

## INTERNALLY DISPLACED PERSONS

**“Internal displacement”** is a forced movement of persons within the country they live in.<sup>1</sup> In this regard, persons are forced from their homes and habitual residences because of armed conflict, human rights violations and such causes.<sup>2</sup>

In the international law there is no universally legal definition of **“Internally Displaced Persons”** but the drafted document within **United Nations called Guiding Principles on Internal Displacement** defines internally displaced persons (IDPs) 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 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.”**<sup>3</sup>

This definition stated in the Guiding Principles on Internal Displacement does not give a legal status to IDPs. It rather identifies the potential needs and vulnerabilities of those who have been forcibly displaced.<sup>4</sup> IDPs are a group of people that stays in the country so they are still entitled to all the rights and guarantees as citizens of their country. Since they never crossed borders, national authorities have the primary responsibility to protect IDPs.<sup>5</sup> This primary responsibility of the states is directly linked to the sovereignty of a state, so the role of the international community is complementary.<sup>6</sup>



1. <https://www.internal-displacement.org/internal-displacement> (Access Date: 28.04.2023)

2. Roberta Cohen, *Developing an International System for Internally Displaced Persons*, *International Studies Perspectives*, Volume 7, Issue 2, May 2006, Pages 87–101.

3. *Guiding Principles on Internal Displacement*, 1998, Introduction: Scope and Purpose, Article 2.

4. <https://egrisstats.org/wp-content/uploads/2021/12/The-International-Recommendations-on-IDP-Statistics.pdf>

5. <https://emergency.unhcr.org/protection/legal-framework/idp-definition> (Access Date: 28.04.2023)

6. <https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons/about-internally-displaced-persons> (Access Date: 02.05.2023)

Refugees, as a concept that can be confused with IDPs in terms of their situation of displacement, are crossing international border but IDPs are **forcibly** displaced from their homes and don't cross any border, because of that IDPs cannot benefit from the legal status of being refugee.<sup>7</sup> Like refugees and other humans, IDPs benefit from human rights and international humanitarian law.<sup>8</sup>

There is no international treaty that applies to IDPs so **“Guiding Principles on Internal Displacement”** is the only international document drafted upon internal displacement. These Principles are not legally binding and they can be referred as soft law.<sup>9</sup> Despite not being legally binding, they are accepted globally because they reflect and are consistent with international human rights law and international humanitarian law.<sup>10</sup>

**“The Guiding Principles on Internal Displacement”** is a basis for law and policies in domestic jurisdictions.<sup>11</sup> States should implement the Guiding Principles on the national legislation and create laws and policies in compliance with the Principles.

In 2009, The African Union has codified the Guiding Principles on Internal Displacement with the regional document called **Kampala Convention (Convention for the Protection and Assistance of Internally Displaced Persons in Africa)**.<sup>12</sup> This was an important progress in the field of IDPs rights and protection because this document is first legally binding regional document to assist and protect IDPs.<sup>13</sup>

In the words of Commissioner Bahame Tom Nyanduga, former Special Rapporteur on Refugees, Asylum Seekers and IDPs in Africa for the African Commission on Human and Peoples' Rights, **“The absence of a binding international legal regime on internal displacement is a grave lacuna in international law.”**<sup>14</sup>

### **Human rights violations against internally displaced persons are:**

- ▶ Lack of access to basic services (such as adequate shelter, food and health service)
- ▶ Family separation
- ▶ Physical attack and abduction<sup>15</sup>
- ▶ Sexual and gender based violence, human trafficking
- ▶ Discrimination
- ▶ Slavery
- ▶ Harassment<sup>16</sup>

7. <https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons/about-internally-displaced-persons> (Access Date: 02.05.2023)

8. <https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons/about-internally-displaced-persons> (Access Date: 02.05.2023)

9. <https://emergency.unhcr.org/protection/legal-framework/idp-definition> (Access Date: 28.04.2023)

10. *Guiding Principles on Internal Displacement, (1998), Introduction: Scope and Purpose, Article 3.*

11. *Brid Ní Ghráinne, The Internally Displaced Person in International Law, International Journal of Refugee Law, Volume 33, Issue 2, June 2021, Pages 366–378, https://doi.org/10.1093/ijrl/eeab032*

