

# The 'tool box' at states' disposal to prevent displacement: a Swiss perspective

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**A harmful action that is looming and has not yet taken place is difficult for third-party states to denounce or counter. Nevertheless, a whole range of measures and methodologies is at their disposal enabling them to contribute to the prevention of forced displacement.**

Since internal displacement takes place within the boundaries of a state, its prevention and the protection of internally displaced persons (IDPs) are first and foremost a duty of the concerned state. However, other states not confronted with displacement on their own territory, such as Switzerland, have a moral and legal obligation to contribute to ensuring respect for human rights and humanitarian law conventions they ratified. This is a sensitive and often highly politicised issue as the protection of IDPs is essentially a national responsibility; it is closely linked to the sovereignty of the concerned states, which may consider other states' actions on forced displacement to be undue interference.

This challenge is even more pressing in the case of the prevention of forced displacement. In choosing the appropriate instruments, it is useful for third-party states to distinguish between two types of interventions: those aiming at preventing first-time forced displacement and those addressing the prevention of the repetition of forced displacement. In both cases, however, key elements such as justice, security and development issues need to be addressed. The following are a selection of 'tools' used by Switzerland to contribute to the prevention of both types of displacement.

## Promoting existing instruments and addressing legal gaps

Existing instruments such as the Guiding Principles on Internal Displacement, the Great Lakes Protocol and the Kampala Convention are key instruments for the prevention of forced displacement. However, they are only useful in so far as they are widely recognised and applied, for example through translation into national law. The support of states can in this context be of great value and usually takes two forms: firstly, states can indirectly contribute to the promotion and dissemination of these instruments by supporting the mandate of the Special Rapporteur on the Human Rights of IDPs. This support can be either financial or through advocacy around threats of displacement. If the latter, the interactive dialogues with the Special Rapporteur in the framework of the General Assembly of the UN in New York or the Human Rights Council in Geneva are valuable settings to point out impending threats of displacement.

Secondly, states can respond directly in specific cases. In 2011, for example, Switzerland started a project in Nigeria in collaboration with the Internal Displacement Monitoring Centre to contribute to the ratification and implementation of the Kampala Convention. As a result of the project a coordination platform for civil society actors working on displacement issues was created. Currently, in late 2012, the third phase of the project implementing a

'training of trainers' on IDP issues and more specifically on the Kampala Convention is being carried out.

States might also address legal gaps regarding the prevention of displacement and the implementation of protection. Switzerland is currently working with Norway and other interested states on the compilation of measures regarding the prevention of and the response to cross-border displacement in the context of natural disasters. This resulted in the launch in October 2012 in Geneva of the 'Nansen Initiative', which specifically addresses the category of persons who are covered neither by the Refugee Convention nor the Guiding Principles on Internal Displacement and thus left without protection. Even though human rights law applies to these specific cases, critical issues such as admission, temporary or permanent stay and basic rights are not covered.<sup>1</sup>

## Promoting compliance with international law in armed conflicts

For the prevention of conflict-related displacement, the main tool at the disposal of third-party states is the promotion of compliance with international law. Even though forced displacement can under very specific conditions (such as to protect people from the threat of military operations) be allowable in international law, it usually results directly or indirectly from violations of international law. Ensuring that all parties to a conflict, as well as the civilians threatened with displacement, are aware of their rights and duties guaranteed by international law is therefore an effective tool to prevent or at least limit displacement. The Swiss government thus actively advocates for better implementation of international law, as specified in its Strategy on the Protection of Civilians in Armed Conflict.<sup>2</sup>

As a means to hold violators of international law in situations of armed conflict and internal disturbances to account and thereby prevent future violations of international law, monitoring, reporting and fact-finding mechanisms (MRF) have gained in importance in recent years. However, actors engaged in MRF suffer from a paucity of research and guidance on the topic. Switzerland is therefore currently supporting a multi-annual research and policy project led by the Program on Humanitarian Policy and Conflict Research which is geared towards developing capacity-building measures, training opportunities and practical guidance for practitioners engaged in MRF.

