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Laws and policies on internal displacement: global adoption and gaps

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A new Global Database on IDP Laws and Policies reveals the areas – both geographical and topical – in which provision remains insufficient.

The launch of the Guiding Principles on Internal Displacement in 1998 was followed by the growing adoption of national instruments on internally displaced persons (IDPs), reflecting the recognition of internal displacement as a global phenomenon. Revised and updated by the UN Refugee Agency (UNHCR) for the Global Protection Cluster Task Team on Law and Policy, the Global Database on IDP Laws and Policies¹ captures information on countries which have IDP laws and policies or are in the process of developing such laws and policies.

The database to date contains 27 laws and 55 policies² developed between 1992 and 2018. Twelve laws and policies had been adopted in nine different countries³ before 1998; these include one of the first laws on internal displacement, endorsed by Azerbaijan in 1992, and the first policy on internal displacement, adopted by Colombia in 1995. However, the catalytic effect of the Guiding Principles is evident in the vast majority of laws and policies – 70 of a total 82 – having been adopted since 1998.

Notwithstanding the global spread of IDP laws and policies, there still seems to be a lack of laws and policies where they are most needed. There are only two policies on internal displacement in the Middle East, one in Iraq (2008) and another in Yemen (2013), yet this is one of the regions most affected by new displacements caused by conflict and violence. The majority of new displacement caused by disasters in 2017 took place in Asia but while the region has 15 laws and policies on internal displacement, only seven of them make specific reference to disasters. Furthermore, despite the fact that Oceania is one of the areas most affected by disaster-induced displacement, only Vanuatu has adopted a specific policy on internal displacement.

Almost all the laws and policies recorded in the Global Database – 73 of the 80 analysed⁴ – identify conflict and/or violence as a cause of internal displacement but only 30 address development-induced displacement. This includes two policies adopted by the Government of India in 2004 and 2007 that relate exclusively to this cause of displacement. Additionally, only one third of all laws and policies (29) recognise disasters, although this was the main driver of new displacement in 2017.

The limited number of national instruments addressing disasters is, however, mitigated by an increasing number of laws and policies that, although not exclusively addressing internal displacement, do include provisions on disaster-induced displacement. For example, China, which has the highest number of new displacements caused by natural disasters in the world (almost 4.5 million in 2017), adopted in 2001 the Disaster Prevention and Response Act,⁵ which contains provisions related to the assistance and relocation of people from disaster-affected areas.

Gaps and implementation challenges

The phase most addressed by the laws and policies recorded in the Global Database is the post-displacement phase. Seventy-three of the 80 laws and policies analysed address post-displacement, including 25 that exclusively consider issues related to return, relocation and/or resettlement. This is illustrated, for example, by Sri Lanka's National Policy on Durable Solutions for Conflict-Affected Displacement, which envisions IDPs returning, relocating or locally integrating.

Moreover, while the vast majority (55) of the 80 laws and policies analysed have provisions on 'protection and assistance', only

one third (29) of all laws and policies analysed address the pre-displacement phase, making specific provisions to prevent and avoid forced displacement or to minimise the effects of unavoidable displacement. Colombia, for example, is one of the first countries to have addressed protection from displacement: an entire section of its first law on internal displacement (Law 387 of 1997) is devoted to the prevention of forced displacement.

States require political will, capacity and resources to adopt and implement their laws and policies relating to IDPs and to prevent or respond to internal displacement. Some policy-making processes have come almost to a standstill, such as in the Central African Republic and in the Democratic Republic of Congo; elsewhere, governments such as those of Fiji, Honduras, Mali and Niger are working through the process of developing a law or policy on internal displacement. This development of laws and policies on internal displacement is essential to guaranteeing IDPs' rights and reducing

displacement, although implementation is one of the biggest remaining challenges.⁶

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1. The previous version was developed by IDMC: www.internal-displacement.org/law-and-policy; the revised and updated version is hosted by the Global Protection Cluster: www.globalprotectioncluster.org.
2. For the purpose of the Database, a law is defined as "the system of rules issued by a government that regulates and prescribes the rights and obligations of the members of a community, formally recognised as binding and enforced by the relevant authority". A policy is defined as "a guideline that outlines the main goals of a government (or part of it) as well as the methods and the actions to achieve them". Laws and policies must be specifically on internal displacement to be included.
3. Respectively: Azerbaijan, Bosnia and Herzegovina, Colombia, Croatia, Georgia, Montenegro, Peru, the Russian Federation and Tajikistan.
4. Only 80 of the 82 laws and policies gathered in the Global Database were analysed. Additional analysis will soon be available.
5. This instrument is categorised under 'Other Relevant Instruments' in the Global Database.
6. See Orchard article in this issue.