Seeking electoral equality for IDP voters

Jeremy Grace and Jeff Fischer

Guiding Principle 22 affirms IDPs' "right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right." Despite the clarity of this language, there is no set of universally accepted policies and practices protecting IDP voting rights.

IDPs are protected by the full spectrum of constitutional protections and applicable human rights law, including provisions designed to ensure the right to participate in the political affairs of their state on a non-discriminatory basis. National governments have a clear responsibility to take measures necessary to meet these obligations on behalf of IDPs.

IDPs queue outside a makeshift polling centre to vote in Liberia's August 2005 presidential and legislative elections in Margibi County.

However, national authorities and the international community have sometimes tolerated blatantly discriminatory limitations on the voting rights of IDPs. In some cases, these deviations from international election standards include outright disenfranchisement, either through onerous residency and documentation requirements or insufficient electoral and registration facilities. Other common obstacles include a lack of adequate information about electoral processes and failure to provide security.

The reasons for this discrimination vary. In some situations, the logistics and cost of IDP voting programmes may appear to be beyond the means of election organisers, as was the case during the 2005 Liberian elections where IDP participation was possible but limited. This kind of segmentation produces different classes of voters, some of whom have enhanced access to the electoral process. Such an inequality is clearly in violation of human rights practices. In other cases – including the recent Zimbabwe election – disenfranchisement is intentional, and technical and logistical constraints can serve as pretexts to exclude segments of the electorate for political reasons.

Since the development of the Guiding Principles, an emerging body of precedents and programmes to include IDPs in electoral processes demonstrates that IDP voting programmes can be cost-effective and technically feasible. IDP participation need not undermine the transparency of the electoral process or threaten IDPs' security or humanitarian needs. In countries from Georgia to Sri Lanka to Nepal, national authorities have amended electoral legislation that specifically discriminated against IDP voting rights. Programmes have been supplemented by engagement of human rights and protection actors in enhancing the capacity of national authorities, support agencies and civil society organisations seeking to protect IDP voting rights.

Recent initiatives include:

- the sustained focus on IDP voting rights in mission reports, statements and initiatives of the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons. See, for example, recent reports from Colombia and Nepal.[1]
- increased attention to displacement issues in the election monitoring reports of various intergovernmental organisations, such as the European Commission and the Organization for Security and Cooperation in Europe
- inclusion of chapters on IDP voting rights in the Global Protection Cluster Working Group's 2007 *Handbook for the Protection of Internally Displaced Persons and Protection of Conflict-Induced IDPs: Assessment for Action*[2]
- increasing resources for voter and civic education programming in IDP communities by inter-governmental and non-governmental organisations
- research, technical assistance and development of best practices and guidelines for organising displaced voting programmes conducted by the International Organization for Migration under the Political Rights and Enfranchisement Strengthening Project.[3]

What still needs to be done?

IDP political participation remains inconsistent and work is needed to articulate a clear set of IDP-specific standards on the human rights, operational and security issues associated with elections. Clear guidance, based upon existing human rights commitments, is needed regarding: guaranteeing the right to participate; determining eligibility criteria and documentation requirements; determining residency requirements; providing absentee balloting; protecting IDP security during elections; ensuring that humanitarian assistance and/or property claims are not linked to registration or voting; and providing election-related information. In each of these areas, the fundamental principles of non-discrimination must be respected.

International mediators should pressure national authorities to guarantee IDP voting rights directly in peace agreements, national electoral laws and IDP policies. Once an electoral timeline has been developed, national authorities should work to include IDP-specific provisions in electoral law. Planning for IDP voting requires pro-active measures by election management bodies to consult with IDPs, engage in scenario planning, identify resources and develop mechanisms to accommodate IDPs' unique needs. Consultations should also include representatives of international humanitarian agencies, as well as relevant ministries (such as the police, census bureaus or social welfare agencies). Donors need to ensure that post-conflict governments build capacity to transparently conduct elections and to provide funds for civil society monitoring groups.

Once registration and electoral processes are underway, donors and international electoral assistance agencies should support programmes aimed at strengthening IDP communities' ability to participate and should remind governments of their obligations to protect the voting rights of all citizens. International observer missions should identify the extent to which displacement issues figure in the political calculations of competing parties and how discrimination may be embedded in electoral code or procedure, and ensure that field observers understand what to look out for.

The Guiding Principles have helped to focus attention on the issue of IDP political rights. Through the strong commitment of Representative of the Secretary-General, the growing profile of democracy support agencies and humanitarian groups, and the increasing lead taken by IDPs themselves, it has become much more difficult to discriminate against IDPs in the design and administration of elections. However, since IDP voting programmes relate to the mandates of a wide variety of international agencies and national authorities, it is sometimes difficult to sustain attention. The development of a clear, concise and widely accepted set of standards, combined with the identification of a single institutional home for IDP voting issues, would help the international community better support national authorities to implement electoral programmes that conform to fundamental human rights obligations.

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1. http://www2.ohchr.org/english/issues/idp/visits.htm
2. http://www.internal-displacement.org/8025747B0037BAC5/(httpResources)/2D90D9C798E63959C12574A6004FA218/$file/IDP_handbook.pdf (provisional release)
3. http://www.geneseo.edu/~iompress