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.

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.

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. 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.
Preventing displacement

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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Driving displacement: explosive weapons in populated areas

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Forced displacement has many drivers but one of increasing concern is the use of explosive weapons in densely populated areas. Whether in Gaza during Operation Cast Lead in December 2008 to January 2009, during the final gruelling stages of the conflict in Sri Lanka, or in Aleppo and Homs in present-day Syria, the use of explosive weapons in densely populated areas encourages the forced displacement of hundreds of thousands of people.

Explosive weapons vary considerably, and include artillery shells, missile and rocket warheads, mortars, aircraft bombs, grenades and improvised explosive devices. Their common feature, however, is that they are indiscriminate within their zones of blast and fragmentation effect, which makes their use in populated areas highly problematic. Data collected across a range of conflicts, including Afghanistan, Iraq, Somalia and Yemen, reveal substantial and ongoing civilian suffering, both physical and psychological, caused by the blast and fragmentation effects of such weapons in populated areas. A study this year by Action on Armed Violence found that 87% of civilian deaths and injuries occurred in populated areas, including markets, schools, places of worship and private homes.1

While it is difficult to attribute displacement directly to explosive weapons, their use has obvious implications for the displacement of civilians. To begin with, people are forced to flee areas under attack. If and when the fighting ceases or moves on, people are often unable to return due to the widespread destruction of, and damage to, their homes, sources of livelihood and essential infrastructure such as water and sanitation systems. Unexploded ordnance poses a continuing threat to civilians, including returning refugees and internally displaced persons, until it is removed.

The need to address this issue has recently risen up the international agenda, with ICRC,2 the UN Secretary-General,3 UN Emergency Relief Coordinator Valerie Amos, the Security Council and the General Assembly all noting or speaking out against the impact of the use of heavy weapons in population centres.

Civil society has also mobilised around the issue. In March 2011 an NGO coalition, the International Network on Explosive Weapons (INEW), was established, calling on states and other actors to strive to avoid the harm caused by explosive weapons in populated areas, to gather and make available relevant data, to realise the rights of victims, and to develop stronger international standards. Data collection and analysis are essential to deepening our understanding of the humanitarian impact of such weapons and to inform policy and practice; an important element in this would be more detailed analysis of the impact of explosive weapons in terms of causing and prolonging displacement.

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