadequate access to shelter, water and food. Even where such services do exist, the influx of IDPs into already populated areas may lead to discrimination, further abuse, insecurity, and violence where tensions increase due to competition over increasingly scarce resources. IDPs' lack of personal documentation – whether it was lost or left behind – can effectively bar their access to government services. Access to basic services such as health care, particularly for those with disabilities, older people and pregnant women may be impossible to obtain, and education can be inaccessible or even denied to IDP populations. Work, and therefore access to money, may be difficult to find even for the host communities, let alone IDPs. The physical and mental toll of such conditions can be immense.

The gravity of the situation has escalated over the last two decades. Evidence shows that internal displacement nowadays is a global issue affecting millions of women, men, girls and boys across regions, including the most vulnerable. This is not a temporary phenomenon, but one that tends to become protracted if not adequately addressed in time.

“Internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border”.

“Guiding principles on internal displacement”  
(United Nations, 1998), Introduction

In addition, IDPs have also been defined as “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of large scale development projects, and who have not crossed an internationally recognized State border.”

“Protocol on the protection and assistance to internally displaced persons”  
(International Conference on the Great Lakes Region, 2006), art. 1(5)

The key features of internal displacement are its **coerced or otherwise involuntary nature**, and its occurrence **within national borders**. It is therefore the primary responsibility of national governments to provide protection and assistance to IDPs.

The concept of “internally displaced person” does not convey a particular legal status like “refugee” does. IDPs remain citizens or habitual residents of their State and are entitled to protection and assistance on that basis alone, as stated in the Guiding Principles on Internal Displacement. The term describes the factual circumstances of an individual or group. Even if or when a State registers IDPs for a specific purpose, this should not become the basis for creating a new legal category of persons with IDP status, to be granted or revoked.<sup>4</sup>

By not making any reference to citizenship, the Guiding Principles on Internal Displacement have covered the full scope of possible IDPs, including foreigners and stateless persons residing within a given jurisdiction. 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 can also qualify as IDPs. IDPs who are non-citizens, however, are not automatically entitled to the rights that may be specifically reserved for citizens under applicable international and domestic law, such as the right to vote and to participate in governmental and public affairs.

As per its definition, internal displacement can happen as a result of or in order to avoid the effects of the following non-exhaustive list of causes:

**Armed conflict:** As defined under international humanitarian law, populations are being, or are likely to be, attacked. Such conflicts may arise between States, between States and non-State actors, or between non-State actors.<sup>5</sup>

**Disasters:** Natural and human-made disasters include both sudden and slow-onset disasters under certain circumstances, such as those provoked by the adverse effects of climate change.<sup>6</sup> In various parts of the world, disasters caused by natural hazards such as floods, tsunamis, typhoons, drought and landslides, combined with often limited or inadequate disaster risk reduction and management measures, uproot millions from their homes every year.

**Generalized violence:** The intensity or level of this violence is not as high as that associated with armed conflict, according to the 1949 Geneva Convention and Protocols I and II. It occurs when national security agents are either unable or unwilling to exercise their protection mandate towards civilians.

**Human rights violations:** These can take the form of routine and/or systemic human rights violations such as arbitrary killings and detentions, ill treatment, torture, sexual or gender-based violence, and/or violations of housing, land and property rights; rights to food, water, livelihoods and health care, or any kind of discriminatory practice targeting specific populations. These violations could be state sanctioned or abetted on political, religious, ethnic, racial or other grounds, or due to weak legal and judicial systems, leading to the impunity of perpetrators. Such violations are often the major drivers of conflict and must be addressed in all phases of displacement. Procedural rights violations are particularly common in the case of planned relocations, evacuations or evictions.

### In focus: Displacement caused by development projects

Development-based evictions have increasingly become a major cause of displacement, either due to large-scale infrastructure projects (construction of roads, dams, airports, large-scale land acquisitions, urban renewal, city beautification, or major international business or sporting events etc.), extractive projects (mining, mineral and oil explorations, logging) or environmental conservation projects. In some countries, these displacements disproportionately affect indigenous people, leading to loss of not only land, but also livelihoods and access to cultural and religious sites or shrines.

Where such evictions are unavoidable, obligations exist to ensure that those evicting respect human rights and due process at all phases of the process (before, during and after).<sup>7</sup> International standards call for specific procedural requirements/safeguards where displacement due to development projects cannot be avoided. **Guiding Principle 6** asserts that displacements should be prohibited “in cases of large-scale development projects, which are not justified by compelling and overriding public interests”. The **Kampala Convention** (art. 10) provides that States, “as much as possible, shall prevent displacement caused by projects carried out by public or private actors” and requires that “the stakeholders concerned will explore feasible alternatives, with full information and consultation of persons likely to be displaced by projects”. Likewise, the Great Lakes Protocol (art. 5.1), requires States to “ensure that displacement owing to large-scale development projects shall be justified by compelling and overriding public interest and development. Member States shall therefore ensure that all feasible alternatives of development are explored in order to avoid development induced displacement altogether.”

The United Nations “Basic principles and guidelines on development-based evictions and displacement”<sup>8</sup> – presented by the Special Rapporteur on the right to adequate housing and acknowledged by the UN Human Rights Council in 2007 – is the current international operational tool aimed at minimizing forced evictions, ensuring the human right to adequate housing for all people and communities threatened with evictions, and promoting human rights-based standards related to housing, rehabilitation and resettlement. This is an excellent additional tool for National Human Rights Institutions (NHRIs) and other actors dealing with these issues.



Displaced children going to fill water from the water distribution point in Al-Rawdah camp in Marib, Yemen (2021). © UNHCR/YPN/Jihad Al-Nahari

## 1.2. WHAT CONSTITUTES A DURABLE SOLUTION FOR IDPs AND HOW CAN PROGRESS BE MONITORED?

The specific needs and human rights concerns of IDPs do not automatically disappear when a conflict or natural disaster ends, nor when IDPs initially find safety from ongoing conflict or disaster. Rather, IDPs – whether they return to their homes, settle elsewhere in the country or try to integrate locally – usually continue to face a myriad of challenges, and require different forms of support so that they can find a durable solution to their displacement.

According to the Inter-Agency Standing Committee (IASC) Framework on Durable Solutions for IDPs,<sup>9</sup>

*“[a] durable solution is achieved when internally displaced persons no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement.”*

A durable solution can be achieved through:

- sustainable reintegration at the place of origin (often referred to as “return”);
- sustainable local integration in areas where IDPs seek refuge (local integration);
- sustainable integration in another part of the country (settlement elsewhere).

IDPs’ search for solutions is a complex and gradual process that addresses human rights, humanitarian, development, reconstruction and peacebuilding challenges. It needs to be supported from the onset of a crisis to avoid the risk of protracted, multiple and recurrent displacement. This process requires the coordinated and timely engagement of different actors.

The IASC framework is a human rights-based framework, and a key reference tool for NHRIs that want to engage in monitoring and promoting IDPs' access to durable solutions. In particular, the framework answers the following questions:

1. *What key principles should guide the search for durable solutions?*

- The primary responsibility for the achievement of durable solutions lies with the State.
- National and international actors from the humanitarian and development sectors have a complementary role to play and should be given rapid and unimpeded access to IDPs.
- IDPs' needs, rights and legitimate interests should be the primary consideration, and should guide all internal displacement laws and policies.
- IDPs' right to make an informed and voluntary choice about their settlement options should be respected, as should their right to participate in the planning and management of strategies and programmes that facilitate durable solutions.
- IDPs should not be discriminated against on the basis of their displacement, or their race, religion, gender, language, religion, political or other opinion, national or social origin, disability, age, marital and family status, nationality or other status.
- A community-based approach should be adopted that addresses the needs of both IDPs and their hosts, which in turn reduces the risk of tensions arising and facilitates (re)integration.

2. *How should a rights-based process to support durable solutions be organized?*

A rights-based approach should ensure that:

- IDPs are in a position to make a voluntary and informed choice on which durable solution they would like to pursue;
- IDPs participate in the planning and management of durable solutions, so that recovery and development strategies address their rights and needs;
- IDPs have access to humanitarian and development actors;
- in cases of displacement caused by conflict or violence, peace processes and peacebuilding initiatives involve IDPs and host communities to reinforce durable solutions;
- IDPs have access to **effective monitoring mechanisms**; the framework explicitly mentions the **role of NHRIs** in this regard. It highlights that NHRIs should enjoy free and unimpeded access to areas of IDP return or settlement and to individual IDPs, as scrutiny by independent actors complements the efforts of national and local authorities and humanitarian and development actors in monitoring their own work. Independent mechanisms should ensure the transparency of their work through public reporting.

3. *What criteria determine to what extent a durable solution has been achieved?*

- long-term safety and security;
- enjoyment of an adequate standard of living, including equal access to housing, health care and education;
- access to livelihoods and employment;
- effective and accessible mechanisms to restore housing, land and property;
- access to personal and other documentation;
- family reunification;
- participation in public affairs;
- access to effective remedies and justice.

It will be necessary for NHRIs to bear in mind the specific situation and context when applying these criteria. Moreover, these criteria are interlinked and overlap (e.g. the restoration of land has a positive effect on livelihoods and standard of living). As noted earlier, underpinning the eight criteria is the principle of **non-discrimination** (including on the grounds of being displaced).

## 1.3 THE INTERNATIONAL LEGAL FRAMEWORK FOR THE PROTECTION OF IDPs

IDPs are entitled to enjoy, on an equal basis and without discrimination, the same rights and freedoms under international and national law as other people in their country. Internal displacement occurs in situations of peace, conflict and disasters, and IDPs' human rights are often widely neglected, disregarded or violated. There is no global treaty dedicated to IDPs, although several bodies of international law contain norms relevant to prevention, assistance, protection and durable solutions to internal displacement:

- [International human rights law](#) applies in all circumstances, in times of peace and war.
- [International humanitarian law](#) applies in situations of armed conflict.
- [International criminal law](#) governs individual criminal responsibility for international crimes such as war crimes, crimes against humanity, genocide and aggression.
- [International disaster law](#) is an emerging area of law covering preparedness, response to, and recovery from, different hazards such as earthquakes, storms and industrial accidents.
- While international refugee law does not apply in situations of internal displacement, some of its provisions informed, by analogy, the development of the Guiding Principles on Internal Displacement.

As citizens or habitual residents of their country, IDPs remain entitled to full and equal protection under the State's national law, which should be compatible with the State's obligations under international law. They require States to protect and respect individual rights and ensure IDPs' enjoyment of these rights, including through mechanisms for remedy where there are violations or non-compliance.

### The Guiding Principles on Internal Displacement

Developed in 1998 in a process led by the first Representative of the Secretary-General on the human rights of internally displaced persons, Francis Deng, the Guiding Principles on Internal Displacement<sup>10</sup> are a collection of 30 principles that authoritatively reflect, in plain language, norms of international law that are most relevant in situations of internal displacement, and clarify how they apply in such settings. For more detailed information on the legal standards behind each principle, see the Guiding Principles Annotations.<sup>11</sup>

The Guiding Principles serve as both authoritative guidance and a practical tool for States to take prevention, response and durable solutions measures to comprehensively address internal displacement. National authorities worldwide have recognized the Guiding Principles as an important international framework for the protection of IDPs and reflected its provisions in laws, policies, plans, decrees, frameworks and protocols that regulate some or all aspects of displacement.



## Guiding Principles on Internal Displacement: an overview

<b>Introduction</b>	Provides a definition of IDPs. Affirms that the Principles reflect international human rights law and international humanitarian law. Explains the purpose of the Principles, namely to provide guidance in situations of displacement.
<b>I. General Principles</b> (Principles 1–4)	National authorities have the primary responsibility to protect and assist IDPs within their jurisdiction. IDPs are entitled to enjoy in full equality the same rights and freedoms as other people in their country and shall not be discriminated against. Certain IDPs, especially unaccompanied minors, expectant mothers, mothers with young children, female heads-of-household, people with disabilities and older persons, might require specific attention.
<b>II. Protection from Arbitrary Displacement</b> (Principles 5–9)	Articulates a right not to be arbitrarily (unlawfully) displaced and spells out the situations in which displacement is absolutely prohibited. States have a duty to avoid the displacement of populations unless absolutely necessary and to protect against the displacement of groups with a special dependency on their lands. When displacement is unavoidable, certain guarantees must be established for displacement to be lawful.
<b>III. Protection during Displacement</b> (Principles 10–23)	All persons, including IDPs, should enjoy a broad range of civil, political, economic, social and cultural rights, including the rights to life and to protection against acts of violence and torture, sexual and gender-based violence, landmines, and recruitment of children into armed forces or groups and their participation in hostilities; to safe access to essential food, potable water, basic shelter, appropriate clothing, medical services and sanitation; to freedom of movement, including in and out of IDP camps; to seek asylum in another country; to personal documentation; to respect for family life and unity; to education and training, equally for women and girls; to employment and participation in economic activities; and to vote (for citizens) and participate in government and public affairs.
<b>IV. Humanitarian Assistance</b> (Principles 24–27)	When State authorities are unable or unwilling to provide assistance to IDPs, international organizations have the right to offer their services and to enjoy rapid and unimpeded access to IDPs. Humanitarian assistance shall be provided consistent with the principles of humanity and impartiality and without discrimination. Humanitarian actors should take into account and work to address both the assistance and the protection concerns of IDPs.
<b>V. Return, Resettlement and Reintegration</b> (Principles 28–30)	IDPs should have access to a durable solution to displacement, which would include the rights to return to their place of origin, integrate locally at the displacement site, or resettle elsewhere in the country voluntarily, safely and in dignity; participate in the planning associated with their return or settlement and reintegration; return of lost property or, where not possible, compensation; and equal access to public services.

## Other international standards and frameworks relevant to internal displacement

### *UN Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles)*

The Pinheiro Principles<sup>12</sup> were adopted in 2005 by the UN Sub-Commission on the Protection and Promotion of Human Rights. They are not legally binding but are intended to provide practical guidance to States, UN agencies and the broader international community on how best to address the complex legal and technical issues surrounding housing, land and property restitution for both refugees and IDPs, who, by fleeing, leave their properties unprotected and unattended and therefore susceptible to misappropriation. They are grounded on existing international normative frameworks in the area of housing and property restitution rights, and on existing international human rights and humanitarian law.

## In focus: What are housing, land and property rights in displacement contexts?

Housing, land and property (HLP) rights are about having a home, free from the fear of forced eviction; a place that offers shelter, safety and the ability to secure a livelihood. HLP refers to the rules and arrangements that make it possible for people to live on their land and use their property and resources. HLP is not only about laws (although laws are important); it also involves practices, customs and attitudes that revolve around the full spectrum of rights to public and private housing, land and property.

Human rights law provides that everyone, everywhere, possesses a body of HLP rights and that governments and States are obliged to ensure the protection and enforcement of these rights, including the right to adequate housing. Adequate housing guarantees legal security of tenure, availability, affordability, habitability, accessibility, and location and cultural adequacy. It is much more than a roof and four walls; it is the right to live in security, peace and dignity. Land rights are rights held to both land and natural resources. HLP rights are held by owners, tenants, cooperative dwellers, customary land tenure owners and users, and informal sector dwellers without secure tenure. Since the early 1990s, humanitarians have called attention to the importance of HLP rights in providing durable solutions for forcibly displaced people. From a human rights perspective, the concept of HLP is essential to ensure their protection and their enjoyment of a wide array of human rights.

Common HLP issues in displacement and humanitarian crises include tenure discrimination leading to inequitable assistance; loss of HLP documentation; lack of access to land for shelter and livelihoods; lack of access to natural resources such as water; land and property conflicts; forced evictions; secondary occupation; land grabbing; restitution challenges; and disinheritance, particularly of women and children. When HLP issues are misunderstood or ignored, serious protection concerns emerge that can lead to further conflict, violence, dispossession and displacement. However, if addressed in a clear, thoughtful and systematic way, this can improve trust within and between communities, and in governance institutions, and lead to sustainable solutions to displacement.<sup>13</sup>

## *Internal displacement and the 2030 Sustainable Development Agenda*

While there is no specific target or indicator on internal displacement, the 2030 Agenda pledges to “leave no one behind” and it specifically mentions IDPs as a vulnerable group that must be empowered through efforts to implement the Sustainable Development Goals (SDGs). It also places a strong emphasis on inclusion.<sup>14</sup> UNHCR and the Joint IDP Profiling Service (JIPS) have worked within the Expert Group on Refugee and IDP Statistics (EGRIS) to identify **three key policy areas** that are most relevant for forcibly displaced populations (basic needs and living conditions; livelihoods and economic self-reliance; and civil, political and legal rights) and mapped **12 top-priority indicators** to these areas.<sup>15</sup>

It is important that displacement be understood as a development issue, and a more long-term focus should be embraced early on. Prevention and durable solutions for internal displacement can only become a reality if addressed within national, regional and local development plans. It is good practice for States to include a focus on internal displacement in their voluntary national review (VNR) of SDG implementation, as Afghanistan and Nigeria did.<sup>16</sup>

Through the 2015 **Merida Declaration on the role of NHRIs in implementing the 2030 Agenda**,<sup>17</sup> NHRIs committed to working with other stakeholders to hold States accountable for delivering on the SDGs for the promotion and protection of human rights for all, including IDPs. NHRIs in all regions are already addressing issues of crucial importance to the Agenda in their regular work.

SDG 16 is of particular relevance, as it requires States to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”. One of its indicators is the “existence of independent national human rights institutions in compliance with the Paris Principles” (16.a.1). SDG 16, and the fact that causes of internal displacement include conflict, discrimination and exclusion, provide a clear rationale for NHRIs and States parties to fully incorporate prevention of, and durable solutions to, internal displacement in their efforts to achieve the SDGs.



A Chadian woman, 40, was forced to flee to Baga Sola in Lake Chad Province after Teteoua, her village, was attacked by Boko Haram militants in 2015 (2021). © UNHCR/Sylvain Cherkaoui

## 1.4 REGIONAL INSTRUMENTS ON INTERNAL DISPLACEMENT

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Although some regional organizations, such as the Organization of American States (OAS) and the Council of Europe, have emphasized the relevance and applicability of international standards on internal displacement to their regional contexts, also calling on their member States to develop legislation and national policies on internal displacement in line with international standards,<sup>18</sup> the first legally binding regional instruments for IDPs' protection were developed in Africa.

The Pact on Security, Stability and Development in the Great Lakes Region (GLR; known widely as the Great Lakes Pact), which was adopted by the Heads of State and government of the International Conference of the GLR (ICGLR) member States in 2006 and entered into force in 2008, includes 10 Protocols that are legally binding for all ICGLR member States. Two of those are particularly relevant to situations of internal displacement:

- the Protocol on the Protection and Assistance to Internally Displaced Persons;<sup>19</sup>
- the Protocol on the Property Rights of Returning Persons.<sup>20</sup>



The **Protocol on the Protection and Assistance to Internally Displaced Persons**, requiring States to incorporate the Guiding Principles into their national legislation, was the first legally binding instrument ever developed on the protection of IDPs. It paved the way for the development of the **2009 Africa Union Convention for the Protection and Assistance to Internally Displaced Persons (Kampala Convention)**, a landmark instrument that established a common regulatory standard for IDPs.

The Convention entered into force in 2012. It draws heavily from the Guiding Principles and is the first common regional framework to define roles and responsibilities for a wide range of institutions, organizations and other stakeholders operating in displacement settings, covering all phases of displacement. It takes an innovative approach, formulating responses tailored to the specifics of displacement in Africa. It obligates its States parties to integrate its provisions into domestic legislation by adopting laws and policies on internal displacement.

The **Harare Plan of Action for the Implementation of the Kampala Convention (2017–2022)**, which was adopted during the first Conference of States Parties to the Convention, explicitly mentions the role of NHRIs and the need for them to be supported in their functions with regards to IDPs. It outlines key steps that NHRIs can take to promote and protect the rights of IDPs, including:

- monitoring IDPs' conditions to ensure that they enjoy the same rights as other citizens in the country and do not face discrimination;
- reporting regularly on IDPs' situations;
- following up on early warnings of displacement and requesting effective measures to be taken by the authorities to protect populations against arbitrary displacement;
- advising and supporting the government (and legislative bodies as relevant) in the formulation of national laws, policies, strategies and action plans on internal displacement;
- monitoring and reporting on governments' implementation of national legislation and compliance with international treaty obligations;
- monitoring the return or resettlement of IDPs to ensure that such movements are voluntary and occur in safe, dignified conditions;
- networking with NHRIs in other countries and relevant regional bodies to share information and experiences on internal displacement with a view to developing best practices.