12. <https://emergency.unhcr.org/protection/legal-framework/idp-definition> (Access Date: 28.04.2023)

13. <https://www.aalco.int/IDPs%20and%20IHL%20-%20July%202019%20-%20Final.pdf> (Access Date: 04.05.2023)

14. <https://www.fmreview.org/return-reintegration/nyanduga> (Access Date: 02.05.2023)

15. <https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons/about-internally-displaced-persons> (Access Date: 02.05.2023)

16. <https://emergency.unhcr.org/protection/legal-framework/idp-definition> (Access Date: 28.04.2023)

## Some reasons of internal displacement are:

- ▶ Armed conflict
- ▶ Violence
- ▶ Development projects
- ▶ Natural or human made disasters
- ▶ Human rights violations
- ▶ Climate change

**"Internal displacement is the great tragedy of our time. The internally displaced people are among the most vulnerable of the human family."<sup>17</sup>**

Kofi Annan, Former UN Secretary General

**The United Nations High Commissioner for Refugees (UNHCR)** is an international body for protection and assistance to people affected by forced displacement including asylum-seekers, refugees, stateless people, returnees and IDPs.<sup>18</sup>

UNHCR is working with other humanitarian agencies to help IDPs and use a **"cluster approach"**. Within these approach, UNHCR and other supporting bodies work for provide shelters, health care, camp management and protection by following the **UNHCR's Strategic Directions 2017-2021**.<sup>19</sup> These Directions include protection, responding in emergencies, promoting inclusion and self-reliance, empowerment of the people and pursuing of solutions.<sup>20</sup> The cluster approach is used for IDPs, contains some problems in terms of coordination of aid because there isn't any organization exclusively responsible for the IDPs assistance and protection.<sup>21</sup>

UNHCR is leading and working with Global Protection Cluster, Global Shelter Cluster and Global Camp Coordination Camp Management Cluster (CCCM) to help IDPs.<sup>22</sup>

## Important Documents about IDPs are: <sup>23</sup>

- ▶ Guiding Principles on Internal Displacement
- ▶ The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)
- ▶ International Conference on the Great Lake Region (ICGLR) Protocol on the Protection and Assistance to Internally Displaced Persons
- ▶ The Pinheiro Principles

17. <https://www.internal-displacement.org/internal-displacement> (Access Date: 28.04.2023)

18. <https://www.unhcr.org/internally-displaced-people> (Access Date: 02.05.2023)

19. <https://www.unhcr.org/internally-displaced-people> (Access Date: 02.05.2023)

20. <https://disasterdisplacement.org/portfolio-item/unhcrs-strategic-direction-2017-2021/#:~:text=It%20elaborates%20five%20core%20directions,and%20the%20pursuit%20of%20solutions.> (Access Date: 02.05.2023)

21. Christel Cournil, *The Protection of 'Environmental Refugees' in International Law*, 2011.

22. <https://www.unhcr.org/internally-displaced-people> (Access Date: 02.05.2023)

23. <https://www.unhcr.org/africa/about-unhcr/who-we-protect/internally-displaced-people> (Access Date: 02.05.2023)

**Office of the United Nations High Commissioner for Human Rights** has a mandate called Special Rapporteur on Internally Displaced Persons who is also an independent human rights expert. This expert is appointed by the United Nations Human Rights Council.<sup>24</sup> The first mandate holder on internal displacement was Mr. Francis Deng who is called as the creator of the Guiding Principles on Internal Displacement. He was appointed for this mission in 1992 and in 1994, with the request of United Nations General Assembly, Francis Deng examined and gathered international law provisions about IDPs and at the end of this examination Guiding Principles on Internal Displacement has documented.<sup>25</sup> According to the Guiding Principles on Internal Displacement **“the primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities”**<sup>26</sup> and, besides that **“international humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced.”**<sup>27</sup>

**According to the Guiding Principles on Internal Displacement** “competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country” and, “when recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.”<sup>28</sup>

## **THE ROLE OF NATIONAL HUMAN RIGHTS INSTITUTIONS FOR PROTECTION AND ASSISTANCE OF IDPs**

National Human Rights Institutions (NHRIs) are independent agents and have a broad power of human rights assistance and protection. This vitally protecting and promoting duty covers the protection of IDPs.<sup>29</sup>

