

October 2018

www.fmreview.org/GuidingPrinciples20

Strengthening implementation of the Guiding Principles by affected States

Angela Cotroneo

Engaging with States affected by internal displacement by facilitating peer-to-peer exchanges on shared challenges and through tapping into the potential for mobilisation by sub-regional and regional forums can prompt national action and strengthen implementation of the Guiding Principles.

The bedrock of the Guiding Principles on Internal Displacement is the notion of ‘sovereignty as responsibility’.¹ Internal displacement – being by definition a phenomenon that occurs within a State’s borders and that most often affects its nationals – must be dealt with first and foremost by the responsible authorities within the country concerned. States must introduce national legislation and policies and put in place concrete measures to comply with their obligations to protect and assist IDPs. Strengthening implementation of the Guiding Principles, through their incorporation into domestic law and full operationalisation, is key to ensuring an effective response.² However, because affected States often lack the capacity (human, technical and financial) to respond to internal displacement, humanitarian, development and other international and local actors frequently step in to contribute to the response.

The International Committee of the Red Cross (ICRC) seeks to support State authorities to meet their IDP-related obligations by engaging them in a bilateral dialogue: drawing attention to IDPs’ specific needs and protection concerns, encouraging the authorities to fully assume their obligations, making concrete recommendations on how the authorities’ response could be improved, and providing legal and technical guidance on the implementation of applicable legal frameworks, including the Guiding Principles. Such bilateral engagement can, however, prove challenging.

States may lack the political will to respond as they themselves may be at the root of the displacement problem, or may not identify it as a priority issue. Or they may be

reluctant to recognise the existence of IDPs in the country as this might mean admitting their failure to protect their own citizens, or might undermine an official narrative that the situation in the country is peaceful, ‘under control’ or ‘back to normal’. More generally, affected States tend to approach internal displacement from a standpoint of national sovereignty and non-interference in their domestic affairs – which may result in a degree of resistance to discussing the issue openly with international actors.

Learning from approaches to shared challenges

Sub-regional and regional engagement can help to reverse those negative dynamics and open up avenues for a more constructive dialogue with displacement-affected States at the country level. Facilitating peer-to-peer exchanges between affected States on the shared challenges they face, and tapping into the potential for mobilisation that sub-regional and regional forums may offer, can serve to prompt national action and ultimately strengthen the implementation of the Guiding Principles. Africa is so far the only region where the Guiding Principles have been translated into a legally binding regional instrument – the African Union (AU) Convention for the Protection and Assistance of Internally Displaced Persons in Africa (also known as the Kampala Convention)³ – and thus offers a good example of this approach.

In 2016, as part of its continuing support to the Kampala Convention, the ICRC published a report that takes stock of States’ progress and experiences in translating the obligations contained in the Convention into real improvements for IDPs.⁴ The report

takes into account the practice of 25 African countries – these include not only States Parties to the Kampala Convention but also other States that have enacted normative, policy or concrete measures to respond to internal displacement which are based fully or in part on the Guiding Principles.

Using this report, the ICRC has been working with sub-regional forums, as well as the AU, to bring together States to discuss good practices, lessons learned and shared challenges in addressing the protection and assistance needs of IDPs. Such efforts have proved valuable in triggering positive interactions among groups of African States, challenging and inspiring them to go that extra step and ratify the Kampala Convention or to take concrete action at the domestic level to strengthen its implementation.

For example, in October 2016 the ICRC jointly organised with the Intergovernmental Authority on Development (IGAD) a seminar on the Kampala Convention, gathering together IGAD Member States, representatives of the AU and international organisations. After participating in this seminar, the Ministry of Humanitarian Affairs and Disaster Management of South Sudan asked the ICRC for support in raising awareness on the Kampala Convention with key members of their government. This led to the joint organisation of a one-day seminar in Juba in June 2017, which concluded with the adoption of a set of action points to move forward on ratification

and implementation of the Kampala Convention by South Sudan. It served to revitalise the interest of the South Sudanese authorities in acceding to the Convention and to alleviate some concerns about the implications of doing so. Discussions in the country are currently ongoing concerning the development of a legal framework on the protection and assistance of IDPs in line with the Convention's obligations.

The success of the first IGAD–ICRC seminar inspired the planning in 2017 not only of a follow-up seminar with IGAD Member States but also of other sub-regional events with the involvement of the Southern Africa Development Community (SADC) and the Economic Community of West African States (ECOWAS). These provided a platform for other States to explore together ways to put into practice the provisions of the Kampala Convention in their respective countries.

The role of regional dialogue

The existence in Africa of the Kampala Convention is, of course, of great advantage but constructive engagement with States at the sub-regional and regional levels can also be sought where no regional binding framework inspired by the Guiding Principles exists. What is needed is to identify common displacement patterns and cross-cutting IDP issues in the region around which concerned States can be encouraged to share their expertise and experiences and reflect



Workshop (Juba, South Sudan) on the Kampala Convention organised by ICRC, including the Deputy Commissioner for Refugee Affairs, the Deputy Chairperson of the Relief and Rehabilitation Commission, the Chairperson of the Parliamentary Committee on Human Rights and Humanitarian Affairs, the Minister of Humanitarian Affairs and Disaster Management, NGO CEPO South Sudan, UNHCR and ICRC. June 2017.

October 2018

www.fmreview.org/GuidingPrinciples20

together on how the Guiding Principles can help address protection and assistance gaps.

This type of regional dialogue can contribute to building stronger national engagement on internal displacement, and ultimately to improving the conditions of IDPs and their host communities in the countries in question. It could also lead affected States to explore the possibility of developing a regional framework similar to the Kampala Convention. Regional bodies such as, for example, the Inter-American Commission on Human Rights of the Organization of American States or the Parliamentary Assembly of the Council of Europe could play a useful role in mobilising member States around the specific challenges associated with internal displacement in their respective regions and the urgency of advancing the implementation of the Guiding Principles for the benefit of IDPs.

Angela Cotroneo acotroneo@icrc.org

Global Adviser on Internal Displacement,
International Committee of the Red Cross (ICRC)
www.icrc.org/en/war-and-law/protected-persons/internally-displaced-persons

The views expressed in this article are those of the author and do not necessarily reflect those of the ICRC.

1. Kälin W (2008) *Guiding Principles on Internal Displacement: Annotations*, The American Society of International Law and the Brookings Institution, Studies in Transnational Legal Policy Number 38, Washington, pp18-19.
bit.ly/Kalin-GP-Annotations
2. On the legal foundations of the Guiding Principles and their value as a standard see, among others, Droege C (2008) 'Developments in the Legal Protection of IDPs', *Forced Migration Review* GP10 issue
www.fmreview.org/GuidingPrinciples10/droege
and ICRC Advisory Service 'Internally Displaced Persons and International Humanitarian Law' Factsheet
bit.ly/ICRC-FactSheet-IDPs-law
3. Adopted October 2009 bit.ly/KampalaConvention
4. ICRC (2016) *Translating the Kampala Convention into Practice: A Stocktaking Exercise* bit.ly/ICRC-Kampala-stocktaking