### Good practices: Promoting the Kampala Convention in Africa

Although the Kampala Convention does not explicitly refer to the role of NHRIs, African NHRIs have identified the promotion of its ratification and its incorporation into domestic law as key advocacy objectives. For example, in **Niger**, the *Commission Nationale des Droits de l'Homme et des Libertés Fondamentales* [National Commission on Human Rights and Fundamental Liberties – CNDHLF] played an important role in promoting ratification and supporting the development of a law on internal displacement in line with the Convention, which was adopted in 2018.<sup>21</sup>

However, implementation of the Convention remains poor, even in States that have ratified it, and significant advocacy efforts are being undertaken by some NHRIs to change this. African NHRIs, including through their regional networks, have worked at the (sub)regional and national level to advocate for a broadly mandated and effective Conference of States Parties to the Convention as an important regional monitoring and compliance mechanism, ideally with a reporting function to which they can contribute national-level information.



*An Ecuadorian woman and her children were left homeless after the earthquake destroyed 90% of the houses in Chamanga, Ecuador (2016). © UNHCR/Santiago Arcos Veintimilla*

## PART 2: ADDRESSING INTERNAL DISPLACEMENT: NATIONAL AND INTERNATIONAL RESPONSE

### 2.1 WHO IS RESPONSIBLE FOR PROTECTING IDPs?

#### A primary national responsibility

Responsibility for protecting IDPs and all persons within their own country primarily rests with national authorities. National responsibility is a core concept of any response to internal displacement. It is a fundamental operating principle of the international community and is routinely emphasized by governments themselves, as a function of their sovereignty.<sup>22</sup>

States have a responsibility to ensure that all individuals on their territory or under their jurisdiction have full and equal enjoyment of human rights. This duty extends to all agents of the State, including the military and the police, and all public authorities, whether at the national, regional or local level. As the primary duty holder, the State has the responsibility to require non-state actors within their jurisdiction to comply with human rights obligations.

But what does national responsibility towards IDPs entail? How can it be measured, promoted, reinforced and supported? “Addressing internal displacement: a framework for national responsibility”<sup>23</sup> identifies 12 indicators or benchmarks that provide guidance to governments on how to discharge an effective national response to internal displacement, one of which is explicitly dedicated to NHRIs.

In addition to ensuring the protection of rights in accordance with international law, national responsibility in situations of internal displacement entails:

1. preventing displacement and minimizing its adverse effects;
2. raising national awareness;
3. collecting data on the number and condition of IDPs;
4. supporting training on the rights of IDPs;
5. creating a legal framework upholding the rights of IDPs;
6. developing a national policy on internal displacement;
7. designating an institutional focal point on IDPs;
8. encouraging National Human Rights Institutions (NHRIs) to address internal displacement;
9. ensuring that IDPs participate meaningfully in decision-making;
10. supporting durable solutions;
11. allocating adequate resources to address internal displacement;
12. cooperating with the international community when national capacity is insufficient.

## The international institutional framework

Providing protection and assistance to IDPs is first and foremost the responsibility of the State and its institutions. The international community has an important role to play when national authorities lack the adequate capacity, or are unwilling, to ensure an effective response to internal displacement and humanitarian crises. In some cases, the very governments responsible for protecting and assisting their IDPs are directly involved in forcibly uprooting civilians. Even then, however, the role of international actors is to reinforce and complement, not replace, national responsibility.

Internal displacement and humanitarian crises often occur in the context of complex emergencies, characterized by the partial or complete breakdown of the State. Responding to such crises typically requires a multidimensional response – humanitarian, human rights, development, security, political – and the combined efforts of various actors at the national, regional and international level. The scale and scope of such crises exceed the mandate or capacity of a single agency or organization and require action by a range of humanitarian, human rights and development actors, within and beyond the United Nations system. In this way, activities in support of IDPs and other civilians at risk require a joint collaborative effort, for which coordination mechanisms exist.<sup>24</sup>

## NHRIs as part of multi-institutional approaches

### *In emergency settings*

NHRIs have an important role to play in placing human rights principles and standards at the centre of the humanitarian response. Often working alongside national and international partners, NHRIs can help to complete the picture of internal displacement, by undertaking joint monitoring and rapid assessment missions with partners, or acting separately with distinct human rights and protection objectives. For example, following earthquakes in **Ecuador** and **Nepal**, the NHRIs in both countries immediately deployed monitors to assess the human rights situation of IDPs.

Since NHRIs can play a valuable protection role, and be an important partner and link for protection actors, they are encouraged, when appropriate, to actively participate in **Protection Clusters** (or Protection Working Groups), where they exist. This is the case in a number of countries, such as **Niger** and **South Sudan**. In some cases, NHRIs even (co-)lead such platforms. For example, in **Kenya**, the Kenya National Commission on Human Rights was an integral part of the country’s response and co-chaired the National Protection Working Group (with the then Ministry of Justice and Constitutional Affairs, and the Ministry of Interior and Coordination of National Government), which was instrumental in coming up with policies and proposed interventions on internal displacement. This coordinated approach ensures not only that actors are implementing humanitarian

interventions, but also that these interventions are anchored to the human rights-based approach, so that the most vulnerable populations are not left behind. In **Nigeria**, the Human Rights Commission co-chairs at the national level of the Protection Sector Working Group, together with an international non-governmental organization (NGO). The sector consists of relevant governmental and non-governmental organizations, and national and international protection actors.

In many countries, humanitarian actors also enlist the help of partners to coordinate their work around specific areas of protection. Dedicated structures are usually established in the following areas of responsibility (AoRs): **child protection, gender-based violence, mine action and HLP**. NHRIs can also engage with such AoRs as relevant.

### Case study: Collaboration between Ombudsperson and HLP Working Group in Ukraine

In **Ukraine**, good collaboration has been established between the Ombudspersons' Office and the HLP Working Group with the aim of promoting the HLP-related aspects of durable solutions and transitional justice for conflict-affected people (including IDPs). More specifically, they aim to promote IDPs' access to compensation for damaged and/or destroyed housing, occupation for military use, and other HLP-related issues. The HLP Working Group Coordinator participated as a speaker at several advocacy events organized by the Ombudsperson, and the Norwegian Refugee Council (the NGO leading the Working Group) is a member of the Coordination Council on the Protection of the Rights and Freedoms of People Affected by Temporary Occupation or Armed Conflict, established within the Ombudsperson's Office. This collaboration strengthened the organizations' advocacy before the Government on the need to establish an effective compensation mechanism for violated property rights due to the armed conflict. As a result, it significantly contributed to the development and adoption of a national legal framework on compensation for destroyed housing benefiting IDPs.

NHRIs can also engage with UN country teams or humanitarian country teams, as outlined in various documents.<sup>25</sup>

### *In protracted displacement situations*

Internal displacement frequently persists after the immediate humanitarian crisis has ended, and there is often a major gap in protection and achieving durable solutions that requires the engagement of NHRIs. When displacement becomes protracted, the role of NHRIs is critical in keeping attention fixed on the human rights of IDPs as key humanitarian partners reduce their presence and activities. Protracted situations lead to increased poverty levels among IDPs. Often the most vulnerable take the longest to secure durable solutions since they become increasingly marginalized, also posing an obstacle to self-sufficiency.

The role of NHRIs in advocating for durable solutions for IDPs is vital where attention to their concerns and rights has waned over time – including on the part of the government – especially where policy frameworks and institutional arrangements were only meant for short-term humanitarian interventions. The nature of protracted displacement means that NHRIs may need to be closely engaged with IDPs for months or even years, until all displacement-related human rights concerns are addressed and sustainable durable solutions are achieved.

## Case study: Promoting durable solutions for IDPs and returnees in Sri Lanka

To address the protracted internal displacement situation of the residents of the twin Islands of Iranaitheevu in the Northern Province of Sri Lanka, the Human Rights Commission of Sri Lanka<sup>26</sup> was able to use its mandate through collaborative efforts with the displaced community, human rights defenders, the media and civil society to bring to the attention of relevant State officials the plight of about 200 families that had been displaced from these islands due to conflict over 20 years earlier. Following the conflict, the Navy occupied the islands, only allowing residents sporadic and limited access. After 2007, the Navy initially totally prohibited entry but after negotiations, it allowed IDPs restricted daily entry for fishing on the coastline; they were not allowed to stay overnight. These measures had dramatic economic and social consequences for the displaced populations. Over time, most of the basic facilities and local houses collapsed for lack of care, replaced by temporary huts with inadequate access to water and sanitation, and no electricity.

In 2018, in response to complaints received concerning IDPs' desire to return to their place of origin and the authorities' restrictions, as well as IDPs' limited access to livelihoods as a result, a team from the Human Rights Commission organized several monitoring visits to the islands and verified the complaints. The team found broken-down water wells, few toilets and limited access to clean drinking water; a lack of organized public transport within and into the islands, leading to disruptions in both social and economic activities for IDPs/returnees; and a lack of permanent health facilities within the islands, compounding the overall situation. Evidently, the health needs and requirements of the communities were not being met. The armed forces were occupying most of the land, including a church which IDPs/returnees could no longer access freely.

In 2019, the Commission organized a "mobile service provision day" in collaboration with relevant government authorities, with the aim of facilitating face-to-face interactions between the communities and service providers. The Commission used handbills and media outlets to announce the event. Among the public institutions invited were the Divisional Secretary, women development officers, land officers, probation officers, the registrar, the police, health officers, labour officers, legal aid officers and fisheries. The occasion provided an opportunity for the authorities to identify and undertake immediate-, medium- and long-term actions to address the protracted issues faced by IDPs and returnees, which the Human Rights Commission continued to monitor.



A two-year-old Yemeni girl, displaced by conflict in Al Jawf, at the hosting site for IDPs in Marib, Yemen (2020). © UNHCR/Marie-Joëlle Jean-Charles



*In Ethiopia's Tigray region, the conflict has displaced hundreds of thousands of people, who sought shelter in communal sites such as school campuses in the larger cities in the region, Mekelle and Shire (2021). © UNHCR/Hanna Qassis*

## 2.2 THE ROLE OF NHRIs IN SITUATIONS OF INTERNAL DISPLACEMENT

### Mandate, capacity and expertise

#### Mandate

NHRIs are either constitutional or statutory bodies established in compliance with the Paris Principles.<sup>27</sup> They are required to be independent and have the widest possible mandate for the promotion and protection of human rights. In this regard, they are the primary national institution that promotes and monitors State compliance with human rights obligations at the national, regional and global level.

That NHRIs can play a valuable role in promoting and protecting the rights of IDPs has been recognized by various UN resolutions.<sup>28</sup> While some NHRIs may have a dedicated focus on IDPs (often combined with a focus on migrants, refugees and other people on the move) explicitly mentioned in their mandates, most do not. Therefore, NHRIs use their general mandates, especially regarding vulnerable persons, to advocate for the promotion and protection of the rights of IDPs and others in situations of mobility. By acknowledging that internal displacement is a human rights issue that falls within the mandate of NHRIs, governments can encourage (and financially support) NHRIs' efforts to promote the human rights of the internally displaced.

Although NHRIs generally have broad mandates to monitor, investigate and report on a range of human rights issues in their countries, several NHRIs have been very actively engaged, at least at different points in time, on internal displacement. In recent years, an increasing number around the world have begun to integrate attention to internal displacement into their work.

The document “Addressing internal displacement: a framework for national responsibility” identifies a number of ways for NHRIs to engage with internal displacement issues,<sup>29</sup> including the following:

- 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, on the rights of IDPs;
- 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.

As human rights bodies, NHRIs’ mandate does not cover the provision of humanitarian assistance, although where they are close to communities and victims of violations, they are often expected to step in. In such contexts, it is critical for NHRIs to be clear about their mandates and avoid creating unmanageable expectations. Nonetheless, these situations require NHRIs to draw on their existing strengths such as advocacy and a diversity of networks, to strengthen the promotion and protection of IDPs’ human rights.

### Internal capacity and expertise

Numerous NHRIs have attuned their functions to become more aware of the protection concerns of IDPs and do more to address them. The establishment of institutional focal points or units on internal displacement within NHRIs (as in **Ethiopia, Honduras, Kenya and the Philippines**), or the identification of displacement as a thematically focal area of work (as in **Nigeria**<sup>30</sup>), constitute examples of good practice, with several countries having found them to be effective tools in promoting greater institutional and national attention for the protection of IDPs.

For example, the ombudsperson’s Office of **Colombia** established a dedicated focal point (*Defensoria Delegada*) on internal displacement, which was recently expanded to human mobility. The unit has the following functions:

- Establish and adopt policies, plans and programmes to protect and assist victims of forced displacement, and follow up on the prevention, protection and socioeconomic stabilization of the displaced population in accordance with the norms and functions of the Office, by considering an age, gender and diversity approach that allows for the formulation of pertinent recommendations.
- Adopt, adjust and/or modify the Office’s processes and procedures for the assistance of victims of forced displacement, in accordance with its functions as indicated by law and regulation.
- Guide and support the Regional Ombudsperson’s Offices for the assistance of victims of forced displacement (or those at risk) and follow-up on the prevention, protection and socioeconomic stabilization of the displaced population.
- Establish guidelines for the formulation of recommendations (and their follow-up) on public policy measures to the national, departmental and municipal authorities in matters of prevention, assistance, protection and consolidation, and socioeconomic stabilization of the displaced population.
- Establish the processes, and guide the methods and mechanisms, for monitoring compliance with the orders issued by the Constitutional Court and the jurisprudence on forced displacement.
- Coordinate and monitor the “community defenders” programme in the border areas and the institutional strategy, “Casas de los Derechos”, for the due fulfilment of the Office’s functions granted by law and regulation.

These units can be established early as part of preventive and early-warning measures and not just in response to displacement incidents. Even in States with little or no experience of displacement due to conflict or disaster, establishing institutional knowledge and expertise is recommended as a preparedness measure, and this can also be used to address displacement due to development or infrastructure projects, or incidents of ethnic, religious or political violence.

NHRIs decide on the appropriate solutions for establishing institutional knowledge of internal displacement within their organizational and operational structures. Whichever solution is favoured, building institutional resources and capacity, including by training existing staff, is essential. Where lack of technical knowledge is identified, NHRIs should be proactive in seeking international support.

### Sanremo courses on internal displacement

Every year, the International Institute of Humanitarian Law in Sanremo, in collaboration with UNHCR and the Special Rapporteur on the human rights of internally displaced persons, organizes courses on internal displacement (in English, French and Spanish) which are open to all relevant stakeholders, and have been attended by several members of NHRIs. The courses cover the key components of the protection of IDPs throughout their displacement cycle. International norms underpinning the protection of IDPs, including the Guiding Principles on Internal Displacement and the Kampala Convention, are analysed to improve understanding of the causes and consequences of internal displacement, its current global trends, the protection risks faced, and the search for, and implementation of, durable and sustainable solutions for IDPs. Cross-cutting issues such as HLP, data collection, and international community coordination mechanisms are also addressed. The delivery methodology of the courses is highly participatory.<sup>31</sup>

## Working in proximity to IDPs and promoting their participation

Given the often grave human rights threats and challenges associated with internal displacement, it is essential that NHRIs be close to IDP communities and have strong community engagement. Their independence from any interference, direct contact with individuals, advice and expertise have won people's trust even in contexts with incidents of weak rule of law or general distrust of public authorities. A direct presence in IDP communities is important to improve the quality and availability of information and data on IDPs, which can be used at the national, regional and global level for operational, legislative and policy interventions. It can also improve engagement, trust and understanding with communities, and accelerate clarification of issues, leading to better-quality advocacy and programming. This, in turn, enables better resourced, more targeted protection and assistance.<sup>32</sup>

The role of NHRIs in promoting an IDP-centred approach and facilitating the participation of IDPs and other displacement-affected communities across all groups – including the most vulnerable – in decision-making processes affecting them is also essential. The Guiding Principles restate this fundamental right, yet experience shows that IDPs are rarely fully consulted and their participation is minimal.<sup>33</sup> This may include participation in the planning and management of durable solutions, peace processes, political participation, and participation in the development of laws, policies, strategies and plans to prevent and address internal displacement.

While it is essential that NHRIs' presence is felt within the affected communities, it may not always be possible for them to be directly present due to inadequate resources or limited access. In these cases, NHRIs can endeavour for a wider reach through:

- social media and other media platforms;
- collaborations with local civil society organizations (CSOs), NGOs and any other association or network that is trusted by displaced communities;
- capacity-development of IDPs themselves so that they can learn about their rights.

Physical access to communities has been particularly challenging in the context of the COVID-19 pandemic. To address this, many NHRIs such as **the Philippines** have initiated **remote monitoring** of IDP situations, through calls and text messages with community leaders and CSO/NGO partners. The Philippines Commission on Human Rights highlighted a number of problems with this approach, including limited opportunities for information verification, difficulty ascertaining the number of IDPs in monitored sites (as families opted to return home rather than be exposed to the virus in IDP camps) and limited reporting from community-based networks. This highlights the need to continue investing in these areas, such as setting up community networks for IDP protection.

Developing close working relationships with local and municipal authorities is also essential, and requires a consistent local presence. Local authorities are at the forefront of support and protection efforts, and bear the burden of large caseloads, often without adequate resources or experience. NHRIs can forge collaborations with local authorities, advising them and positively influencing their activities and programmes to help ensure that they conform to national and/or international standards on internal displacement.



## Examples of good practices

The establishment of regional or local NHRI satellite offices in localities with IDPs, or the deployment of human rights monitors with local knowledge to affected regions, have been effective in many countries such as **Afghanistan, Colombia, the Democratic Republic of the Congo, Kenya, Georgia, Honduras, Niger, Nigeria** and **Ukraine**.

In **Colombia**, the Ombudsperson's Office has a presence in every department in the country which offers critical access to IDPs, even in non-government-controlled areas, allowing for contextual analyses as well as early-warning reports that are very useful to government authorities, international agencies and civil society actors.

In **Kenya**, the Kenya National Commission on Human Rights (KNCHR) had been involved in IDP issues since 2004. It increased its involvement in IDP issues in 2009 when it established an IDP focal point and put into place a mechanism for monitoring and documenting IDP human rights and protection concerns. This mechanism was established to strengthen the work of the humanitarian Protection Working Group and came to be known as the IDP Monitoring Project through a collaboration with UNHCR which included IDP protection training and the deployment of 25 field monitors for a period of nine months. Following a decrease in national attention and funding for IDP issues in Kenya, KNCHR continues to cover IDPs as one of several "special groups" included under its mandate through its five regional offices (the North Rift, Central, North-Eastern, Coast and Western Regional Offices). KNCHR continues to carry out investigations, fact-finding missions and rapid assessments in cases of forced evictions and new displacements (especially development-based evictions), though at a smaller scale than in the past. This has been coupled with numerous challenges such as inadequate financial resources for the internal displacement sector.

In the **Philippines**, the Commission on Human Rights established a Regional Office based in the conflict-affected Autonomous Region in Muslim Mindanao (ARMM). The CHR-ARMM Regional Office was a good example of how the decentralization of IDP-related functions, such as IDP monitoring, can be particularly useful in instances where a region of the country merits more intensive IDP protection work than others.



*Interview with IDP women leaders in an evacuation site in Marawi City, May 2019 (credit: CHRP)*

## Obstacles to engagement by NHRIs on internal displacement

NHRIs across the world face many challenges to fully addressing the human rights of IDPs, including inadequate human and financial resources, access and security, and the political will of national and local authorities.

The human rights issues of IDPs may be part of the immediate core human rights functions and priorities of NHRIs, particularly in the field of civil and political rights. However, other human rights concerns of IDPs, including those relating to HLP, and the achievement of durable solutions, may be complex, long-term, and require specialist technical or legal interventions to ensure protection, resolution and justice. They place new and substantial burdens on authorities and NHRIs, sometimes over months or years if displacement becomes protracted. Where conflict or disaster results in internal displacement, NHRIs face potentially huge and complex new caseloads of human rights issues in addition to their core human rights work, the attention and resources towards which should not decline.

Working with inadequate or inconsistent funding are commonly cited obstacles to the work of NHRIs, hindering their capacity to address the human rights of IDPs. To the extent that it is relevant and feasible, **NHRIs' core budget** should include specific funding for activities on internal displacement to enable them to address internal displacement through their core and long-term activities, rather than temporary, project-based or one-off funds. While governments should legally ensure adequate funding and guarantee their ability to work independently, NHRIs must often expand their operations using existing resources, with obvious consequences. The institutions' ability to receive external funding, in line with the Paris Principles,<sup>34</sup> is of particular importance, as is the need to work with donors to enhance their understanding of the critical role and value of NHRIs in this area.