**Main ways to dealing with IDP issues for NHRIs are stated by Global Alliance of National Human Rights Institutions (GANHRI) and European Network of National Human Rights Institutions (ENNHRI) as follows:**

- ▶ NHRIs are advising government, parliament and other actors such as civil society and state authorities to protect IDPs rights.<sup>30</sup>
- ▶ NHRIs are monitoring and reporting the human rights violations against IDPs.<sup>31</sup>

24. <https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons> (Access Date: 02.05.2023)

25. Anthony J. Marsella and James D. White, *Fear of Persecution: Global Human Rights, International Law, and Human Well-Being*, Lexington Books, Lexington, 2007, Page: 20.

26. *Guiding Principles on Internal Displacement, 1998, Section 1- General Principles, Principle 25.*

27. *Guiding Principles on Internal Displacement, 1998, Section 1- General Principles, Principle 25.*

28. *Guiding Principles on Internal Displacement, 1998, Section 1- General Principles, Principle 28-29*

29. <https://ganhri.org/event/launch-handbook-on-idps/> (Access Date: 08.05.2023)

30. <https://ennhri.org/news-and-blog/ennhri-statement-on-the-human-rights-of-internally-displaced-persons/> (Access Date: 05.05.2023)

31. <https://ennhri.org/news-and-blog/ennhri-statement-on-the-human-rights-of-internally-displaced-persons/> (Access Date: 05.05.2023)

- ▶ NHRIs are working on the integration of the Guiding Principles on the Internal Displacement into national law and policies.<sup>32</sup>
- ▶ NHRIs are observing IDPs' conditions to ensure they do not face discrimination and can benefit same rights as other citizens and residents in the country.<sup>33</sup>
- ▶ NHRIs are reporting the situations of IDPs to national and international authorities.<sup>34</sup>
- ▶ NHRIs are handling the complaints and provide legal assistance to IDPs.<sup>35</sup>
- ▶ NHRIs are providing information about IDPs to the public and raising awareness at national and international level.<sup>36</sup>
- ▶ NHRIs are keeping track of early warning of internally displacement and make sure that national authorities take the needed actions.<sup>37</sup>
- ▶ NHRIs are hosting educational programmes particularly for government officials such as law enforcement agents and military.<sup>38</sup>

**“NHRIs are at the front line at the national, regional and international level to promote & protect human rights of IDPs; well placed to advise on legislation, engage with all actors, contribute to setting up durable solutions.”**

Cecilia Jimenez-Damary, Former UN Special Rapporteur on the Human Rights of IDPs

32. <https://ennhri.org/news-and-blog/ennhri-state-ment-on-the-human-rights-of-internally-displaced-persons/> (Access Date: 05.05.2023)

33. [https://ganhri.org/wp-content/uploads/2022/02/Handbook-on-IDPs\\_EN.pdf](https://ganhri.org/wp-content/uploads/2022/02/Handbook-on-IDPs_EN.pdf) (Access Date: 08.05.2023)

34. <https://minorityombud.com/web/ajbh-en/-/ennhri-state-ment-on-the-role-of-nhris-to-promote-and-protect-the-human-rights-of-internally-displaced-persons-idp-s-in-post-conflict> (Access Date: 05.05.2023)

35. [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) (Access Date: 05.05.2023)

36. <https://ennhri.org/news-and-blog/un-special-rappor-teur-on-idps-examines-the-essential-role-of-nhris-in-protecting-and-promoting-idp-rights/> (Access Date: 05.05.2023)

37. [https://ganhri.org/wp-content/uploads/2022/02/Handbook-on-IDPs\\_EN.pdf](https://ganhri.org/wp-content/uploads/2022/02/Handbook-on-IDPs_EN.pdf) (Access Date: 08.05.2023)

38. [https://ganhri.org/wp-content/uploads/2022/02/Handbook-on-IDPs\\_EN.pdf](https://ganhri.org/wp-content/uploads/2022/02/Handbook-on-IDPs_EN.pdf) (Access Date: 08.05.2023)

39. <https://ennhri.org/news-and-blog/the-human-rights-of-inter-nally-displaced-people-idps-in-post-conflict-situations-what-role-for-nhris/> (Access Date: 05.05.2023)

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