## Dialogue with armed groups to better protect civilians

Another line of action consists of involving armed groups, which are often part of the problem causing internal displacement and have therefore to be included

in seeking solutions. In addition to direct dialogue with some of these groups – mostly in the context of peace mediation – Switzerland supports a number of policy projects aiming at better equipping those engaged in humanitarian dialogue with armed groups. One of these is the project ‘Rules of Engagement’ carried out by the Geneva Academy for International Humanitarian Law and Human Rights which explores engagement with these groups on compliance with international norms. Switzerland also recently mandated the NGO Geneva Call to investigate in detail the role of armed groups during the different stages of displacement as well their role as potential preventers of displacement. The results are expected in early-to-mid 2013.

### Support to local and international NGOs and to governments

Other governments requiring technical assistance with regard to specific aspects of forced displacement are also important partners. In Colombia, for instance, Switzerland is assisting the Ministry for Agriculture with applying a ‘Do-No-Harm Approach’ to the implementation of the Victims and Land Restitution Law which came into force in 2011.<sup>3</sup> This law aims at rendering the return of IDPs possible and creating conditions which contribute to avoiding further displacement in the future. By using this Approach, unintended effects resulting from the law’s implementation which might provoke even further displacement can be identified and avoided. Such cooperation can be complemented with support to specialised local and international

NGOs. Thus Switzerland is also supporting the national Red Cross Society in Colombia to develop measures to enhance preparedness in case of natural disasters, thereby contributing to the prevention of forced displacement in these circumstances.

### Dealing-With-the-Past Approach to preventing repetition of displacement

Another methodology to specifically prevent the repetition of forced displacement is the ‘Dealing-With-the-Past Approach’. In case of a potential recurrence of forced displacement, national prevention strategies should abstain from treating IDPs separately but rather include the specific effort to prevent further forced displacement in a more general approach applicable to all victims of past human rights abuses. The Dealing-With-the-Past Approach, which brings together the rights of victims and societies and the duties of states in the field of truth, justice, reparation and guarantee of non-recurrence, is useful for states wishing to develop a national strategy to deal with past human rights abuses. Through its Task Force Dealing with the Past and Prevention of Atrocities Switzerland advises states on how to integrate the aspects of dealing with the past into their policies and strategies. It has also contributed to specific studies on the link between internal displacement and transitional justice. The Task Force will furthermore seek to strengthen the linkages and collaborations between the mandates of the Special Rapporteur on the Human Rights of IDPs and the Special Rapporteur on Truth, Justice, Reparations and Guarantees of Non-Recurrence.



The remains of a torched house in western Côte d'Ivoire, 2011.

### Conclusion

Addressing forced displacement, in particular its prevention, is a delicate issue for states since the main responsibility to prevent and protect lies with the concerned state. However, a range of tools and methodologies is at the disposal of third-party states, allowing them to address this potentially highly controversial issue without infringing other states' sovereignty. These tools provide them with the opportunity to act in support of existing protection measures targeting the prevention of displacement as well as to further the development of new protection measures at national, regional and international levels. Partnerships with a variety of actors such as fellow states, the Special Rapporteur on IDPs, international organisations or local

NGOs can and should be further developed for this aim. States are thus key actors to help prevent displacement – on their own territory as well as in the international arena.

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1. See 'From the Nansen Principles to the Nansen Initiative' by Walter Kälin on pp48-9
2. In 2009 Switzerland developed this strategy to reinforce its commitment to respond more effectively to the challenges associated with the protection of civilians in armed conflict, to enhance the effectiveness of its multilateral and bilateral efforts and to consolidate its international stance on the issue. The strategy is currently being revised.
3. This law regulates land restitution to victims of conflict and explicitly recognises the existence of an armed conflict in Colombia. It seeks to address the problems caused by the land dispossession which the displaced population has faced during recent decades. Numerous potential beneficiaries have been threatened and thus prevented from claiming their rights. The Do-No-Harm Approach has been developed by the Swiss Agency for Development and Cooperation since 2004.