*A 51-year-old internally displaced Azerbaijani woman was displaced from Dordyol 1 settlement in the Agdam district, near the disputed territory of Nagorno-Karabakh (2020). © UNHCR/Elsevar Aghayev*

## PART 3: THE ROLE OF NHRIs IN PREVENTION AND PROTECTION FROM DISPLACEMENT

Preventing forced displacement in line with international standards is about making efforts to reduce or eliminate its causes. It is important to consider that displacement can have a protective nature, in line with an individual's freedom of movement and choice of residence; therefore, NHRIs should monitor authorities' narratives around prevention of displacement as they may hide intentions of restraining people's movement. Indeed, the Guiding Principles never use the expression "preventing internal displacement"; instead, they refer to "protection from displacement", "preventing and avoiding conditions that might lead to displacement" and "protection against arbitrary displacement". They also highlight a particular obligation to protect certain groups against displacement (indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands). **Prevention should be the core of the NHRIs' approach to displacement.** The promotion and protection of human rights are absolutely key to preventing and avoiding conditions that might lead to displacement of persons, as well as resolving protracted displacement situations.

NHRIs should distinguish between the **immediate causes of displacement, or triggers** (including when they are cyclical, for example, political violence), and its **structural root causes** (for example, inequality, corruption, historical injustices and lack of opportunities), as these circumstances might require different types of complementary interventions. **Actions that NHRIs can take** may also vary **depending on causes and nature of displacement**:

- For disasters, a stronger focus on environmental and ecological rights might be required. NHRIs can advocate on the importance of prevention and mitigation measures, such as infrastructure improvement, urban planning, land reform, disaster risk reduction and climate change adaptation to prevent displacement associated with climate change. NHRIs should play a key role in documenting and reporting on the impact of the climate crisis on the enjoyment and realization of human rights.<sup>35</sup>
- For displacement associated with violence and human rights violations, looking at the effectiveness of police and law enforcement, as well as promoting compliance with rights-based procedural guarantees is necessary, including to avoid forced evictions or forced relocations.
- For conflict, the **2015 Kiev Declaration on the role of National Human Rights Institutions in conflict and post-conflict situations**,<sup>36</sup> and the **GANHRI Closing Statement** adopted in conclusion of its **2017 Annual Conference on "Early warning, conflict prevention and re-establishment of peaceful societies: the role of National Human Rights Institutions"** offer concrete guidance on the preventive measures that NHRIs can take.

A prevention approach ensures that context-specific factors are taken into consideration and highlights the importance of NHRIs working closely with communities to avoid or mitigate the causes of internal displacement, support communities' capacity to protect themselves, and support effective early-warning and contingency plans. Consequently, it enables NHRIs to take early action, giving them adequate time and opportunity to mobilize resources and engage all relevant stakeholders in preventive interventions and measures. The **establishment of national frameworks on internal displacement** in line with international standards is also a preventive measure, which is why it should be a priority for NHRIs.

To protect people from internal displacement, NHRIs can work along three complementary lines:

1. addressing the root causes of forced displacement;
2. protecting people from arbitrary displacement;
3. early warning.

## 3.1 ADDRESSING THE ROOT CAUSES OF FORCED DISPLACEMENT

NHRIs play a significant role in addressing the root causes of forced displacement. Their core work of promoting and protecting all human rights is an important element of peace and stability and the prevention of (renewed) conflict, a main driver of internal displacement, in line with NHRIs' role on SDG 16.

For example, in **Afghanistan** in 2011, the NHRI jointly with CSOs conducted a national debate on how to build peace in the country, which resulted in a road map outlining ways in which a variety of stakeholders can prevent conflict and solve small disputes (for example, around access to land and water) in communities through immediate interventions, so that such disputes would not escalate into larger conflict.

Internal displacement is often rooted in unresolved conflict, unequal development and resource allocation, widespread corruption, discriminatory practices, and historical injustices resulting in poverty and unemployment, economic and political marginalization, and breakdown of the rule of law.<sup>37</sup> The combination of these factors weakens the resilience of communities, which often leads to displacement. NHRIs have a role in advising State agencies on development interventions that focus on providing socially inclusive service delivery together with accountable and responsive local governance arrangements to enhance peaceful coexistence. Such measures enhance stability and minimize conflict as a cause of displacement.

In addition, NHRIs can take important measures to overcome the consequences of conflict in society, address past human rights violations and contribute to the control of impunity, for example, by promoting or leading transitional justice processes; supporting processes that ensure accountability; facilitating access to justice, including through investigations and reparations; and contributing to peacebuilding processes, reconciliation and strengthening of social cohesion. Where relevant, ensuring participation of IDPs in these processes usually creates more durable solutions and also avoids or minimizes the risk of renewed violence and consequent future displacements.

### Case study: mitigating the risk of political violence in Kenya

Kenya has historically experienced internal displacement. After its independence, forced evictions continued, particularly for landless citizens who had settled on unoccupied private and public land. Elections in the 1990s also marked the beginning of displacements linked to political violence, which peaked in 2007 when the country erupted into violence following the announcement of disputed election results, resulting in an estimated 650,000 IDPs.<sup>38</sup> Since its establishment in 2003, the KNCHR has tried to address the root causes of violence. In particular, it focused on the following:

- **Addressing the prevalence of hate speech** by the political elite, which, it had noted, was always a precursor to electoral violence and forced evictions of those perceived to hold different political opinions in some parts of the country.
- **Building internal capacity** to monitor the conduct of both campaigns and elections, focusing on incitement against communities through hate speech. KNCHR trained and deployed staff to monitor election campaigns, identify hate speech and violence triggers, and investigate human rights violations occurring in the context of elections. It also created scenarios of possible outcomes and consequences.
- Building the capacity of national civil society networks to supplement staff, thereby **increasing the presence and proximity** to the occurrences on the ground.
- **Advocating for diverse measures**, as it did during the 2007 national elections, where it called for constitutional and statutory reforms, as well as establishing a Truth, Justice and Reconciliation Commission in 2008 to address the country's historical injustices, among other things.
- **Collecting and analysing data**, particularly through the online system it created to collate and analyse all the information collected to create links with systemic human rights gaps in the country.

Following the massive 2007 displacement, KNCHR refocused its attention on the resolution of the IDP situation, including building the capacity of the communities to engage with the State bodies to ensure fair compensation and reasonable resettlement. Together with other stakeholders, they advocated for and contributed to the development of a draft National Policy on the Prevention, Protection and Assistance to Internally Displaced Persons in Kenya (2011),<sup>39</sup> as well as the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act (2012).<sup>40</sup> KNCHR has incorporated internal displacement into its programmatic work and continues to monitor and report on the situation of all IDPs and forced evictions.<sup>41</sup>

## Case study: addressing the risk of urban violence and displacement in Honduras

The impact of violence in the northern countries of Central America has been a major driver of forced displacement (within and across borders), including in Honduras, the first of these countries to officially acknowledge internal displacement in 2013 and to take steps to address it. In this context, the National Commissioner of Human Rights (CONADEH) with the support of UNHCR has taken significant steps to creatively protect displaced persons as well as those at risk of displacement. In particular, CONADEH created an internal displacement unit and invested in the following areas:

- **Collaboration with local authorities and communities to strengthen rule of law:** CONADEH has promoted an initiative called “*Municipios de Bienestar Solidario*” [Municipalities of Solidarity Welfare], within the framework of the Human Security Strategy for Sustainable Local Development, which aims to promote active participation of local authorities and communities in local transformative processes to improve communities’ well-being and safety.
- **Data and evidence:** Based on the complaints of human rights violations made by citizens as well as a series of studies, CONADEH has carried out continuous analysis to identify profiles of displaced persons and those at risk of displacement. As a result, CONADEH has issued annual special reports that have informed **policy and operational responses** to protect IDPs and address the root causes of forced displacement through:
  - a joint action plan between UNHCR and the Internal Forced Displacement Unit, as well as CONADEH’s departmental and regional offices, to strengthen institutional capacities and establish follow-up mechanisms based on their analysis of the registered cases;
  - technical advice provided by CONADEH to key public institutions in order to follow up and strengthen national mechanisms for the prevention of forced displacement and IDP protection, through its annual reports and active participation within the inter-institutional commission for the protection of IDPs;
  - **the Ombudsmobile:** CONADEH implemented mobile units that visit communities to continuously record social conflicts and human rights violations, in order to improve the population’s access to assistance, guidance and information, as well as monitoring and documenting risks, and issuing early warnings as a result;
  - **awareness-raising:** CONADEH has carried out awareness-raising initiatives on internal displacement and its impact at schools and universities by holding fairs and handing out informative materials, such as bulletins;
  - **monitoring field missions:** alongside UNHCR, CONADEH has carried out visits to communities at risk of displacement to register complaints, assess the risks and needs of the population, and provide information;
  - **law and policy engagement:** CONADEH contributed to the formulation of the draft bill on prevention, assistance and protection of IDPs, and continues to promote its urgent adoption.



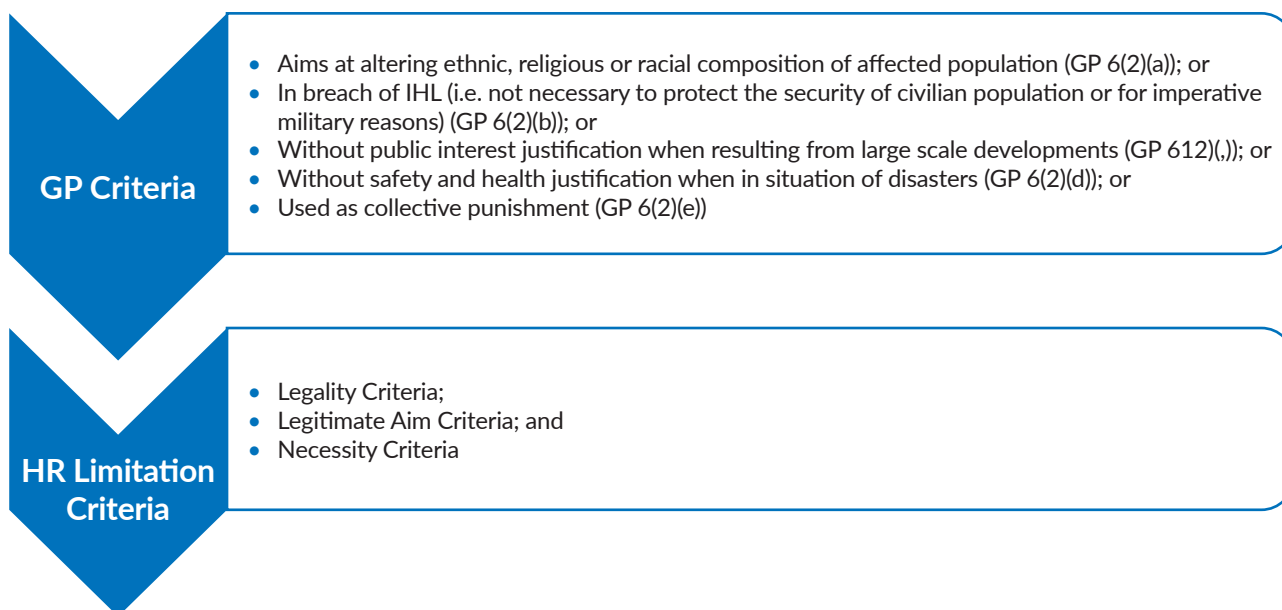
Leaders and volunteers of the organization ‘Youth Against Violence’ in Colonia Nueva Capital, Tegucigalpa, Honduras. The organization works throughout the country to empower youth through peace-building activities. Its founder and director, along with his family, are IDPs. © UNHCR/Ruben Salgado Escudero

## 3.2 PROTECTION FROM ARBITRARY DISPLACEMENT

*"Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence."*  
Guiding Principle 6(1)

The purpose of expressly stating a right not to be arbitrarily displaced in the Guiding Principles was to define explicitly what is only implicit in international law. An express prohibition of arbitrary displacement is contained in humanitarian law and in the law relating to indigenous peoples. International human rights law does not establish an explicit prohibition of arbitrary displacement. Nevertheless, any arbitrary displacement constitutes a human rights violation – more specifically, arbitrary displacement results in a violation of the right to freedom of movement and residence (article 12 of the International Covenant on Civil and Political Rights), of the right to privacy, home and family (article 17 of the International Covenant on Civil and Political Rights) and, if no alternative accommodation is provided, it also violates the right to adequate housing (article 11 of the International Covenant on Economic, Social and Cultural Rights). States' due diligence criteria is also applicable when the displacement is caused by actions of armed non-State actors.

The determination of whether displacement was conducted arbitrarily is important in order to identify whether human rights have been violated at the time of displacement. The following two-step process can be followed, according to the criteria set out in the Guiding Principles and international human rights law:



Arbitrary displacement can take different forms, such as **forced relocations** or **forced evictions**. In many jurisdictions, there are no clear regulations or safeguards to protect people at risk or survivors of forced evictions. With their expertise on human rights-based approaches, NHRIs can lobby and advocate for policy, legislation and administrative measures that require and ensure that State and non-State actors follow the right standards and procedures, including meaningful, inclusive and participatory approaches with affected communities, throughout these processes.

Recognizing that it can happen multiple times, preventing displacement and the associated human rights violations must be a continuous effort to ensure that, should displacement occur, those affected do not face secondary displacement or ongoing or recurring human rights issues.

#### NHRIs can:

1. identify legal, policy, statutory and administrative gaps;
2. build the capacity of State actors, where appropriate, and advocate for the identified gaps to be addressed, including through law and policy changes or establishing relevant legal and policy frameworks in line with international human rights standards;
3. promote the inclusion of the prohibition of arbitrary displacement into domestic legislation in line with international human rights standards;
4. advocate for the respect of relevant human rights principles and standards;
5. promote broad, participatory and inclusive national and local consultations with all stakeholders, ensuring no one is left behind;
6. build the capacity of communities to protect themselves against arbitrary displacement;
7. handle complaints and provide legal assistance as relevant (for example, advice or representation, depending on institutional mandate) where arbitrary displacement occurs;
8. monitor and report to national authorities, as well as at regional and global levels;
9. promote inter-institutional consultation, coordination and information-sharing for the protection and safeguarding of relevant rights.

#### Case study: addressing the risk of forced evictions in India

The National Human Rights Commission of India has played an important role in preventing forced evictions linked to large-scale development projects in a number of cases.<sup>42</sup> What follows is an example of one such case,<sup>43</sup> highlighting the intervention by the NHRI.

The case started with the Commission's receipt of a complaint regarding the alleged forced nature of evictions and non-rehabilitation<sup>44</sup> of citizens evicted for the construction of the Polavaram dam across the Godavari River in Andhra Pradesh in October 2013. According to the complaint, local authorities in the West Godavari District had resorted to intimidation and coercion by disconnecting electricity and water supplies, as well as denial of medical services, closure of schools and forceful closure of ration shops, to force the people of Polavaram to leave their lands. Some of these measures were allegedly carried out by police officers and physical enforcers hired by the constructors. Based on its assessment of the situation, the Commission requested the concerned officials to immediately cease the coercive measures. Additionally, they ordered them to submit reports on the issues raised and the actions taken to address them.

Dissatisfied with the reports received, the Commission embarked on an inquiry in the affected areas in 2016. The Commission noted that most actions that had been agreed between the communities and the authorities were yet to be completed. It also noted the absence of clear guidelines on how to carry out evictions, and noted that in the absence of codified procedures, the actions taken could be seen to be arbitrary. The Commission further noted that the officers carrying out evictions lacked the capacity to ascertain the needs of all families set to be evicted, thereby failing to meet human rights requirements.

Based on the above observations, the Commission issued several instructions to the State authorities, noting that the Polavaram Project is a big project and many more acquisitions of land and evictions remain to be carried out before the project is completed. To avoid any controversy in this regard, the **development of detailed guidelines for evictions was recommended**, as well as the application of a human rights-based approach as an essential condition for the success of any sustainable development project. The Commission referred the authorities to the UN Basic Principles and Guidelines on Development – Based Evictions and Displacement, regarding the applicable standards before, during and after evictions. It was recommended that the authorities, in consultation with all stakeholders, prepare and circulate a detailed procedure to be followed before, during and after evictions and that it should be submitted to the Commission within three months.

While the Commission was still dealing with the matter, a petition on this case was filed at the Supreme Court; therefore, the file was closed in 2017 in accordance with the instructions that had already been given by the Commission to the State authorities to take requisite action. The complainant, however, challenged the proceedings of the Commission before the High Court of Delhi, which remanded the matter to the Commission to take an informed view after affording the petitioner an opportunity to be heard. Accordingly, the complainant appeared before the Commission on 14 October 2019. As a result, the Commission requested the State Government and the National Monitoring Committee to look into the recommendations made by its team following the 2016 inquiry and then pass appropriate orders in this regard at the earliest opportunity.

### 3.3 EARLY WARNING

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Early warning is essential to enable all actors to take preventive action or respond expeditiously and effectively to crises and displacement as they occur. As the risk of displacement is intertwined with human rights violations, most NHRIs operating in conflict, post-conflict or violence-prone environments should establish or contribute to early-warning initiatives, including by:

- developing human rights-based early-warning indicators, or advising on their development as relevant;
- locating monitors at high-risk locations, also in cooperation with CSOs;
- maintaining regular contact with at-risk communities;
- contributing to inter-agency risk analysis efforts to identify early on evolving conditions or societal and political developments that could lead to violence or conflict;
- engaging proactively with government bodies, including those responsible for disaster response, so that they are fully aware of potential displacement events, as well as collaborating with CSOs, where necessary.

While NHRIs may not have the full capacity to design and develop sophisticated early-warning systems, they can use the available data to advocate for relevant State agencies to include internal displacement in their efforts on data collection, analysis and forecasts.

#### NHRIs can:

- disaggregate and analyse information gathered during their monitoring, investigations and complaints handling (as relevant and applicable) to detect indications of risks within communities, and understand specific vulnerabilities;
- analyse through a human rights-based lens available data on the state of preparedness by the responsible agencies;
- raise communities' awareness of their right not to be arbitrarily displaced and of existing early-warning mechanisms/preparedness measures, if any;
- work with communities to develop relevant prevention measures;
- share best practices in identifying threats and contingency measures to assist communities at risk of displacement.



*A five-year-old child plays outside her family home at a settlement for displaced people in Caqueta, Colombia (2013). © UNHCR/Sebastian Rich*



## Case study: early warning system in Colombia

One of the functions of the Colombian Ombudsperson's Office, under its comprehensive mandate, is to promote the prevention of violations of international human rights and humanitarian law, including internal displacement, particularly through an **early warning system (SAT)** that it developed in 2001, during one of the worst phases of the conflict.

The SAT was created with the main purpose of preventing massacres and massive population displacements. It initially aimed to create an immediate reaction system to protect vulnerable populations, based on:

- the configuration of a centralized information system – an observatory of the armed conflict;
- the promotion of community strengthening;
- the promotion of an agile communication system that would make it possible to inform the authorities of the risks faced by the communities.

For years, the SAT monitored and warned about risk situations to prevent massive violations in the context of the armed conflict, while promoting institutional and community strengthening actions for the design and implementation of strategies and concrete mechanisms to prevent and protect affected people. The system was revised within the framework of the Peace Agreement.<sup>45</sup>

*How does the SAT work?*

### 1. Monitoring

The monitoring carried out by the SAT involves the continuous observation of the dynamics of the armed confrontation and the recording and analysis of evidence and facts to detect and identify risk situations for the civilian population. The monitoring is carried out by a group of 45 regional analysts who are coordinated by seven national analysts distributed across the macro-regions of north, north-west, north-east, Orinoco, centre-east and south-west and south Amazonia.

→ *Who can use the SAT?*

- all people and communities affected by or exposed to threats and risk situations resulting from armed conflict or sociopolitical violence;
- municipal officials, representatives of entities and public authorities;
- social leaders and human rights defenders;
- ecclesiastical and religious authorities;
- civil society, community, human rights and media organizations;
- public or private entities that carry out investigations, studies, technical reports and documents on human rights and armed conflict.

