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 Policies 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 policies developed between 1992 and 2018. Twelve laws and policies had been adopted in nine different countries 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 analysed – 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, 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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Implementing the Guiding Principles at the domestic level

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Examples from a number of States who have successfully implemented their own IDP laws and policies reveal several factors that can assist effective implementation.

As of mid-2017, 40 States which have experienced internal displacement had introduced some 69 domestic legislative instruments and policies (omitting minor policies and amendments).1 Across these laws and policies there is clear acceptance that internally displaced persons (IDPs) require some form of international protection. However, only 30 laws and policies explicitly mention the Guiding Principles, and only 19 explicitly endorse the IDP definition that the Guiding Principles contain. Concerns have long been raised around how successful the introduction of laws and policies on internal displacement has been at the domestic level, and the implementation picture remains mixed.2 Fewer than a third of laws and policies have been implemented without significant difficulties.3 Thus, for example, while Yemen’s 2013 national policy for addressing internal displacement references the Guiding Principles and includes clear protection goals, a lack of government capacity – in the face of the ongoing civil war – has meant the government can do little to implement it beyond facilitating the work of international humanitarian actors.