→ *What information is useful to the SAT?*

To identify and assess risk situations, all information on manifestations of the armed conflict are useful: threats or events that constitute dangers for the civilian population; vulnerability factors for individuals and communities (in line with an age, gender and diversity approach); and social and institutional mechanisms that contribute to the protection of the population.

### 2. Emission of early-warning reports

The information collected allows for a contextual analysis which feeds into early-warning reports addressed by the Ombudsperson to relevant government bodies, which must act swiftly to employ protection measures. The identified risks are identified as “imminent”, “short-term” or “structural”. Early-warning reports include:

- information on the probability of the occurrence of massive violations;
- information on vulnerability factors of the affected community;
- a list of recommendations for the competent authorities to prevent and mitigate the risks identified.

### 3. State response

The response mechanism of the national and local authorities (to risks and threats to the rights to life, integrity, liberty and personal safety, civil and political liberties and violations of international humanitarian law) under the Prevention and Alert System is coordinated by the Ministry of Interior, and allows for the implementation of measures of prevention and rapid reaction in line with recommendations proposed.

### 4. Monitoring and follow-up

Finally, the Ombudsperson's Office also has the role and responsibility to examine the effect of the adopted measures and the evolution of the identified risk(s).

# PART 4: THE ROLE OF NHRIs IN PROTECTING IDPs' RIGHTS

## 4.1 MONITORING, INVESTIGATIONS AND INQUIRIES

Monitoring the enjoyment of human rights at country level is one of the main ways in which NHRIs fulfil their protection mandate.

*What should NHRIs monitor with regards to internal displacement?*

- the situation of people internally displaced by conflict, violence, disasters or human rights violations (across all groups: boys, girls, women and men, persons with specific needs, including persons with disabilities or lesbian, gay, bisexual, transgender and intersex persons, and ethnic, political, religious or other minorities) to ensure that IDPs:
  - enjoy the same rights on an equal basis with others in the country;
  - receive the protection and assistance they require;
  - do not face discrimination in seeking to access their rights;
- the risk of new or renewed displacement, including signs that can be used for early warning in communities, particularly human rights violations that can lead to displacement;
- the return or resettlement of IDPs to ensure that such movements are voluntary and occur in conditions of safety and dignity;
- the effective implementation at the national level of relevant frameworks on internal displacement;
- the implementation of country-specific recommendations of UN and regional bodies and mechanisms relevant to IDPs.

Preventing and responding to internal displacement requires relevant stakeholders to have up-to-date quality and disaggregated data on those displaced, as well as host communities where appropriate. **NHRIs can take the lead on or contribute to** different types of data collection on the situation of IDPs in order to advocate on their behalf, to protect and assist them and eventually, to help bring about a solution to their displacement,<sup>46</sup> including **human rights monitoring, protection monitoring, needs assessments or profiling.**

For example in **Georgia**, in 2013, the Public Defender's Office (PDO) and several CSOs and international organizations conducted joint monitoring work to assess the human rights compliance of a countrywide renewed registration process for IDPs carried out by the State. The monitoring allowed the NHRI to gather detailed information on IDPs' situations, identify gaps in legislation and practice, and advise State bodies on actions required. The PDO has also developed strong monitoring systems on the housing situation of IDPs, providing regular recommendations through annual and special reports to State bodies on hazardous accommodation, and advising decision makers on IDPs' relocation as part of the durable housing solutions programme.<sup>47</sup>



*Public Defender meeting with IDPs living in Poti in February 2020. (Credit: Georgian PDO)*

Physical access to IDPs' former compact settlements has been particularly challenging in the context of the COVID-19 pandemic. The PDO has developed an online monitoring methodology which entailed telephone communication and PDO regional representatives interviewed 70 IDPs. The interviews aimed to monitor the measures taken during COVID-19, as well as access to health care, water and sanitation and social security. Following the analysis of the information, the Public Defender issued a recommendation addressing the challenges posed by the pandemic and promoting better realization of the rights of IDPs. The ensuing recommendations are reflected in the 2020 PDO annual report.

Monitoring and data gathering on internal displacement has been an important function of NHRIs across the globe, including **Afghanistan, Bosnia and Herzegovina, Colombia, the Democratic Republic of the Congo, El Salvador, Guatemala, Kenya, Honduras, Iraq, Mexico, Niger, Nigeria, the Philippines, Sri Lanka, Timor-Leste and Ukraine.**

## Case Study: an IDP monitoring tool in the Philippines<sup>48</sup>

The Philippines is a country affected by recurrent internal displacement due to a variety of causes, including disasters resulting from natural hazards, conflict and large-scale development projects. In this context, the Commission on Human Rights of the Philippines (CHRP), which has a broad mandate for the protection and promotion of human rights,<sup>49</sup> has worked closely with UNHCR to address internal displacement, particularly through the establishment of a joint IDP project. A concrete result of this project was the development of an “IDP displacement monitoring tool” and accompanying User’s Guide<sup>50</sup> and Interview Guide to support field staff in their data gathering and analysis. The target users of the tool are CHRP’s staff and partners joining monitoring missions to ascertain the conditions of IDPs on the ground.



*Interviews with IDP families affected by the Taal Volcano eruption in an evacuation site in Balayan, Batangas, February 2020*

The tool was designed to help the user to comprehensively describe the situation of IDPs and better document the human rights and humanitarian issues they face. In both process and product, the Commission embraced a holistic and inclusive approach, which produced an effective and efficient tool for all users. This demonstrates how NHRIs can deploy their expertise and capacity derived from general and specialized human rights monitoring, advocacy and reporting to develop highly specialized tools and methodologies related to the human rights of IDPs.

The tool contains a set of forms or questionnaires that can be used to document displacement incidents and collect relevant observations regarding the condition of IDPs during the emergency phase (from the onset of displacement until transition commences), the post-emergency phase (transition to durable solutions), and upon attainment of durable solutions. The data compiled through the use of this tool can serve as a basic resource for analysis, policy interventions, recommendations and other actions.

Using the data collected through the IDP monitoring tool, the CHRP seeks to:

- produce credible human rights analysis of IDP situations;
- provide advice to the State on its obligation to respect, protect, and fulfil the human rights of IDPs, including advice regarding policy reform and programme development and implementation;
- refer IDP concerns to relevant CHRP offices, appropriate agencies, and/or partner organizations;
- investigate allegations of violations of IDPs’ rights and refer such cases to the proper authorities for further action, if warranted;
- promote IDP rights through advocacy and capacity-building;
- compile accurate and reliable data that will inform its policy decisions in the protection and promotion of the human rights of IDPs in order to help IDPs obtain durable solutions to displacement.

In the context of the COVID-19 pandemic, the IDP monitoring tool has allowed CHRP to continue monitoring and reporting on the displacement situation, though on a limited scale given the restrictions on movement.<sup>51</sup>

Carrying out investigations and inquiries, either at their own initiative or upon request, on the human rights situation in the country, including that of IDPs, and working to ensure an effective response by the authorities is equally important.<sup>52</sup> NHRIs may need to conduct detailed human rights investigations into incidents involving IDPs, including grave human rights violations. Where possible, NHRIs can collaborate with other independent bodies, including United Nations commissions of inquiry. Where they lack capacity or opportunity to do so, including due to security factors, at a minimum NHRIs should seek victim and witness testimonies and gather and securely store evidence for future use in judicial or other appropriate proceedings, including subsequent transitional justice processes.

## Case study: displacement, business and human rights – linking agendas in Zimbabwe

Over the years, Zimbabwe has been affected by internal displacement associated with different causes, such as political violence, disasters, a national land reform, and various development projects. Since 2014, the Zimbabwe Human Rights Commission (ZHRC) has conducted several investigations in these areas, including to investigate alleged cases of forced evictions.<sup>53</sup>

As part of its work in the area of business and human rights, the ZHRC also developed the “Environmental and Human Rights in Mining Communities project”, highlighting the effects of mining on communities in Shurugwi – a town situated on one of the country’s richest mineral belts – by artisanal, small- and large-scale companies. It focuses on three important aspects: (i) mining companies’ failure to implement their corporate social responsibility; (ii) environmental degradation; and (iii) the distress and human rights violations caused to communities of place that include displacement, and which have become the focus of an inquiry on this subject.

→ Watch this video to learn more about the project and ZHRC’s role:  
[www.zhrc.org.zw/videos/](http://www.zhrc.org.zw/videos/).



*The relocation of internally displaced people to Sabacare 4, a new site constructed to shelter IDPs who cannot return home in Ethiopia (2019). © UNHCR/Olga Sarrado Mur*



A 66-year-old internally displaced Azerbaijani man was displaced from Banovshalar settlement in the Agdam district, near the disputed territory of Nagorno-Karabakh (2020). © UNHCR/Elsevar Aghayev

## 4.2 PROVIDING LEGAL ASSISTANCE AND HANDLING COMPLAINTS

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Providing support and legal assistance is a core function of NHRIs. Their free legal services facilitate access to justice,<sup>54</sup> remedies and reparations for IDPs. The legal assistance needs of IDPs can be diverse and complex and evolve through the course of displacement. Particularly (but not exclusively) where laws on internal displacement exist, NHRIs can adapt their traditional activities to become attuned to situations specific to IDPs, including by:

- expanding complaints receipt and processing mechanisms to incorporate protection of IDPs;
- investigating individual cases involving violations of the human rights of IDPs;
- providing those displaced or at risk of displacement with legal services and assistance;
- engaging in litigation processes on behalf of IDPs and to assert IDPs' rights;
- pursuing legal remedies for IDPs through all available channels, including by submitting amicus briefs and addressing constitutional or other courts or complaints-handling bodies at the national, regional and/or international level;
- supporting IDPs to secure personal documentation, register to vote or recover their housing, land and property;
- training the judiciary and other public institutions to better appreciate relevant international standards and national frameworks on internal displacement and their application.



Families displaced by the conflict in Afghanistan are forced to live in makeshift tents in the Brigade settlement (2021). © UNHCR/Edris Lutfi

### Case study: addressing IDPs' complaints in Afghanistan

Afghanistan faces one of the world's most acute internal displacement crises due to protracted conflict, ongoing insecurity and natural hazards, such as droughts, floods, storms and earthquakes.<sup>55</sup> Displacement has become a familiar survival strategy for many Afghans and, in some cases, an inevitable part of life for two generations. The situation is further complicated by widespread unemployment, poverty, landlessness and lack of basic services. In recent times, additional causes of internal displacement include large-scale development projects, such as the Salma Dam project in the Herat Province.

As part of its wide mandate for the promotion and protection of human rights,<sup>56</sup> the Afghanistan Independent Human Rights Commission (AIHRC) monitors the situation of IDPs in the country, handles complaints and makes recommendations to relevant national and local agencies. In carrying out its work on IDPs, the AIHRC collaborates with a variety of ministries, including the ministries of Repatriation and Refugees; the Interior; the Economy; Education; Public health; Labour, Social Affairs, Martyrs and Disabled; Women's Affairs; National Defense; and Rural Rehabilitation and Development, as well as other national and international organizations.

Most recent IDP-related cases dealt with by the AIHRC have focused on issues around IDPs' access to adequate housing, water and electricity. Land disputes, including those associated with IDPs' occupation of public and private land, have also been the subject of complaints, particularly in certain provinces such as Herat. For example, the AIHRC paid several visits to the town of Sabzigana in the Herat Province, where IDPs had settled. In that context, IDPs had raised several issues with the AIHRC, in relation to access to basic services. The AIHRC supported the resolution of such issues, facilitating a discussion with relevant local authorities and their partners, which led to the opening of a number of health clinics in IDP camps (including a doctor, a mental health provider and a nurse), the installation of water tanks in the two main camps, with arrangements made to fill them daily which addressed the concerns raised by the IDPs, and the provision of cash assistance by UN agencies and non-governmental organizations to support access to food.

For example, on 25 April 2020, the AIHRC visited Charbolaki camp in Hamdard Town. In attendance were representatives from the Directorate of Refugees and Repatriation, UNHCR, the World Food Programme and the Agency for Technical Cooperation and Development (ACTED). At this camp, 15 families displaced by conflict complained about the lack of facilities. According to them, their previous several requests to the Directorate to improve their living conditions had been unanswered. Attending agencies promised to resolve these issues, including by placing these families on the assistance registers. The AIHRC revisited the matter on 3 May 2020 with the relevant situation officer at the Directorate, who confirmed that needs assessments were under way and the situation will soon be resolved. On 27 May 2020, the AIHRC received confirmation from the IDPs that they had received both financial and livelihood assistance.

## Case study: supporting payments of social benefits and pensions for IDPs in Ukraine

Ever since the outbreak of large-scale armed conflict in eastern Ukraine in 2014, the country has been affected by internal displacement. It is reported that there are currently over 730,000 IDPs in Ukraine, as the conflict has become protracted.<sup>57</sup> The Ukrainian Parliament Commissioner for Human Rights (Ombudsperson), which has a broad mandate for the promotion and protection of human rights in the country, has developed a specific focus on the rights of IDPs.

In 2019, the Commissioner received 654 reports of violations of the right to receive State-guaranteed social benefits, including pensions, for IDPs and other civilians living in non-government-controlled areas. A significant proportion of these complaints related to non-compliance with court decisions mandating the Pension Fund of Ukraine to resume pension benefits. Under the amended Resolution 649 of 22 August 2018, the Pension Fund of Ukraine is required to pay any court-decided pension arrears within the available budget allocation. This notwithstanding, at the end of the year 2018, arrears to pensioners based on court decisions amounted to more than UAH 9 billion. Following consideration of complaints and intervention by the Commissioner, in 132 cases the right of citizens to social benefits (including pensions) was restored, and payments in arrears were made.

Based on the number of complaints received and considering the urgency for payment of pension to IDPs, the Commissioner wrote to the Prime Minister in April and November 2019. The letters highlighted the need to amend the Cabinet of Ministers of Ukraine Resolution 637 of 5 November 2014 entitled “Certain issues of social benefits to internally displaced persons”, to provide a separate procedure for payment of pensions not paid for the month of their renewal.

According to the Ombudsperson, a more predictable and concrete way to protect the rights of IDPs and other affected citizens required legislative changes and consequently, they supported the proposal of a new law, entitled “On amendments to certain laws of Ukraine concerning the exercise of the right to a pension” (no. 2083-d of 26 November 2019) to regulate pension payments to IDPs and persons living in the temporarily occupied territories of Ukraine.



Residents in eastern Ukraine cross the border checkpoint between the government-controlled area and non-government controlled area in Mayorsk, Donetsk (2018). © UNHCR/Anastasia Vlasova



Family of Ado, 32, escaped when ISIS attacked his village near Sinjar with his wife and eight children and settled in Dohuk, Iraq (2014).  
© UNHCR/Dominic Nahr

## 4.3 REPORTING AND PUBLIC INFORMATION

Based on their mandates, NHRIs can publish **annual and thematic reports** with recommendations to national authorities on any matters concerning the promotion and protection of human rights. Comprehensive public reporting on the human rights situation of IDPs, including recommendations to parliaments and other State bodies, helps to influence government policy and decision-making and encourages relevant follow-up actions.

The public nature of reporting by NHRIs provides an essential evidence base and holds government bodies to account. NHRIs in many countries including **Afghanistan, Bosnia and Herzegovina, Burundi, Colombia, El Salvador, Georgia, Kenya, Kosovo, Honduras, Iraq, Nepal, Niger, Nigeria, the Philippines, Serbia, Uganda and Ukraine** have regularly produced reports on the human rights situation of IDPs based on their monitoring and made appropriate recommendations accordingly. Specific **studies and reports** on internal displacement can also be particularly important to shed light on this phenomenon, particularly when the issue requires increased attention.



For example, in **Central America**, where governments have struggled to officially recognize that internal displacement – particularly due to criminal violence – had been occurring, NHRIs have spearheaded studies that provided essential data revealing the displacement impact of violence and the human rights issues affecting IDPs. This has led to increased awareness among government officials and the general population on internal displacement, and authorities have been increasingly taking up their responsibilities towards IDPs. In 2020, the State Human Rights Commission of **Chiapas** (Mexico) published a report on internal displacement in Chiapas as part of its monitoring functions, and includes 37 cases of internal displacement in that entity and several recommendations for relevant authorities.

In **Kenya**, in a context in which the Government's attention had primarily focused on the situation of IDPs due to the 2007–2008 post-election violence – a situation it considered to be completely resolved – the Kenyan National Commission on Human Rights partnered with an NGO to produce a report analysing the situation in a region that was only partly affected by the political violence, and yet saw significant displacement caused by generalized violence, disasters and human rights violations, often arising from tensions over land tenure and poor land governance.<sup>58</sup>

NHRIs can also use the reporting, monitoring and information-gathering mechanisms of regional and international human rights bodies and mechanisms monitoring the national implementation of human rights standards. They can provide reports to UN human rights treaty bodies, the Universal Periodic Review (UPR) mechanism and Special Procedures that reflect internal displacement issues. Subsequently, they can use the relevant recommendations and outputs of such mechanisms to assist their national advocacy efforts. Since most international mechanisms lack enforcement powers at the national level, NHRIs can help to make their recommendations a reality.

### Case study: evidence-based advocacy for IDPs and returnees in Iraq

Iraq has been affected by internal displacement due to different waves of armed conflict for decades, though floods and earthquakes also trigger displacement. As at December 2019, more than 1.4 million people were estimated to be internally displaced. The Iraqi High Commission for Human Rights (IHCHR) was established under law no. 53 of 2008 with the mandate to “ensure the protection and promotion of respect for human rights in Iraq, including those of displaced persons”, in line with the Iraqi Constitution and internationally ratified laws and treaties.

Using article 5 (para. 1–5) of its founding statute, the IHCHR began monitoring the situation of IDPs based on information from both their complaints department and their online complaint reporting platform, and reports from its monitoring teams. It focused on monitoring and documenting:

- the extent to which IDPs enjoy rights as citizens;
- the procedures established by the Iraqi Government for the enjoyment and realization of rights by the IDPs;
- the role of the Ministry of Displacement and Migration in providing assistance, supporting the displacement and addressing the challenges faced by persons who are displaced in the camps;
- violations against IDPs;
- the situation of returnees;
- the availability of services and resources to both IDPs and returnees;
- the work of international or national humanitarian organizations assisting the IDPs by providing shelter, legal aid, health services, education, or promoting rehabilitation and community integration.

Based on its findings, the IHCHR published several reports with recommendations targeting the Council of Ministers, the Ministry of Displacement and Migration, the Parliamentary Displacement and Migration Committee, the Supreme Judicial Council and the High Committee for Relief and Shelter for the Displaced. These reports aimed to promote enhanced and more accessible services for IDPs, tolerance, and peaceful coexistence between displaced and non-displaced communities, as well as ensuring the prosecution of perpetrators of violence against IDPs.



*An elderly returnee sits near his destroyed home in a remote village in Nineveh, northern Iraq (2020). © UNHCR/Rasheed Hussein Rasheed*

## PART 5: THE ROLE OF NHRIs IN PROMOTING IDPs' RIGHTS

### 5.1 AWARENESS-RAISING, HUMAN RIGHTS EDUCATION AND TRAINING

NHRIs disseminate information on human rights and provide education and training to diverse stakeholders. They can use the same procedures for internal displacement. Informing IDPs of their rights is vital to empowering them to exercise their rights and ensuring that governments are held to account. For example, in **Georgia**, the limited awareness among IDPs of their rights was identified by the PDO as a challenge to achieving durable solutions, and therefore prioritized in the Office's response.

Useful NHRI outreach and operational activities – including human rights monitoring – may include human rights awareness-raising components appropriate for and tailored to IDPs, particularly the most vulnerable groups among the displaced population. For example, in **Honduras**, CONADEH established specialized mobile offices (Ombudsmobiles) to carry out outreach activities in various municipalities and implement various education and awareness-raising activities, such as:

- giving talks on internal displacement in primary and secondary schools, as well as universities;
- preparing thematic bulletins and infographics on forced displacement and making these available online;
- holding informational fairs on internal displacement and the need for international protection.

In **Colombia**, the Ombudsperson's Office supports the strengthening of communities already displaced or at risk of displacement and their organizations, with specific courses on public policy to promote the enforceability of the rights of IDPs and their participation in public policy processes.

NHRIs' awareness-raising and education efforts may target:

- IDPs and focus on IDPs' rights, channels to redress them and services available to them.
- Other stakeholders, such as relevant authorities as duty-bearers or the media/general public, to sensitize them on internal displacement more broadly (its causes and consequences), and the challenges faced by IDPs. For example, in **Afghanistan**, the AIHRC has been very concerned about the impact of the COVID-19 pandemic on IDPs and returnees, especially those in camps. In order to improve their situation, the AIHRC held meetings with the Directorates of Health and of Refugees and Repatriation in the 14 provinces where it is actively present, and raised their awareness on this issue. This contributed to hygiene procedures being put in place in the camps, including distribution of soap and other health products to IDPs.

### Case study: using the Kampala Convention to raise awareness in Uganda

At the height of the armed conflict between the Government of Uganda and the Lord's Resistance Army in northern Uganda in the early 2000s, there were an estimated 1.8 million IDPs in Uganda. Since the 2006 signing of a ceasefire agreement, most of them have returned to their areas of origin, driven by their cultural ties to the land and the region, or resettled in new locations. The Uganda Human Rights Commission played an essential role in promoting and protecting the rights of IDPs throughout the years, and worked closely with other relevant stakeholders on awareness-raising, education and training on IDPs based on the Kampala Convention. Such efforts include:<sup>59</sup>

- translating (key provisions of) the Kampala Convention into local languages;
- distributing the text of the Kampala Convention, including simplified versions, to displaced people and to organizations that work with displaced people, in the form of leaflets and posters;
- organizing exhibitions and displays on the protection of IDPs;
- producing radio programmes in collaboration with local and national radio stations;
- organizing workshops or training days on the Kampala Convention for IDP representatives, IDP organizations and other stakeholders;
- holding public lectures and debates involving Government representatives, parliamentarians, independent legal experts and displaced people or people at risk of displacement;
- identifying and supporting well-known persons to champion the Kampala Convention;
- preparing media briefings, letters to the editor and guest articles in local dailies on IDPs;
- organizing briefings for (sub-)regional forums, international NGOs, UN agencies and members of the diplomatic community.

Even where NHRIs have limited capacity or IDPs are difficult to reach, they can still provide information and advisory services, for example, by establishing **dedicated helplines, information points, gender desks and drop-in centres** to enable IDPs to obtain information, ideally in local languages, and be guided towards both governmental or non-governmental service providers – often working in close partnership with them to ensure accuracy of information and advice.

## Case study: Colombia's "Houses of Rights"

Colombia has been significantly affected by internal displacement, primarily due to armed conflict and violence. With the support of UNHCR, the Ombudsperson's Office,<sup>60</sup> established in 1992, developed an innovative approach to addressing displacement in a holistic manner, known as the "Houses of Rights" (*Casas de Derecho*).

The houses aim to mobilize civilian State presence in areas with high concentrations of IDPs, high levels of violence and human rights violations but low presence of local and national institutions. Today, the houses have expanded their services to include Venezuelan refugees and migrants and Colombian returnees. The houses empower and support a network of community leaders who identify and inform forcibly displaced populations about the locations and services available in the houses. Largely staffed with officials from the Ombudsperson's Office, they are one of the few visible institutional structures in areas that otherwise have limited or non-existent State presence. Through an ongoing dialogue with communities, the houses monitor and report on protection risks associated with armed violence and conflict, as well as alerting and provoking a response from concerned institutions.

Importantly, the houses provide a space for communities to come together, feel safe, report concerns and receive care. Through the houses, Colombian IDPs and returnees, Venezuelan refugees and migrants and local communities can access information on their rights while being referred to local and national services. Government institutions, such as the Colombian Family Welfare Institute and the Ministries of Health and Education, provide on-site services, such as vaccines and information sessions. The houses offer a well-known and identifiable location for public officials to deliver and coordinate the delivery of services, which in turn helps to build affected communities' trust in local and national government. They are strategically located in areas where armed violence remains high, and as such, victims can file complaints directly to the Ombudsperson's Office and have their complaints referred to relevant institutions for action. Survivors are also informed of legal alternatives to exercise their rights. Many international and national non-governmental organizations are active in the houses, alongside Colombian universities.<sup>61</sup>

NHRIs can also undertake specific **awareness-raising and training activities with military, police** and civilian authorities that are in contact with IDPs, including those responsible for security, service provision and camp management. This has been the case in **Afghanistan, Niger, Nigeria, the Philippines and Sri Lanka**.

Training of staff within **appropriate courts and public offices**, including complaints-handling bodies, may be required to provide expertise on the content of international, regional and national laws and standards relevant to internal displacement and their interpretation and implementation at the national level.

NHRIs can also undertake **media engagement** strategies on internal displacement and systematically monitoring and engaging the media, including by providing information packages, to address stigmatization in media coverage of IDPs and to sensitize the media and the wider public on internal displacement issues.



A displaced woman with her child in Madiya, Philippines (2017). © UNHCR/Faizza Tanggol

## 5.2 LEGISLATIVE AND POLICY ADVICE ON INTERNAL DISPLACEMENT

Law and policy engagement is a fundamental area of work for NHRIs, which is also extremely relevant when it comes to promoting and protecting the human rights of IDPs.

### NHRIs can:

- 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, as well as related outcomes from UN or regional human rights bodies and mechanisms.

NHRIs have frequently been involved in the review and development of national laws, policies and strategies for the protection and assistance of IDPs, sometimes even leading such processes. This was the case in **Georgia, Honduras, Kenya, Mexico, Niger, the Philippines, Sri Lanka, Uganda and Ukraine**. In many cases, they have also been involved in ensuring the sectoral laws and policies affecting the human rights of IDPs are in line with international human rights principles and standards (including in the areas of voting rights; documentation; HLP; access to services, etc.)

## Case study: strengthening legal and policy frameworks for IDPs in Georgia

Georgia suffers from a protracted internal displacement crisis characterized by two major waves of displacement caused by violent clashes with the Russian Federation in 1991–1992 and 2008, particularly over the territories of South Ossetia and Abkhazia. As at December 2019, more than 288,000 remain internally displaced.<sup>62</sup>

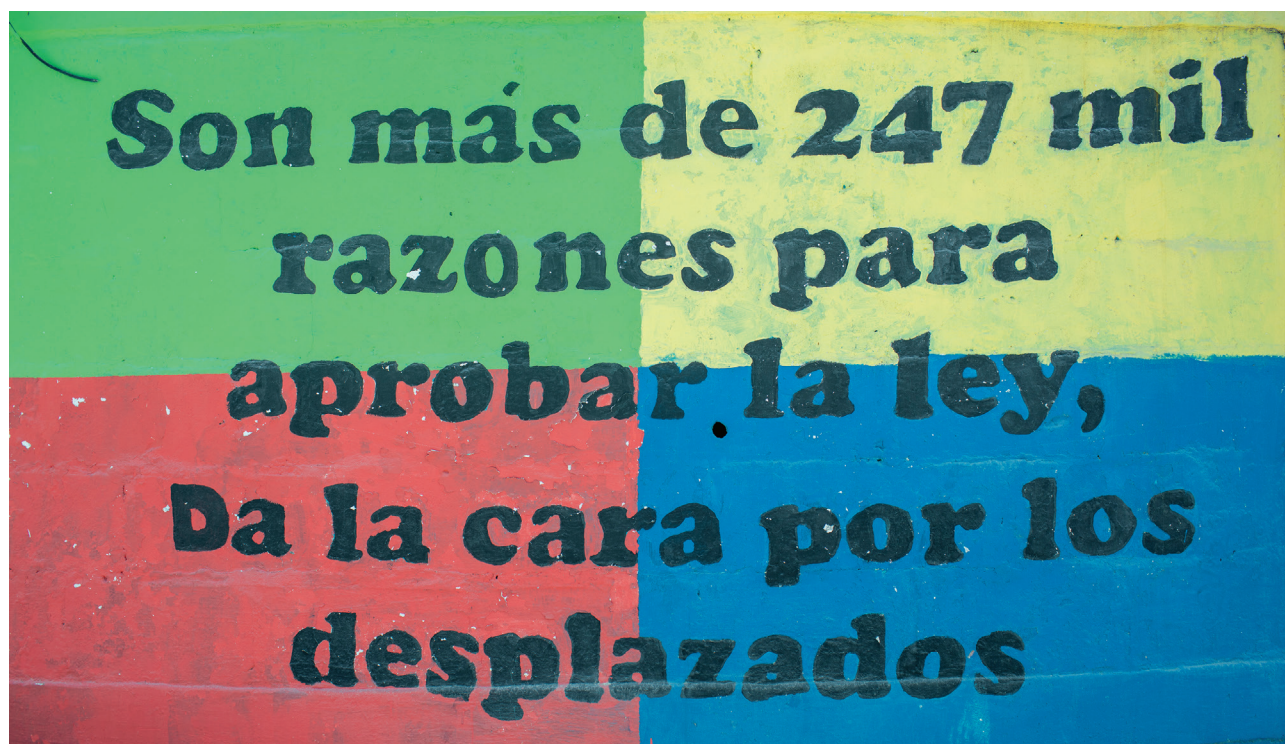
The Georgian PDO, established in 1996, has developed a strong expertise in promoting and protecting the human rights of IDPs from conflict-affected areas. It receives and investigates large numbers of complaints related to internal displacement. Regional representatives of the Georgian PDO actively monitor the situation with respect to IDPs in the former IDP settlements and provide legal assistance to them. PDO representatives provide information about the challenges identified during the visits within the scope of their competence and cooperate with the local government to address these challenges. The Georgian PDO also dedicates a specific chapter of its annual parliamentary report to IDP rights.



Public Defender visit to IDPs in Shamgona Village (credit: Georgia PDO)

Based on its solid understanding of the human rights issues faced by IDPs in Georgia, the Georgian PDO has played a key role in enhancing the legal framework for the protection of IDPs. Most of its recommendations on the necessary amendments of the 1996 Georgian law on IDPs were included in the revised IDP law adopted in 2014. In addition, the PDO continues to provide advice to State bodies on:

- How to strengthen other sectoral laws and policies in place which are relevant for the protection of IDPs.
- The implementation of the State Strategy for IDPs and related action plans, through its participation in a Steering Committee on this subject, gathering representatives of line ministries (including the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees), donors, international and local NGOs. The PDO has contributed, for example, to the development of criteria for new housing standards, the evaluation of rehabilitation standards, and the development of outreach strategies on IDP benefits.
- The development of the Government's Human Rights Action Plan, which is also relevant to IDPs.



Grffiti advocating for the adoption of an IDP law in Honduras, done by members of the organization Jovenes Contra la Violencia in San Pedro Sula (2021). © UNHCR/Nicolo Filippo Rosso

## Case study: promoting a federal law on internal displacement in Mexico

Internal displacement in Mexico is largely due to insecurity and criminal violence, human rights violations and disasters. The Government only recently officially recognized the phenomenon at the national level and the country still lacks a comprehensive evidence base on the situation of IDPs. Mexico's National Human Rights Commission (CNDH), established in 1990 with a broad mandate for the promotion and protection of human rights in compliance with the Paris Principles, has been a strong advocate for IDPs in recent years.

In 2016, the CNDH published a **study on forced internal displacement** in Mexico, identifying some of its major causes over the last 50 years. The report put forward several recommendations targeting appropriate State agencies, highlighting the need for:

- immediate action for designing, implementing and evaluating a comprehensive public policy to guarantee and protect the rights of IDPs;
- coordinated action among the entities of the three levels of government (federal, national, municipal), international organizations, civil society and the private sector, to prevent and address internal displacement;
- allocation of clear responsibilities and coordination among competent government institutions to facilitate IDPs' direct access to food, health, education, housing, water, sanitation, employment and promotion of income-generating activities;
- establishment of a comprehensive evidence base on internal displacement, including through the inclusion of relevant questions in the national population census;
- development of a protocol to advance the human rights of IDPs, as well as protect the best interests of children and the principle of family unity in cases of displacement;
- collaborative establishment by competent authorities of programmes to support IDPs, including the facilitation of secure and peaceful conditions for the return to communities of origin; the provision of assistance to IDPs and protection against threats and violence;
- the establishment of effective measures for the protection of abandoned properties.

The same year, a representative of the CNDH participated in a Senate hearing on internal displacement, together with key representatives from CSOs, academia and the UN Special Rapporteur on the human rights of internally displaced persons.

In 2017 the CNDH prepared a "*Protocolo para la atención y protección de las víctimas de desplazamiento forzado interno (DFI) en México*" [**Protocol for the assistance and protection of victims of forced internal displacement in Mexico**]<sup>63</sup> which:

- provided basic guidelines for the authorities on how to protect IDPs;
- outlined national and international standards for the protection of IDPs, including provisions for differentiated assistance for this population;
- created a "protection pathway", providing guidance to survivors on where, how, and from whom to seek support in the various areas of need (personal, family and community);
- advocated for the promulgation of a general law initiative on forced internal displacement.

Between 2017 and 2019, the CNDH made several recommendations to appropriate authorities based on complaints and investigations regarding displacements in various parts of the country affecting over 6,000 people, including in some cases requesting precautionary measures for IDPs.<sup>64</sup> Findings were made on violations regarding the rights to food, health, education, employment, personal safety, housing and access to justice. In 2018, the CNDH developed a draft federal law on internal displacement and presented it to Congress.

The CNDH has invested significantly in advocacy and capacity-building on internal displacement, creating an online course on the human rights of IDPs, and participating in events and initiatives such as the International Forum on Forced Internal Displacement which took place in Mexico in August 2017, bringing together international and national experts, legislators, academia, CSOs, authorities and survivors of forced displacement, human rights defenders and journalists. The forum discussed the issues of internal displacement in Mexico, taking into account the national, regional and international obligations towards the protection of IDPs and culminated in the Declaration of Mexico City, again highlighting the importance of establishing an adequate national framework on internal displacement. A draft general law for the protection and assistance to IDPs was eventually adopted by the Chamber of Deputies in September 2019, and it is currently under consideration by the Senate, where two additional IDP bills were also presented.

## Case study: advocating for a law on internal displacement in line with international standards in the Philippines

The CHRP has long pushed for the adoption of a comprehensive legislation on internal displacement, participating in its creation and advocating for it with the Philippine Government. While there have been various IDP bills filed in the Philippine Congress over the past decade, none have succeeded to be passed into law. In 2013, Senate Bill 3317 and House Bill 5627 reached the final stages of legislation creation, but the enrolled bill was vetoed by then President Benigno Aquino III.<sup>65</sup>

In these years, the CHRP took an important role in supporting the IDP bill through grass-roots advocacy. Moreover, in response to the veto of the bill in the fifteenth Congress, the CHRP drafted its own version of the IDP bill. The development process of this version included the holding of consultations with government agencies to resolve the contentious issues of the vetoed bill. A workshop for the bill was also conducted, which created the CHRP IDP bill version that was presented to various legislators for their consideration, adoption, or sponsorship. Advocacy campaigns and educational discussions for the IDP legislation were also held at the regional level.

As at March 2021, several IDP bills were filed before the House of Representatives, one of which adopted the language and structure of the version created by the CHRP. These bills were the result of continuous consultations with government agencies, CSOs, NGOs, and other stakeholders. They were crafted and worded to adhere to the UN Guiding Principles on Internal Displacement to ensure that the national response to these issues are in compliance with international human rights and humanitarian standards. Through consultations and its participation in the legislative hearings, the CHRP has often emphasized and has ensured that the bills use a rights-based approach in addressing displacement. There are now clear definitions on important concepts on arbitrary displacement, and well-defined accountability mechanisms for both State and non-State actors. The bill also ensures the mainstreaming of IDP protection and humanitarian assistance across government agencies.

In these bills, the CHRP was proposed to be the institutional focal point for IDPs. Its role is to be the main institution to monitor the situation of IDPs; conduct inquiries and investigate the status of IDPs and the alleged human rights violations committed against them; provide financial assistance in accordance with the CHRP's current functions; and advise the Government on the rights of IDPs to formulate sound national legislation, among other roles. These actions mean that CHRP continues to take a central role in the protection of IDP rights by integrating its role as an NHRI into the bill.

As the current bills remain pending before the Congress, the CHRP has taken it upon itself to advocate for IDP legislation. The CHRP is working towards the creation of a core group or consortium of like-minded organizations and IDPs themselves who could actively assist in lobbying for the passage of the IDP bills. This consortium is to be supported by the CHRP through capacity-strengthening activities on lobbying and legislative advocacy. The CHRP shall also lead the strategic planning and legislative mapping activities of the group, as well as engage other Government agencies in supporting the legislative measure. Local governments are also targeted to pass localized resolutions to ensure IDPs are protected in their areas.





Displaced children play with tires in Al-Rawdah camp in Marib, Yemen (2021). © UNHCR/YPN/Jihad Al-Nahari

## PART 6: WORKING WITH OTHERS

### 6.1 WORKING WITH OTHER NHRIS AND NETWORKS

NHRIs collaborate among themselves in a number of ways, and they have established a number of official networks, presented below, while also establishing informal and subregional networks for the purposes of capacity-building, exchanges of good practices or to address a protection concern common to several countries.

#### Global Alliance of National Human Rights Institutions

The **Global Alliance of National Human Rights Institutions (GANHRI)** is the worldwide membership-based network of NHRIs.

GANHRI promotes and strengthens NHRIs to be compliant with the Paris Principles and provides leadership on the promotion and protection of human rights. It provides a framework for NHRIs to work together and cooperate at the international level through a wide range of activities, including annual meetings, international conferences, networks, training and capacity-building.

GANHRI is made up of 117 NHRIs,<sup>66</sup> and works closely with the four NHRI regional networks:

- Asia Pacific Forum (APF);
- European Network of National Human Rights Institutions (ENNHRI);
- Network of African National Human Rights Institutions (NANHRI);
- Network of National Institutions for the Promotion and Protection of Human Rights of the American Continent (RINDHCA).

GANHRI is recognized by and is a trusted partner of the United Nations. It has established strong relationships with the UN Human Rights Office, UNDP and other UN agencies, as well as with other international and regional organizations, NGOs, civil society and academia.

It provides strategic support and directions for members to collectively address existing, new and emerging human rights challenges in a coordinated and holistic manner in adherence to international human rights norms. It also seeks and facilitates members' participation at key human rights forums and processes.

With regards to internal displacement, GANHRI has supported discussions bringing together members and relevant UN mechanisms, particularly UNHCR and the UN Special Rapporteur on the human rights of internally displaced persons. It has provided capacity and advice to members at the national and regional level to capitalize on the synergies of existing and previous strategic positions taken at the regional and global level, to enhance prevention and find durable solutions to internal displacement.

### *Collaboration between GANHRI and UNHCR*

GANHRI and UNHCR have developed a strong partnership to support NHRIs in their work to enhance protection of refugees, asylum seekers, IDPs, returnees and persons who are stateless or at risk of statelessness. This practical support includes the development of the *Guidance on UNHCR's Engagement with National Human Rights Institutions (2020)*,<sup>67</sup> a publication that examines the unique role and contributions of NHRIs and how partnerships with UNHCR's teams can make a lasting impact on people on the ground.

In addition, the [UNHCR-GANHRI Rights Desk Community of Practice](#), open to all UNHCR and NHRI staff worldwide, is a platform to connect with one another, share information, discuss promising practices and seek advice.

### *Tripartite agreement between GANHRI, OHCHR and UNDP*

To amplify the potential of NHRIs, GANHRI, the United Nations Development Programme (UNDP), and the United Nations Office of the High Commissioner for Human Rights (OHCHR) formed the Tripartite Partnership to Support National Human Rights Institutions (TPP) in 2011. In line with UN reforms, the TPP harnesses the collective strengths and comparative advantages of each partner to provide coherent support to NHRIs around the world. The TPP has been lauded by the UN Secretary-General, the General Assembly, and the Human Rights Council as a good practice of international cooperation.

The TPP leverages complementarity mandates to provide high quality and timely assistance to NHRIs that is jointly planned, delivered, and evaluated through a rights-based approach to ensure maximum impact. Through the delivery of catalytic funding, substantive assistance, and partnership support, the TPP invests in strategic initiatives to build the capacity of NHRIs and their regional networks to increase fulfilment of human rights for all people.

TPP assistance is demand-driven and based on the pressing needs and funding gaps for NHRIs, including in the areas of:

- capacity-building and assessment;
- accreditation review;
- establishment and strategic planning;
- implementation of recommendations from international human rights mechanisms;
- COVID-19 response, recovery, and institutional adaptation.

The TPP also works with and strengthens regional networks of NHRIs as key knowledge brokers and actors to support NHRIs, including on thematic areas of importance such as:

- protection of human rights defenders and civic space;
- human rights implications of COVID-19;
- displacement and migration;
- conflict prevention.

## Network of African National Human Rights Institutions (NANHRI)

The NANHRI was established in 1996, and currently comprises 44 NHRIs in Africa. The protection of persons in forced displacement contexts has been a key concern for this network. Many of its NHRIs have developed collaborations with partners and among themselves to strengthen the protection of the human rights of IDPs. NANHRI and the African Union have also established close working relationships with the objective of promoting and protecting human rights in the region including through compliance with the regional human rights instruments. To this end, they signed a memorandum of understanding in 2016 to strengthen the cooperation between the two institutions.<sup>68</sup>

As part of this cooperation, the two institutions worked with OHCHR and UNDP to organize the third Policy Forum on the State of Human Rights in Africa in 2019, which focused on durable solutions to forced displacement. This was in line with the African Union (AU)'s 2019 theme: *“Refugees, Returnees and Internally Displaced Persons: Towards Durable Solutions to Forced Displacement in Africa”*. At this forum, stakeholders developed and adopted a continental action plan on the contribution of NHRIs to durable solutions on forced displacements in Africa, with a strong focus on the promotion of the Kampala Convention.<sup>69</sup>



Opening session of the AUC-NANHRI Policy Forum on the state of African Human Rights Institutions, 5 September 2019. (Credit: NANHRI)

## Asia Pacific Forum of National Human Rights Institutions (APF)

The Asia Pacific Forum (APF) is one of the oldest NHRI networks. It was established in 1996 and currently has 25 members. As early as 2004, the APF signed a memorandum of understanding with the Brookings-Bern Project on Internal Displacement to integrate the issue of internal displacement into the work of its members, including through needs assessments, a regional workshop, capacity-building and fundraising for and with members and the establishment of an APF “IDP focal points network”.

As a result of this initial and continuing work, a significant number of members of APF have developed strong responses and tools on monitoring and reporting internal displacement at the national and global level and used the human rights-based approach to building the capacity of displaced and host communities, as is evident in the various case studies in this handbook.

## European Network of National Human Rights Institution (ENNHRI)

ENNHRI comprises over 40 NHRIs in Europe. In addition to strengthening the capacity of members to carry out their mandates, it also aims at connecting its members with the regional human rights mechanisms in Europe.

As part of its functions, in 2018 ENNHRI launched a project titled “the Role of NHRIs in Situations of Conflict and Post-Conflict”, to facilitate collaboration among and support for NHRIs in these contexts around several topics, including on conflict prevention, management and resolution; peacebuilding and transitional justice; and internal displacement. As part of this project, ENNHRI organized a series of events including a workshop on “The human rights of internally displaced persons in post-conflict situations: what role for NHRIs?”, which brought together ENNHRI members, NHRIs operating in post-conflict situations throughout Europe and in other regions, international experts including the UN Special Rapporteur on the human rights of internally displaced persons, regional stakeholders, civil society and national actors. These events were used to create dialogue with bodies such as the EU and the Council of Europe, giving NHRIs a united voice and front in advocating for concerned member States to pay more attention to the rights of IDPs and to comply with the regional and international instruments. They culminated in a **Statement of Action**<sup>70</sup> and the **Kyiv Declaration on the Role of National Human Rights Institutions in Conflict and Post-Conflict Situations**,<sup>71</sup> through which NHRIs committed to “advising and advocating for the promotion, protection and respect of the rights of refugees and IDPs (displaced as a consequence of conflict)”, and also noted the critical role of transitional justice mechanisms as tools for prevention of recurrent conflicts and therefore part of durable solutions to forced displacement.

The project resulted in a useful “**Guide on the Role of National Human Rights Institutions in (Post-)Conflict Situations**”.<sup>72</sup>

## Network of National Institutions for the Promotion and Protection of Human Rights of the American Continent (RINDHCA)

RINDHCA comprises 18 NHRIs from all over North, Central and South America, established according to the Paris Principles. The objectives of RINDHCA are to promote a culture of respect for human rights, strengthen the recognition and fulfilment of the international commitments of the States and to contribute to the democratic development, establishment and strengthening of existing NHRIs.

The regional network has worked closely with members to enhance their skills and expertise in dealing with internal displacement with special emphasis on the causes unique and or prevalent in the region, such as criminal violence. The members have come together to organize regional meetings and have proactively engaged with the OAS and the Inter-American Human Rights System to address both internal and cross-border forced displacement.

For example, in February 2018, on the twentieth anniversary of the Guiding Principles on Internal Displacement, the network requested the Inter-American Commission on Human Rights to organize the first ever public hearing on internal displacement and human rights in the Americas, which was attended by a variety of stakeholders including the UN Special Rapporteur on the human rights of internally displaced persons, as well as her Inter-American counterpart. The network raised 10 proposals to improve the protection of IDPs, including

- the acknowledgement of internal displacement and development of legislation on this subject in those States where there are IDPs;
- the creation of an observatory on internal displacement to document the evolution and manifestations of forced displacement in Latin America;
- protection in the context of cross-border displacements;
- periodic exchange among NHRIs of their successful experiences in protecting displaced persons and communities.<sup>73</sup>

## 6.2 UNITED NATIONS SUPPORT TO NHRIs AND COLLABORATION

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### Office of the High Commissioner for Human Rights

OHCHR is part of the United Nations Secretariat and leads the UN human rights programme. With regards to its support to NHRIs, the Office:

- supports efforts to establish and strengthen NHRIs worldwide, with and through UN Human Rights geographic desk officers and field presences, other UN agencies, funds and programmes, and regional networks of NHRIs, including through technical cooperation<sup>74</sup> and capacity-building projects for NHRIs;
- reviews draft laws concerning NHRIs and advises on compliance with the Paris Principles;
- establishes guidance notes, methodological tools, best practices and lessons learned on issues related to NHRIs;
- provides Secretariat support to GANHRI, including its Sub-Committee on Accreditation and its Bureau;
- facilitates partnerships between NHRIs and UN country teams;
- supports the interaction of NHRIs with the International Human Rights System, including treaty bodies, Special Procedures mechanisms, the Human Rights Council/UPR);
- supports regional and subregional networks on NHRIs;
- drafts the Secretary-General's and High Commissioner's reports to the General Assembly and the Human Rights Council on the Office's NHRI-related activities.

Within the Office, the National Institutions and Regional Mechanisms Section is the focal point for providing advice and assistance to establish and strengthen NHRIs in line with several UN resolutions.<sup>75</sup>

In several countries, the support provided by and the collaboration between OHCHR and NHRIs has also been extended to cover internal displacement. For example, in **Nigeria** in 2014, with the support of OHCHR, the Nigerian Human Rights Commission was able to deploy 30 human rights observers to monitor the general protection conditions of civilians, including IDPs (in Adamawa, Borno, and Yobe). In **Mexico** in 2017, the OHCHR Office worked with the National Human Rights Commission and other stakeholders to co-organize an important public forum on internal displacement to advocate for the Government to acknowledge the phenomenon, and promote the adoption of a law on this subject.

### Office of the High Commissioner for Refugees

As reaffirmed in its 2019 Policy on UNHCR's Engagement in Situations of Internal Displacement,<sup>76</sup> UNHCR has committed to engaging decisively and predictably in situations of internal displacement. This commitment is an integral element of UNHCR's operations worldwide and of its protective leadership role in humanitarian crises. To fulfil its responsibility to lead, coordinate and deliver protection in situations of internal displacement, UNHCR has come to employ a range of interrelated strategies, one of which involves engaging in strategic partnerships with NHRIs.

NHRIs are a key counterpart on human rights engagement at the national level for UNHCR. UNHCR works strategically in partnership with NHRIs in many countries to enhance the protection of all its persons of concern (including asylum seekers, refugees, IDPs and stateless persons) and the well-being of their host communities. The Guidance on UNHCR's engagement with NHRIs,<sup>77</sup> which UNHCR launched in February 2021, suggests ways to concretely engage and leverage NHRIs as critical protection partners in support of UNHCR's mandate. This is complemented by guidance for field protection clusters on engagement with NHRIs, published in August 2021.<sup>78</sup>

As reflected in this handbook, UNHCR collaborates with NHRIs in many contexts to strategically use the expertise and the skills that NHRIs have to enhance the protection of the human rights of IDPs, while supporting and building their capacity to deliver their protection and promotion mandate with regards to IDPs, including by establishing focal points or dedicated projects, as well as joint activities.

## Good practice: UNHCR's collaboration with NHRIs during the COVID-19 pandemic in West Africa

In April 2020, UNHCR produced a note in collaboration with GANHRI on how UNHCR can collaborate with NHRIs for the protection of its populations of concern, including IDPs, in response to COVID-19. Four specific areas were identified for collaboration:

1. monitoring of the measures taken during COVID-19;
2. facilitation of access to information about the effects of COVID-19 measures for persons of concern;
3. monitoring of the situation of persons of concern deprived of liberty;
4. monitoring of access to health care, housing, water and sanitation, and social security.

This note also built on several good practices across regions. For example, in **West Africa**, UNHCR and NHRIs leveraged their existing networks and partnerships to build a joint and coordinated response to protect those who are forcibly displaced. As infections rose, and more stringent measures were taken to address the pandemic, it became obvious that fragile and vulnerable communities such as IDPs and refugees were bound to be negatively impacted, since they often resided in crowded facilities with inadequate water, sanitation and hygiene (WASH) facilities.

In **Nigeria**, the collaboration between UNHCR, the National Human Rights Commission, other partners including the Nigeria Bar Association and relevant local authorities also resulted in:

- the reinforcement of **protection monitoring** in border areas;
- the establishment of community-based structures ("**protection action groups**"), composed of members of the internally displaced and host communities, as well as locally recruited protection monitors.

In **Niger**, the National Human Rights Commission –which is also a member of the Protection Cluster – enhanced its monitoring of detention facilities and of provision of WASH services among other relevant activities.

The NHRIs in **Burkina Faso, Cameroon, Chad, Cote d'Ivoire, the Gambia, Ghana, Guinea, Mali, Niger, Nigeria and Togo** also issued a press statement in which they:

- encouraged the population to observe the preventive measures against COVID-19;
- encouraged media outlets to provide informative talk shows and sensitization;
- called upon governments to adopt particular measures to facilitate the enjoyment of the right to work and livelihoods, the right to education and social safety nets, with special attention paid to vulnerable persons, including persons with low incomes, persons living with chronic diseases, persons living with disabilities, IDPs and refugees.

Despite some challenges (including around access and data), this joint work demonstrated the great value of NHRIs as primary NHRIs and UNHCR as the global protection lead agency for IDPs, working together and reinforcing each other's mandates, thereby enhancing the credibility of each among other national agencies and vulnerable communities. Joint advocacy efforts also helped hold attention on the deterioration of the security situation, and consequently, provide significant protection of civilians' needs. The cross-border collaboration with neighbouring NHRIs also established close links between internal displacement and asylum-seeking or cross-border migration among vulnerable populations.



*Abdourahmane Abdou, 35, trader, stands in front of his new home after his family house was destroyed by severe floods in Niamey, Niger (2021). © UNHCR/Sylvain Cherkouui*

## United Nations Development Programme

UNDP works to advance the development dimensions of displacement by working with partners such as governments, IDPs and host communities to address the root causes of displacement and seek durable solutions to internal displacement, including through providing support to key national institutions. The support includes enhancing the capacities of governmental institutions that take a human rights-based approach to development, by ensuring equality, non-discrimination and inclusion.

Promoting respect for human rights and redress for human rights violations are crucial elements of UNDP's assistance to countries. Through its human rights-based approach, UNDP gains a better understanding of complex power dynamics and structural inequalities, enabling more strategic and sustainable development programming. Supporting national accountability mechanisms is an important component of fostering respect for human rights.

As cornerstones of national human rights systems, UNDP has supported and partnered with NHRIs in over 100 countries and supported their participation in international forums to bring national perspectives to multilateral discussions on human rights. The 2019 Policy Forum on the State of Human Rights in Africa, which UNDP supported, is one such example. This forum resulted in the adoption of an action plan including recommendations for NHRIs on data gathering and analysis, the development of national laws and policies, and human rights monitoring on internal displacement.

In **Mali**, UNDP and the TPP supported the NHRI in the expansion of its geographic presence and partnerships with civil society to monitor human rights violations in areas of internal displacement. This support helped draw attention to human rights considerations and the role of the NHRI, as well as to train stakeholders on human rights and the role and mandate of the CNDH, including police officers, prison officials, customary authorities, religious leaders and representatives of CSOs.



UN Human Rights Council. © Elma Okic

## 6.3 WORKING WITH GLOBAL HUMAN RIGHTS MECHANISMS

There are several mechanisms responsible for monitoring and encouraging State compliance with human rights law at the international, regional and national levels. NHRIs play a fundamental role in the international human rights system by cooperating not only with the human rights mechanisms, but also by participating in UN processes and engaging with all UN entities.

### United Nations Human Rights Council

The Human Rights Council is an intergovernmental body within the United Nations system comprising 47 States responsible for the promotion and protection of all human rights around the globe.<sup>79</sup> It replaced the UN Commission on Human Rights.

NHRIs with “A” status can engage with the Human Rights Council to raise issues relating to the human rights of IDPs in their respective countries in several ways. NHRIs are able to organize side events, submit written documents, make oral statements at Council sessions, and even “intervene” immediately after their Member State during the interactive dialogue with Special Procedures mandate holders on the subject of country visit reports in their home country – as the National Human Rights Commission of **Nigeria** did in 2017,<sup>80</sup> and the Ombudsperson from **El Salvador** in 2018, following the presentation by the UN Special Rapporteur on the human rights of internally displaced persons of her mission reports to the respective countries. NHRIs with “A” status are also able to submit pre-recorded video messages at Council sessions, in lieu of an oral statement.<sup>81</sup>

The Council regularly adopts a resolution on the human rights of IDPs. Resolution A/HRC/RES/41/15 recognized the important role of NHRIs in all phases of displacement to ensure that all human rights issues are appropriately addressed.<sup>82</sup>



## The Universal Periodic Review

The UPR is a State-driven human rights mechanism. It is a cooperative mechanism where the human rights record of every State is reviewed by other States every four and a half years, with recommendations for the improvement of their human rights situation and fulfilment of their obligations being provided.<sup>83</sup> The UPR was established by the Human Rights Council in 2006.<sup>84</sup> It is intended to complement, not duplicate, the work of the human rights treaty bodies. The UPR mechanism is an important opportunity for NHRIs to raise issues relating to the human rights of IDPs.

**NHRIs can:**<sup>85</sup>

- include issues relating to the human rights of IDPs in their own NHRI's UPR report, in the analysis and recommendations;
- support IDPs, their associations, NGOs and other relevant stakeholders to report to the UPR and include issues affecting IDPs;
- advocate for Human Rights Council States to raise questions and recommendations regarding the situation of IDPs in countries under review as relevant, as well as any specific issues affecting them, for example, by hosting an NHRI meeting with Permanent Missions ahead of the UPR review;
- monitor the implementation of relevant outcome recommendations, including, for example, by reflecting them in their annual or special NHRI reports.

According to an analysis carried out by UNHCR of the second and third UPR cycles, 127 recommendations were made on matters relating to internal displacement. Ninety per cent of them were supported by member States under review, while the rest of the recommendations were "noted". Overall, 47 per cent of the recommendations put forward by States in relation to internal displacement concern law and policy. These tend to recommend the development of policies and strategies in line with international and regional standards, as well as the enforcement of measures to implement national frameworks and strengthen the protection of the rights of IDPs and returnees – a key area of engagement for NHRIs.

## Treaty bodies

The treaty bodies are committees of independent experts that monitor the implementation of international human rights treaties. Each State party to a treaty has an obligation to take steps to ensure that everyone in the State can enjoy the rights set out in the treaty.<sup>86</sup> In general, the committees fulfil this role in three ways:

1. by monitoring the implementation of the treaty through the examination of State reports and by issuing concluding observations that outline positive aspects and the main concerns, and by providing related recommendations to the State;
2. by issuing general comments that provide guidance on the interpretation of particular provisions, rights or on implementation of the treaty;
3. by examining individual complaints of alleged violations of human rights, subject to the consent of the State to do so.

NHRIs are well-positioned to influence their country's government to accede or ratify human rights treaties, engage with the treaty bodies' reviews, and assist and follow up on the implementation of the recommendations in a timely manner. The treaty-monitoring bodies (in particular, the Human Rights Committee, the Committee on Economic, Social and Cultural Rights [CESCR], the UN Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women (CEDAW) and the Committee on the Elimination of Racial Discrimination [CERD]) have been devoting increasing attention to the obstacles that impede the enjoyment of human rights for IDPs and people at risk of displacement.

NHRIs can interact with treaty bodies in relation to internal displacement in a variety of ways, including by:

- submitting information on IDPs' enjoyment of relevant rights to the relevant treaty bodies to ensure that internal displacement issues in their country receive adequate attention;
- attending the sessions of the treaty bodies;
- advising governments on preparing their reports to present them to the treaty bodies, and the implementation of the recommendations issued by them on the human rights of IDPs;
- participating in national monitoring and follow-up mechanisms on the outcome recommendations, including those relevant for IDPs.

Moreover, as a key link between domestic civil society and the government, NHRIs are well placed to help train organizations on effectively researching and preparing reports for presentation to treaty bodies, while also potentially coordinating with civil society to avoid duplication of reports. NHRIs can further help draft or provide feedback on the government's report to treaty bodies. Some treaty bodies, such as the CESCR,<sup>87</sup> allow NHRIs to participate in informal committee meetings, giving the NHRI the opportunity to engage in direct dialogue with the Committee before it issues general observations or recommendations to a country. Several treaty bodies have issued guidelines addressing NHRIs' role, including the Human Rights Committee, CERD, CEDAW and the Committee on the Rights of Persons with Disabilities.

## Special Procedures

The Special Procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective.<sup>88</sup> As human rights issues affecting IDPs are geographically and thematically cross-cutting, NHRIs can engage with Special Procedures mandate holders by supporting country visits, providing information on allegations of human rights violations, advocacy and technical cooperation, among other activities. As human rights issues affecting IDPs are geographically and thematically cross-cutting, some of the activities, such as the communications, can be jointly carried out with a variety of thematic or country mandates (among others, with the Special Rapporteur on the right to adequate housing, on the rights of persons with disabilities, on the rights of indigenous peoples, or on minority issues, or the Independent Expert on the enjoyment of all human rights by older persons). In addition, in 2010, the Council established a mandate specifically dedicated to the human rights of IDPs,<sup>89</sup> which has developed strong partnerships with NHRIs and their networks.

### NHRIs can:

- submit information on IDPs' enjoyment of the relevant rights to relevant UN Special Procedures, including through the call for inputs to contribute to annual thematic reports;
- assist in submitting allegations on human rights violations on issues that either specifically concern the human rights of IDPs or, if broader, formulate their analyses and recommendations from a displacement perspective, as relevant;
- provide support and information during Special Procedures' country missions, and encourage them to address IDP issues as relevant;
- participate in national monitoring and follow-up mechanisms on recommendations resulting from country or thematic reports as relevant for IDPs;
- organize workshops and invite relevant mandate holders to also discuss human rights issues affecting IDPs at the national level;
- assist IDPs in engaging with these mechanisms' protection and communication systems, as appropriate.



*A displaced Rohingya father and his child at Dar Paing camp for internally displaced people in Sittwe, Rakhine state, Myanmar (2017).*  
© UNHCR/Roger Arnold

## The UN Special Rapporteur on the human rights of internally displaced persons

The UN Special Rapporteur on the human rights of internally displaced persons has placed considerable importance on the critical role of NHRIs in promoting and protecting the human rights of IDPs across all their areas of work. Her 2019 report to the UN Human Rights Council (A/HRC/41/40) focused on this issue, providing recommendations to support NHRIs' effectiveness in protecting human rights alongside and in collaboration with other national and international stakeholders.

In this report, the Special Rapporteur considers obstacles to the engagement of NHRIs on internal displacement, as well as their activities and good practices at all phases of displacement, from prevention of the conditions leading to internal displacement to their roles in responding when displacement occurs and in processes to achieve durable solutions.

Human rights violations are both a cause and a consequence of internal displacement, and the risk of human rights violations is heightened during displacement. The Special Rapporteur regularly meets with NHRIs at events and during country visits, and receives NHRIs' submissions and information for her communications to States concerning human rights violations of IDP rights. The Special Rapporteur has participated in numerous meetings and events to speak about and promote the role of NHRIs in relation to internal displacement. She also reflects on NHRIs' analyses and concerns in her country and thematic reports, particularly focusing on protection and monitoring, law and policy, and promotion of IDP participation. The Special Rapporteur can be contacted at [idp@ohchr.org](mailto:idp@ohchr.org).



Special Rapporteur Cecilia Jimenez-Damary meets the Ombudsperson in El Salvador during her official mission to the country in 2017. © PDDH



*A Chadian woman, 40, was forced to flee to Baga Sola in Lake Chad Province after Teteoua, her village, was attacked by Boko Haram militants in 2015 (2021). © UNHCR/Sylvain Cherkouvi*

## 6.4 REGIONAL HUMAN RIGHTS BODIES AND MECHANISMS

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Regional human rights mechanisms in Africa, the Americas and Europe develop standards, policies, practices and case law that put international human rights standards in the context of particular social, historical and political traditions and regional realities. Regional human rights mechanisms and NHRIs have a symbiotic relationship in the promotion and protection of human rights. Regional economic and development institutions, such as the Economic Community of West African States and the Southern African Development Community, are also involved in human rights work.

### Europe

As the only Europe-wide intergovernmental organization with 47 member States 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 on IDPs and NHRIs. Through a combination of standard-setting, monitoring and cooperation activities, the CoE has significantly strengthened the protection of IDPs in Europe. Furthermore, most of its conventions are open to non-member States, including those outside 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. IDPs who are under the jurisdiction of a CoE Member State are entitled to the protection of all the rights and freedoms enshrined in the ECHR. 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. 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.<sup>90</sup>

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. The ECSR has, inter alia, recognized "the heightened vulnerability of displaced families, who constitute a distinctive group who suffer particular disadvantage" and

has concluded that failure to take into account their heightened vulnerabilities constitutes a violation of article 16 (the right of the family to social, legal and economic protection) read in the light of the non-discrimination clause of the Preamble to the Charter.<sup>91</sup>

In addition, other conventions and monitoring mechanisms of the CoE focus on specific issues and vulnerabilities of IDPs such as the protection of national minorities, action against trafficking in human beings, combating violence against women and domestic violence, protection of children against sexual exploitation and abuse,<sup>92</sup> and efforts to eliminate discrimination and intolerance.<sup>93</sup>

Furthermore, while endorsing the Guiding Principles, the CoE Committee of Ministers has recognized that IDPs “have specific needs by virtue of their displacement” and has developed a set of 13 principles to guide member States “when formulating their internal legislation and practice” to ensure they effectively address internal displacement.<sup>94</sup> Similarly, in a recent recommendation – although not specifically on IDPs – the Committee of Ministers emphasized the “great potential and impact of independent NHRIs for the promotion and protection of human rights in Europe,” and made a series of recommendations on establishing and strengthening NHRIs while securing and expanding a safe and enabling environment, as well as promoting cooperation and support for NHRIs.<sup>95</sup> In the same vein, the Parliamentary Assembly of the CoE (PACE) has adopted various recommendations and resolutions highlighting, inter alia, the need for “continued international assistance to IDPs” and the important role that NHRIs can play in monitoring and protecting IDPs’ rights.<sup>96</sup>



Palais de l'Europe. © Council of Europe

The development of legally binding and non-binding standards and the monitoring work of the CoE is supplemented by technical cooperation programmes. An example of these cooperation programmes are the comprehensive projects on IDPs implemented in Ukraine since 2015.<sup>97</sup> Acknowledging the important role of the Ombudsperson Office, the projects aim to: (1) contribute to the advancement of the legislative and regulatory framework for the protection of the human rights of IDPs, in line with European and other international standards; (2) strengthen the capacity of key stakeholders to improve the protection of the human rights of IDPs; and (3) promote IDP participation and integration at the local level. In the framework of these projects, the CoE, among other bodies, supported the Ombudsperson’s Office in Ukraine and its local representatives in developing an advanced approach to identify, assess and address issues pertaining to the human rights violations of IDPs. To this end, the projects have so far:

- a. developed a **handbook** (“Protecting Internally Displaced Persons under the European Convention on Human Rights and other Council of Europe standards”) – a key reference tool on internal displacement not only for the Ombudsperson’s Office but NHRIs in the region;
- b. developed **guidelines** on monitoring the human rights of IDPs and their access to social and temporary housing;
- c. provided regular **training** to the staff of the Ombudsperson’s Office on international and European standards, as well as national legislation and court practice on IDPs;
- d. developed a free **e-learning course** on internal displacement, serving as a fundamental source for training legal professionals in Ukraine and beyond;<sup>98</sup>
- e. provided **technical assistance** to the Ombudsperson’s Office by facilitating, inter alia, participatory meetings with IDPs and State agencies dealing with IDPs’ issues at the local level; monitoring visits to various regions in Ukraine; follow-up round tables with IDPs and CSOs to explore the reality on the ground and suggest relevant legislative and regulatory improvements;
- f. prepared a **study** on compensation, housing programmes, pensions and social payments for IDPs based on an international research in various CoE Member States – this provided the basis for the Ombudsperson’s thematic report “Exercise of the Right of Internally Displaced Persons to Housing” and laid the groundwork for further public debates on the issue in Ukraine.

As a result of the collaboration between the CoE projects and the Ombudsperson Office, the national legal framework and access to remedies for IDPs in Ukraine have been considerably strengthened in line with international and European standards.

## Americas

The inter-American system for the protection of human rights is the regional human rights system, responsible for monitoring, promoting, and protecting human rights in the 35 independent countries of the Americas that are members of the OAS. The inter-American system is composed of two principal entities:

- the **Inter-American Commission on Human Rights**;
- the **Inter-American Court of Human Rights**.

Both bodies can decide upon individual complaints concerning alleged human rights violations and may issue emergency protective measures when an individual or the subject of a complaint is in immediate risk of irreparable harm. For example, in 2017, the Commission held hearings and made site visits in Guatemala to address human rights violations related to forced evictions<sup>99</sup> and it granted precautionary measures to the evicted families.

While the court may issue advisory opinions on issues pertaining to the interpretation of the inter-American instruments at the request of an OAS organ or Member State, the Commission also engages in a range of human rights monitoring and promotion activities, including through its various rapporteurships.

### The Inter-American Rapporteur on the Rights of Migrants

In 1996, the Inter-American Commission established a dedicated **Rapporteur on the Rights of Migrants**,<sup>100</sup> focused on promoting respect and protection of the rights of migrants as well as asylum seekers, refugees, Stateless persons, victims of human trafficking and IDPs.

To fulfil its current mandate, the Special Rapporteur on the Rights of Migrants performs the following functions:

- raise awareness about the obligations of States to respect and ensure the human rights of migrants and their families, asylum seekers, refugees, Stateless persons, victims of human trafficking, IDPs and other vulnerable groups of people in the context of human mobility;
- monitor the human rights situation of migrants and their families, asylum seekers, refugees, Stateless persons, survivors of human trafficking, IDPs, and other groups of people in the context of human mobility and highlight the violations of their rights;
- provide consultancy and make recommendations on public policy to the member States of OAS, as well as to political bodies of the OAS, related to the protection and promotion of human rights of migrants and their families, asylum seekers, refugees, Stateless persons, survivors of human trafficking, IDPs and other vulnerable groups of people in the context of human mobility, so that measures are taken on their behalves;
- prepare reports and specialized studies with recommendations directed to member States of the OAS for the protection and promotion of human rights of migrants and their families, asylum seekers, refugees, Stateless persons, survivors of human trafficking, IDPs and other vulnerable groups of people in the context of human mobility;
- act promptly on petitions, cases, requests for precautionary measures and elevation of provisional measures before the Inter-American Court of Human Rights where it is alleged that the human rights of migrants and their families, asylum seekers, refugees, Stateless persons, survivors of human trafficking, IDPs and other groups of people in the context of human mobility are violated in any of the OAS member States.

Both bodies have developed a rich and robust approach to addressing the plight of internal displacement including paying special attention to women and indigenous communities. They have provided important guidance on internal displacement; for example, in 2018, the Commission published “**Internal Displacement in the Northern Triangle of Central America: Public Policy Guidelines**.”<sup>101</sup> This document builds on the 2015 report of the Commission’s Rapporteur on the Rights of Migrants that sets out the legal standards of the inter-American human rights system regarding both the scope and content of human rights in the context of mobility.<sup>102</sup>

NHRIs in the region routinely engage with the Commission, including through reporting and drawing attention to national and regional human rights concerns, which should continue to include internal displacement, as relevant. An important example was the Commission’s organization of the first ever public hearing on internal displacement and human rights in the Americas in 2018, on the twentieth anniversary of the Guiding Principles on Internal Displacement, upon the request of the NHRIs in the region.

## Africa

The African system was created under the auspices of the AU. Like the inter-American system, it includes a commission (the **African Commission on Human and Peoples' Rights – ACHPR**) and a court (the **African Court on Human and Peoples' Rights – AfCHPR**)<sup>103</sup> with complementary mandates. The Commission officially has three major functions:

- protection of human and peoples' rights;
- promotion of human and peoples' rights;
- interpretation of the [African Charter on Human and Peoples' Rights](#) (see, for example, "General Comment No. 5 on the African Charter on Human and Peoples' Rights: The Right to Freedom of Movement and Residence, Article 12(1)",<sup>104</sup> of particular relevance to IDPs) and other regional human rights instruments.

The African Court is a regional human rights tribunal with advisory and contentious jurisdiction concerning the interpretation and application of the African Charter and other regional human rights instruments. In addition to deciding cases, the Court may issue [advisory opinions](#) and adopt thematic [reports](#).

The **African Committee of Experts on the Rights and Welfare of the Child**, which is responsible for promoting, interpreting and monitoring the implementation of the African Charter on the Rights and Welfare of the Child is also of note, given its relevance to the human rights of internally displaced children.

The ACHPR has established various working groups, special rapporteurships, and committees to advance specific thematic areas of work and to guide its operations. In 2004, it established a **Special Rapporteur on Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa**, with a mandate to:

- seek, receive, examine, and act upon the situation of refugees, asylum seekers and IDPs in Africa;
- undertake studies, research and other related activities to examine appropriate ways to enhance the protection of refugees, asylum seekers and IDPs;
- carry out fact-finding missions, investigations, and visits to refugee camps and camps for IDPs;
- assist member States of the AU in their development of appropriate policies, regulations and laws for the effective protection of refugees, asylum seekers and IDPs;
- cooperate and engage in dialogue with member States, **NHRIs**, relevant intergovernmental and non-governmental bodies, international and regional mechanisms;
- develop and recommend effective strategies to better protect rights;
- raise awareness and promote the implementation of the UN Convention relating to the Status of Refugees (1951) as well as the Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugees Problems in Africa;
- submit reports as every ordinary session of the African Commission on the situation of refugees, asylum seekers and IDPs in Africa.

In 2006, the mandate of the Special Rapporteur was extended to also include migration issues.

→ See Part 1.4 of this handbook for more information on collaboration around the promotion of the Kampala Convention in Africa.



## Case study: The engagement of the Kenya National Commission on Human Rights in the Endorois case at the African Commission on Human and Peoples' Rights<sup>105</sup>

### History of the case

The Endorois, a semi nomadic community of around 60,000 individuals engaged in animal husbandry, have resided around Lake Bogoria in Kenya for over 300 years. The lake is central to their existence, providing agricultural, economic, cultural and religious benefits, including playing host to prayer and circumcision sites that are used regularly by the community. During the colonial period, it was held in trust for them by a Native Lands Board. After independence in 1963, the trust was transferred to the local authority on the same terms. In 1973, the Government of Kenya hived off the land to create a game reserve, following which the community was evicted. The community challenged the decision and were promised compensation. As the Government did not fully comply, the community sued at the High Court of Kenya in 2000. The Court dismissed their case on the grounds that, although they were bona fide occupants of the land in dispute, their customary right ended with the creation of the game reserve and that compensation was paid to 170 (out of the original 400) families by the State as full payment for the loss of ancestral land. The Court also noted that under Kenyan law, it could not address collective rights to property and special protection based on historical occupation and cultural rights. Dissatisfied, the Endorois Welfare Council, represented by the Centre for Minority Rights Development and Minority Rights Group International (MRG), took the matter to the African Commission on Human and Peoples' Rights (ACHPR) in 2003.

### Arguments before the African Commission on Human and Peoples' Rights by the Parties

Standing before the Commission, the Endorois argued that they are a "people", a status that entitles them to benefit as such from provisions of the African Charter and that protects their collective rights. The ACHPR had previously affirmed the right of "peoples" to bring claims under the African Charter and pronounced that in cases of large numbers, the Commission would decide on such cases collectively. As a result, the Endorois argued to be entitled to bring their claims collectively as a people under relevant provisions of the African Charter.

The Endorois argued the following substantive breaches of the African Charter related to the restriction and or denial of access to the lake:

- article 14 (property, including collective land rights);
- article 8 (freedom of religion) and article 17 (right to culture);
- article 21 (natural resources), including resources for their livestock, such as salt licks;
- article 22 (development), allowing mining and other activities on the disputed land without the participation of and any special allocation for the community.

### Response by the Government of Kenya

The Government of Kenya argued that the Endorois were not a distinct community but were part of the Tugen group of clans and as such they had no legal standing. In addition, they were no longer living around the Lake Bogoria area and had moved to other locations in search of pasture and arable land, or the Government had relocated them to give way to development but it had initiated education and agricultural recovery programmes to increase household incomes for all those relocated, including the Endorois. It also argued that it had complied with appropriate laws during the creation of the game reserve through resettlement and compensation.

### The Decision of the African Commission on Human and Peoples' Rights

In February 2010, the ACHPR found Kenya to be in breach of articles 8, 14, 17, 21 and 22 of the African Charter. The Commission found that:

- Article 8: by evicting Endorois from their ancestral lands, the Government had denied them access to sacred sites that were essential to the practice of their religion.
- Article 14: the Endorois had a right to legal ownership of their land. By forcibly removing them, the Government had infringed this right. The Government had provided no lawful justification and had failed to provide compensation.
- Article 17: by forcing Endorois off their land and away from resources vital to the health of their livestock, the Government of Kenya had threatened Endorois' pastoralist way of life. In doing so, the Government had denied their right to culture.
- Article 21: the Government was in breach of article 21 on the basis that the Government of Kenya had granted mining rights on Endorois land to a private company and had failed to consult or share the benefits with Endorois.
- Article 22: by evicting the Endorois from their land and failing to provide them with alternative land of sufficient quality to support their way of life and by failing to compensate them, the Government had infringed the Endorois' right to development.



### The role of the Kenya National Commission on Human Rights

The KNCHR observed the proceedings at the ACHPR as part of its engagement with regional human rights mechanisms. It was also part of the advocacy team to build awareness around the case and its outcome with relevant agencies. The KNCHR gave an advisory note to the Republic of Kenya on implementation of the Decision (of the ACHPR) and used the Decision to enhance awareness on access to land rights by indigenous communities, and as an affirmation for its advocacy for the redress of the historical vulnerabilities and injustices suffered by said communities. KNCHR joined other actors under the umbrella of the Kenya Land Alliance to:

- commemorate, disseminate and discuss the Decision and its recommendations at the disputed site;
- carry out print and electronic media campaigns to raise national awareness and generate debate on the plight of indigenous people.

The Commission has been resolute in continuing to advocate for not just the full implementation of the Decision for the benefit of the Endorois but also for comprehensive legal, policy and institutional reforms to protect the rights of local communities and indigenous people in similar circumstances. This example is illustrative of the need for collaborative, sustained and multi-pronged strategic efforts by communities, civil society and NHRIs to promote and protect the rights of vulnerable citizens, particularly against forced evictions.



*Democratic Republic of Congo: more than 350,000 people were displaced by eruption of the Nyiragongo volcano in Goma. Here an IDP woman, aged 40, visits the spot where their house once stood with one of her 7 children (June 2021). © UNHCR/Guerchom Ndebo*

# ENDNOTES

- <sup>1</sup> See [www.ohchr.org/EN/Issues/IDPersons/Pages/report-id-national-hr-institutions.aspx](http://www.ohchr.org/EN/Issues/IDPersons/Pages/report-id-national-hr-institutions.aspx).
- <sup>2</sup> See [www.internal-displacement.org/global-report/grid2021/](http://www.internal-displacement.org/global-report/grid2021/).
- <sup>3</sup> See [www.brookings.edu/articles/the-concept-of-internal-displacement-and-the-case-for-internally-displaced-persons-as-a-category-of-concern/](http://www.brookings.edu/articles/the-concept-of-internal-displacement-and-the-case-for-internally-displaced-persons-as-a-category-of-concern/).
- <sup>4</sup> [www.brookings.edu/research/protecting-internally-displaced-persons-a-manual-for-law-and-policy-makers/](http://www.brookings.edu/research/protecting-internally-displaced-persons-a-manual-for-law-and-policy-makers/), pp. 13–14.
- <sup>5</sup> See [www.icrc.org/en/doc/resources/documents/article/other/armed-conflict-article-170308.htm](http://www.icrc.org/en/doc/resources/documents/article/other/armed-conflict-article-170308.htm).
- <sup>6</sup> See <https://undocs.org/A/75/207>.
- <sup>7</sup> See [www.ohchr.org/Documents/Publications/FS25.Rev.1.pdf](http://www.ohchr.org/Documents/Publications/FS25.Rev.1.pdf).
- <sup>8</sup> A/HRC/4/18. Available from [www.ohchr.org/documents/issues/housing/guidelines\\_en.pdf](http://www.ohchr.org/documents/issues/housing/guidelines_en.pdf).
- <sup>9</sup> p. A-1. Available from [www.unhcr.org/50f94cd49.pdf](http://www.unhcr.org/50f94cd49.pdf).
- <sup>10</sup> Available from [www.unhcr.org/protection/idps/43ce1cff2/guiding-principles-internal-displacement.html](http://www.unhcr.org/protection/idps/43ce1cff2/guiding-principles-internal-displacement.html).
- <sup>11</sup> Available from [www.brookings.edu/research/the-guiding-principles-on-internal-displacement-annotations-2nd-edition/](http://www.brookings.edu/research/the-guiding-principles-on-internal-displacement-annotations-2nd-edition/).
- <sup>12</sup> Available from [www.globalprotectioncluster.org/\\_assets/files/tools\\_and\\_guidance/Internal%20Displacement/guidelines\\_basic-principles-on-development-based-evictions-and-displacement.pdf](http://www.globalprotectioncluster.org/_assets/files/tools_and_guidance/Internal%20Displacement/guidelines_basic-principles-on-development-based-evictions-and-displacement.pdf).
- <sup>13</sup> See [www.nrc.no/resources/reports/the-importance-of-addressing-housing-land-and-property-hlpchallenges-in-humanitarian-response/](http://www.nrc.no/resources/reports/the-importance-of-addressing-housing-land-and-property-hlpchallenges-in-humanitarian-response/), [https://ready.csod.com/clientimg/ready/emailUploads/Mobile\\_Guide/Mobile\\_Guide\\_HLP.pdf](https://ready.csod.com/clientimg/ready/emailUploads/Mobile_Guide/Mobile_Guide_HLP.pdf) and [www.ohchr.org/en/issues/idpersons/pages/idpersonsindex.aspx](http://www.ohchr.org/en/issues/idpersons/pages/idpersonsindex.aspx).
- <sup>14</sup> See [https://reliefweb.int/sites/reliefweb.int/files/resources/1811\\_IDPs-and-SDGs.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/1811_IDPs-and-SDGs.pdf).
- <sup>15</sup> [www.jips.org/uploads/2020/12/UNHCR-JIPS-IAEGSDGs-DataDisaggregation-SDGIndicators-displacement-Dec2020.pdf](http://www.jips.org/uploads/2020/12/UNHCR-JIPS-IAEGSDGs-DataDisaggregation-SDGIndicators-displacement-Dec2020.pdf), p. 7.
- <sup>16</sup> See [www.christianaid.org.uk/sites/default/files/2018-09/FAIR%20Deal%20for%20IDPs%20briefing%20paper%204-Ambition%20and%20inclusion.pdf](http://www.christianaid.org.uk/sites/default/files/2018-09/FAIR%20Deal%20for%20IDPs%20briefing%20paper%204-Ambition%20and%20inclusion.pdf).
- <sup>17</sup> Adopted by the International Coordinating Committee (predecessor to GANHRI) during its twelfth International Conference. Available from <https://ganhri.org/international-conference/>.
- <sup>18</sup> Including OAS Resolution 2667 (available from <http://goo.gl/eQzC1q>), and Council of Europe Recommendation 1631 (2003) on Internal Displacement in Europe (available from <https://pace.coe.int/en/files/17163#trace-2>) and Recommendation 6 (2006) on IDPs adopted by the Council of Ministers (available from <https://rm.coe.int/16806b5aaf>).
- <sup>19</sup> See [www.globalprotectioncluster.org/\\_assets/files/tools\\_and\\_guidance/protection\\_of\\_idps/Final\\_protocol\\_Protection\\_IDPs-%20En.pdf](http://www.globalprotectioncluster.org/_assets/files/tools_and_guidance/protection_of_idps/Final_protocol_Protection_IDPs-%20En.pdf).
- <sup>20</sup> Available from [www.icglr-rtf.org/publication/protocol-on-property-rights-of-returning-persons/](http://www.icglr-rtf.org/publication/protocol-on-property-rights-of-returning-persons/).
- <sup>21</sup> See [www.globalprotectioncluster.org/2018/07/27/niger/](http://www.globalprotectioncluster.org/2018/07/27/niger/).
- <sup>22</sup> *Sovereignty as Responsibility* (FM Deng et al., 1996), pp. xxii–xxiii.
- <sup>23</sup> Available from [www.brookings.edu/wp-content/uploads/2016/06/04\\_national\\_responsibility\\_framework\\_Eng.pdf](http://www.brookings.edu/wp-content/uploads/2016/06/04_national_responsibility_framework_Eng.pdf).
- <sup>24</sup> For an overview of the various elements of a collaborative humanitarian response, country-level coordination and the (inter)sectoral cluster approach, see pp. 43–60 of the Global Protection Cluster’s “Handbook for the protection of IDPs”. Available from [www.refworld.org/docid/4790cbc02.html](http://www.refworld.org/docid/4790cbc02.html).
- <sup>25</sup> “Guidance on UNHCR’s engagement with NHRIs” (UNHCR, 2020), p. 29; “UNDP-OHCHR Toolkit for Collaboration with National Human Rights Institutions” (UNHCR and OHCHR, 2010), pp. 109–119.
- <sup>26</sup> See [www.hrcslk/home/](http://www.hrcslk/home/).
- <sup>27</sup> See [www.un.org/ruleoflaw/files/PRINCI~5.PDF](http://www.un.org/ruleoflaw/files/PRINCI~5.PDF).
- <sup>28</sup> Most recently, A/HRC/RES/41/15 and A/RES/74/160.
- <sup>29</sup> Available from [www.brookings.edu/wp-content/uploads/2016/06/04\\_national\\_responsibility\\_framework\\_Eng.pdf](http://www.brookings.edu/wp-content/uploads/2016/06/04_national_responsibility_framework_Eng.pdf), pp. 19–20.
- <sup>30</sup> See [www.nhrc.gov.ng/focus-areas/refugees-internally-displaced-persons-migrants-and-asylum-seekers.html](http://www.nhrc.gov.ng/focus-areas/refugees-internally-displaced-persons-migrants-and-asylum-seekers.html).
- <sup>31</sup> For more information, see <https://iihl.org/refugee-migration-department/>.
- <sup>32</sup> See [www.refworld.org/pdfid/47b5ad3a2a.pdf](http://www.refworld.org/pdfid/47b5ad3a2a.pdf).
- <sup>33</sup> See the report of the Special Rapporteur on the rights of internally displaced persons and the role of human rights institutions (A/HRC/41/40). Available from [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/41/40](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/40).
- <sup>34</sup> See [www.ohchr.org/EN/Countries/NHRI/Pages/GANHRISubCommitteeAccreditation.aspx](http://www.ohchr.org/EN/Countries/NHRI/Pages/GANHRISubCommitteeAccreditation.aspx).
- <sup>35</sup> For examples of good practices, see “Guidance on UNHCR’s engagement with national human rights institutions”, (UNHCR, 2021), p. 61. Available from [www.unhcr.org/uk/protection/operations/5f92a5604/guidance-unhcrs-engagement-national-human-rights-institutions.html](http://www.unhcr.org/uk/protection/operations/5f92a5604/guidance-unhcrs-engagement-national-human-rights-institutions.html).
- <sup>36</sup> Available from [http://ennhri.org/wp-content/uploads/2019/10/the\\_kyiv\\_declaration.pdf](http://ennhri.org/wp-content/uploads/2019/10/the_kyiv_declaration.pdf).
- <sup>37</sup> See <http://siteresources.worldbank.org/>.
- <sup>38</sup> “The Kenya national dialogue and reconciliation: building a progressive Kenya – background note” (Government of Kenya, 2011). Available from <https://reliefweb.int/report/kenya/kenya-national-dialogue-and-reconciliation-building-progressive-kenya-background-note>.
- <sup>39</sup> See [www.refworld.org/pdfid/5a8412554.pdf](http://www.refworld.org/pdfid/5a8412554.pdf).
- <sup>40</sup> See [http://parliament.go.ke/sites/default/files/2017-05/PreventionProtectionandAssistancetoInternallyDisplacedPersonsandAffectedCommunities\\_No56of2012\\_.pdf](http://parliament.go.ke/sites/default/files/2017-05/PreventionProtectionandAssistancetoInternallyDisplacedPersonsandAffectedCommunities_No56of2012_.pdf).
- <sup>41</sup> See [www.knchr.org/Our-Work/Displacement-and-Forced-Evictions](http://www.knchr.org/Our-Work/Displacement-and-Forced-Evictions).
- <sup>42</sup> See [www.ohchr.org/Documents/Issues/Defenders/LargeScale/NHRIs/NHRIIndia.pdf](http://www.ohchr.org/Documents/Issues/Defenders/LargeScale/NHRIs/NHRIIndia.pdf).
- <sup>43</sup> Case no. 1203/1/24/2013.
- <sup>44</sup> The language of non-rehabilitation reflects the approach of the Indian “National Rehabilitation and Resettlement Policy” (2007), adopted on 31 October 2007, available from [www.refworld.org/docid/5a7acbc04.html](http://www.refworld.org/docid/5a7acbc04.html).
- <sup>45</sup> Decree 2124 of 2017.
- <sup>46</sup> “Guidance on profiling internally displaced persons – Provisional release” (Internal Displacement Monitoring Centre and United Nations Office for the Coordination of Humanitarian Affairs, 2007). Available from [www.refworld.org/pdfid/47b5ad3a2a.pdf](http://www.refworld.org/pdfid/47b5ad3a2a.pdf).
- <sup>47</sup> “Info sheet – Promotion and protection of the human rights of internally displaced persons, the case of the Public Defender’s Office of Georgia” (ENNHRI, 2019). Available from [http://ennhri.org/wp-content/uploads/2019/10/ennhri\\_18\\_005-infosheet-06.pdf](http://ennhri.org/wp-content/uploads/2019/10/ennhri_18_005-infosheet-06.pdf).
- <sup>48</sup> See <https://chr.gov.ph/about-us/>.
- <sup>49</sup> “There is hereby created an independent office called The Commission on Human Rights... (to) investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights[...]” (section 17-18, art. XIII, Philippine Constitution).
- <sup>50</sup> See <http://chr.gov.ph/wp-content/uploads/2019/05/CHRP-IDP-Monitoring-Tool-and-Users-Guide-Final-Copy-as-of-October-2018.pdf>.
- <sup>51</sup> “Displacements in the Philippines in a Post COVID-19 World: A Recovery Focus”, *Refugee Survey Quarterly*, vol. 39 (Reinna S. Bermudez, Maria Camille Anne P. Estonio and Hector Dominic D. Aleman, 2020). Available from <http://chr.gov.ph/wp-content/uploads/2021/01/Displacements-in-the-Philippines-in-a-Post-COVID-19-World-A-Recovery-Focus.pdf>.
- <sup>52</sup> See Sri Lanka example, p. XXX.
- <sup>53</sup> See Investigative Report on Headlands Evictions (Manicaland), 2018; Investigative Report on Maganga Estate Evictions (Mashonaland East Province), 2018; Investigative Report on Arbitrary Evictions (Mashonaland Central), 2017. Available from <http://www.zhrc.org.zw/complaints-handling-and-investigations/>.
- <sup>54</sup> The concept of access to justice broadly covers the following aspects: the procedural aspects of accessing relevant justice mechanisms/platforms, such as courts; the substantive remedies provided in terms of the outcome and the quality of those remedies in addressing the violation in question; access to relevant information regarding exercise of the right.
- <sup>55</sup> “Afghanistan: Country information” (Internal Displacement Monitoring Centre, 2020). Available from [www.internal-displacement.org/countries/afghanistan](http://www.internal-displacement.org/countries/afghanistan).

- <sup>56</sup> See [www.ahrc.org.af/home/introduction](http://www.ahrc.org.af/home/introduction).
- <sup>57</sup> "Global Trends 2020", (UNHCR, 2020), Annex 1. Available from <https://www.unhcr.org/2020-global-trends-annex>.
- <sup>58</sup> "Unfinished business; Kenya's efforts to address displacement and land issues in the Coast region" (IDMC, Norwegian Refugee Council and KNCHR, 2014). Available from [www.internal-displacement.org/publications/unfinished-business-kenyas-efforts-to-address-displacement-and-land-issues-in-coast](http://www.internal-displacement.org/publications/unfinished-business-kenyas-efforts-to-address-displacement-and-land-issues-in-coast).
- <sup>59</sup> "Making the Kampala Convention work for IDPs: Guide for civil society on supporting the ratification and implementation of the Convention for the Protection and Assistance of Internally Displaced Persons in Africa" (Economic, Social and Cultural Council of the African Union and IDMC, 2010). Available from [www.internal-displacement.org/sites/default/files/publications/documents/2010-making-the-kampala-convention-work-thematic-en.pdf](http://www.internal-displacement.org/sites/default/files/publications/documents/2010-making-the-kampala-convention-work-thematic-en.pdf).
- <sup>60</sup> See [www.defensoria.gov.co/](http://www.defensoria.gov.co/).
- <sup>61</sup> "The IDP-initiative quarterly update December 2020" (UNHCR, 2020), p. 9. Available from <https://reporting.unhcr.org/node/29011>.
- <sup>62</sup> "Global Trends 2020" (UNHCR, 2020), Annex 1. Available from <https://www.unhcr.org/2020-global-trends-annex>.
- <sup>63</sup> Available from <http://forodfi.cndh.org.mx/Content/doc/Informes/Protocolo-DFI.pdf>.
- <sup>64</sup> See, for example [www.cndh.org.mx/index.php/documento/solicita-cndh-medidas-cautelares-los-tres-ordenes-de-gobierno-en-favor-de-4000-personas](http://www.cndh.org.mx/index.php/documento/solicita-cndh-medidas-cautelares-los-tres-ordenes-de-gobierno-en-favor-de-4000-personas).
- <sup>65</sup> This veto was made partly on the basis that the additional powers that were granted to the CHRP, including the power to determine damages, have exceeded those that the 1987 Philippine Constitution had intended. Another reason for the veto was an added provision allowing individuals to claim financial assistance from the Government, which would go against the "non-suability" character of the State.
- <sup>66</sup> According to the accreditation chart, January 2021, available from <https://ganhri.org/membership/>.
- <sup>67</sup> Available from [www.unhcr.org/protection/operations/5f92a5604/guidance-unhcrs-engagement-national-human-rights-institutions.html](http://www.unhcr.org/protection/operations/5f92a5604/guidance-unhcrs-engagement-national-human-rights-institutions.html).
- <sup>68</sup> "The African Union Commission and the Network for African National Human Rights Institutions sign MOU to strengthen cooperation and collaboration" (AU, 2016). Available from <https://au.int/en/pressreleases/20160310-3>.
- <sup>69</sup> "Joint press release: Third Auc-Nanhri policy forum on the state of human rights in Africa" (AU, 2019). Available from <https://au.int/sw/node/37379>.
- <sup>70</sup> "ENNHRI statement on the role of NHRIs to promote and protect the human rights of internally displaced persons (IDPs) in (post) conflict" (ENNHRI, 2019). Available from <http://ennhri.org/wp-content/uploads/2019/09/Statement-on-the-Role-of-NHRIs-to-Promote-and-Protect-the-Human-Rights-of-Internally-Displaced-Persons-IDPs-in-Post-Conflict.pdf>.
- <sup>71</sup> Available from [https://nhri.ohchr.org/EN/Themes/Conflict/Events/the\\_kyiv\\_declaration.pdf](https://nhri.ohchr.org/EN/Themes/Conflict/Events/the_kyiv_declaration.pdf).
- <sup>72</sup> Available from <http://ennhri.org/nhris-post-conflict/#navigate>.
- <sup>73</sup> Similarly, RINDHCA is currently working with OHCHR to develop an Action Protocol for NHRIs aimed at people in cross-border mobility contexts, addressing both migrants and displaced persons. RINDHCA has a working group on migration that meets regularly and that during the first semester of 2021 will also systematize good practices for the care and protection of migrants in border contexts during pandemics.
- <sup>74</sup> See [www.ohchr.org/EN/Countries/Pages/TechnicalCooperationIndex.aspx](http://www.ohchr.org/EN/Countries/Pages/TechnicalCooperationIndex.aspx).
- <sup>75</sup> A number of General Assembly resolutions on national human rights institutions, of which the latest is A/RES/74/156; a number of Human Rights Council resolutions on national human rights institutions, of which the latest is A/HRC/RES/39/17; a number of General Assembly resolutions on the role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights, of which the latest is A/RES/72/186.
- <sup>76</sup> See <https://cms.emergency.unhcr.org/documents/11982/363259/UNHCR+HCP+2019+1+Policy+on+UNHCR%27s+Engagement+in+Situations+of+Internal+Displacement/b353acfa-8aae-426e-9d48-9a9794b9e444>.
- <sup>77</sup> Available from [www.unhcr.org/uk/protection/operations/5f92a5604/guidance-unhcrs-engagement-national-human-rights-institutions.html](http://www.unhcr.org/uk/protection/operations/5f92a5604/guidance-unhcrs-engagement-national-human-rights-institutions.html).
- <sup>78</sup> Available from [www.globalprotectioncluster.org/wp-content/uploads/PCs-engagement-with-NHRIs.pdf](http://www.globalprotectioncluster.org/wp-content/uploads/PCs-engagement-with-NHRIs.pdf).
- <sup>79</sup> See [www.ohchr.org/EN/HRBodies/HRC/Pages/Home.aspx](http://www.ohchr.org/EN/HRBodies/HRC/Pages/Home.aspx).
- <sup>80</sup> See A/HRC/35/NI/1, available from [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/35/NI/1](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/NI/1).
- <sup>81</sup> "NGO and NHRI information" (United Nations Human Rights Council, n.d.). Available from [www.ohchr.org/EN/HRBodies/HRC/Pages/NgoNhrInfo.aspx](http://www.ohchr.org/EN/HRBodies/HRC/Pages/NgoNhrInfo.aspx).
- <sup>82</sup> See, for example, Resolution A/HRC/RES/41/15, 2019, available from <https://undocs.org/A/HRC/RES/41/15> (para. 2): "The Human Rights Council (...) recognizes the important role of national human rights institutions in all phases of displacement to ensure that all human rights issues are appropriately addressed".
- <sup>83</sup> "Universal Periodic Review" (United Nations Human Rights Council, n.d.). Available from [www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx](http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx).
- <sup>84</sup> "National human rights institutions: History, principles, roles and responsibilities" (OHCHR, 2010). Available from [www.ohchr.org/Documents/Publications/PTS-4Rev1-NHRI\\_en.pdf](http://www.ohchr.org/Documents/Publications/PTS-4Rev1-NHRI_en.pdf).
- <sup>85</sup> "3rd UPR cycle: contributions and participation of "other stakeholders" in the UPR" (United Nations Human Rights Council, n.d.). Available from [www.ohchr.org/en/hrbodies/upr/pages/NgosNhris.aspx](http://www.ohchr.org/en/hrbodies/upr/pages/NgosNhris.aspx).
- <sup>86</sup> "Human rights treaty bodies" (OHCHR, n.d.). Available from [www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx](http://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx).
- <sup>87</sup> See [www2.ohchr.org/english/bodies/cescr/comments.htm](http://www2.ohchr.org/english/bodies/cescr/comments.htm).
- <sup>88</sup> "Special procedures of the Human Rights Council" (OHCHR, n.d.). Available from [www.ohchr.org/EN/HRBodies/SP/Pages/Welcompage.aspx](http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcompage.aspx).
- <sup>89</sup> See [www.ohchr.org/EN/Issues/IDPersons/Pages/IDPersonsIndex.aspx](http://www.ohchr.org/EN/Issues/IDPersons/Pages/IDPersonsIndex.aspx).
- <sup>90</sup> European Court of Human Rights (ECtHR), *Loizidou v. Turkey*, No. 15318/89 (prel. obj.) of 23 March 1995; *Loizidou v. Turkey*, No. 15318/89 (merits) of 18 December 1996; *Loizidou v. Turkey*, No. 15318/89 (just satisfaction) of 28 July 1998; *Sargsyan v. Azerbaijan*, No. 40167/06 [GC] of 16 June 2015; *Chiragov and Others v. Armenia*, No. 13216/05 [GC] of 16 June 2015; *Aziz v. Cyprus*, No. 69949/01 of 22 June 2004; *Dabić v. Croatia*, No. 49001/14 of 18 March 2021.
- <sup>91</sup> European Committee of Social Rights, Decision on the merits: *Centre on Housing Rights and Evictions v. Croatia (COHRE)*, collective complaint no. 52/2008 of 22 June 2010.
- <sup>92</sup> CoE Framework Convention for the Protection of National Minorities, 1995; CoE Convention on Action against Trafficking in Human Beings, 2005; the CoE Convention on Preventing and Combating Violence against Women and Domestic Violence, 2011; the CoE Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, 2007.
- <sup>93</sup> European Commission against Racism and Intolerance (ECRI).
- <sup>94</sup> CoE, Recommendation Rec(2006)6 of the Committee of Ministers to member States on internally displaced persons of 5 April 2006. Available from <https://rm.coe.int/16806b5aaf>.
- <sup>95</sup> CoE, Recommendation CM/Rec(2021)1 of the Committee of Ministers to member States on the development and strengthening of effective, pluralist and independent national human rights institutions of 31 March 2021. Available from [https://search.coe.int/cm/pages/result\\_details.aspx?objectId=0900001680a1f4da](https://search.coe.int/cm/pages/result_details.aspx?objectId=0900001680a1f4da).
- <sup>96</sup> See, for example, PACE Recommendation 1877 (2009) on Europe's forgotten people: protecting the human rights of long-term displaced persons, adopted on 24 June 2009; PACE Resolution 1708 (2010) on solving property issues of refugees and internally displaced persons, adopted on 28 January 2010.
- <sup>97</sup> "Strengthening the Human Rights Protection of IDPs in Ukraine", implemented between 2015 and 2017; "Internal Displacement in Ukraine: Building Solutions", implemented between 2017 and 2020; and "Internal Displacement in Ukraine: Building Solutions - Phase II", implemented between 2021 and 2022, available from [www.coe.int/en/web/kyiv/idps2](http://www.coe.int/en/web/kyiv/idps2).
- <sup>98</sup> "HELP course on Internal Displacement" (Council of Europe, n.d.). Available from <http://help.elearning.ext.coe.int/>.
- <sup>99</sup> "Precautionary Measure No. 860-17, Familias indígenas de la Comunidad Chaab'il Ch'och' respecto de Guatemala" [Indigenous families of the Chaab'il Ch'och' Community in Guatemala], (IACHR, 2018).
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- <sup>101</sup> Available from [www.oas.org/en/iachr/reports/pdfs/InternalDisplacement.pdf](http://www.oas.org/en/iachr/reports/pdfs/InternalDisplacement.pdf).
- <sup>102</sup> "Human rights of migrants, refugees, stateless persons, victims of human trafficking and internally displaced persons: Norms and standards of the inter-American human rights system". OEA/Ser.L/V/II. Doc. 46/15, 31 December (IACHR, 2015).
- <sup>103</sup> See [www.african-court.org/wpafc/?page\\_id=625](http://www.african-court.org/wpafc/?page_id=625).
- <sup>104</sup> Available from [www.achpr.org/legalinstruments/detail?id=74](http://www.achpr.org/legalinstruments/detail?id=74).
- <sup>105</sup> Communication 276/03: Centre for Minority Rights Development (Kenya) and Minority Rights Group International (on behalf of Endorois Welfare Council) v The Republic of Kenya.

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