

## Action Sheet 13: The right to political participation, in particular the right to vote

### Key message

1. All persons, including those who are internally displaced, have the right to participate in the governmental and public affairs of their country, including the right to vote and to stand for election to public office.<sup>1</sup> Internal displacement, however, can create a number of specific obstacles for IDPs to exercise their rights to political participation, in particular to participate in elections. As a result, IDPs risk being disenfranchised and denied having a say in the political and economic decisions that affect their lives.
2. This **action sheet** gives an overview of obstacles that IDP electors may face in exercising their right to political participation, in particular the right to vote, and provides guidance on how we can support efforts to address these obstacles.<sup>2</sup>

### Political participation in the context of internal displacement

3. When elections are conducted in a fair and inclusive manner, they can be a key element in the processes of peace-building, national reconciliation and good governance, and therefore to fostering long-term stability in a country and supporting durable solutions to displacement.
4. In practice, internally displaced persons tend to face a number of obstacles to exercising their electoral rights, both during displacement as well as upon return to their areas of origin or resettlement in another part of the country. Left unaddressed, these obstacles can result in IDPs' disenfranchisement and exclusion from the political and public life of the country, further exacerbating the discrimination and marginalization that IDPs so often experience. This, in turn, can heighten their exposure to other protection risks as well as undermine the search for peaceful and durable solutions. The obstacles that IDP voters frequently face include:

- **Restrictive residency requirements** – National electoral regulations generally tie the exercise of electoral rights to the place of residence. In situations of internal displacement, which by definition entails a temporary loss of residence, this requirement is problematic for IDPs. It may require IDPs to either return to their area of origin to register and to vote – without taking into account that these areas may still be unsafe. The alternative of registering to vote in the area of displacement may be not be possible due to residency requirements or to strict documentary requirements. In some cases, re-registering as a voter at the site of displacement has resulted in IDPs' loss of humanitarian assistance or even de-registration of residency in the area of origin, creating obstacles to return.
- **Lack of documentation** - Identity documents are often lost, destroyed or confiscated in the course of displacement, and without these IDPs likely will face difficulties to register as a voter and to actually vote. Obtaining replacement documentation can be very difficult; in some cases may even require IDPs to return to their area of origin although these remain unsafe – a violation of international law. Moreover, particular individuals and groups may be denied documentation on political, ethnic or other grounds. Women and girls, for example, may be unable to acquire documentation in their own name and instead be forced to register as dependents of spouses or male relatives – this violates their rights and, in case of family separation or death of these relatives, leaves with them without the means to prove their identity. Some IDPs may have lacked documentation relating to their civil status even prior to their displacement.
- **Discrimination** - Discriminatory laws and practices can mar all aspects of the electoral process. In some cases, displaced voters or certain groups of displaced voters (e.g. ethnic minorities) have been deliberately barred from voting, provided with access to fewer or more remote polling stations with

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<sup>1</sup> A summary of the key legal principles related to the right to political participation appears at the end of this chapter.

<sup>2</sup> Election monitoring and assistance is a specialised area of international cooperation undertaken by organizations with the required expertise (see below, Key Actors). The focus of this chapter is on how we can support such efforts to safeguards IDPs' rights to political participation.

shorter voting hours, subjected to cumbersome registration procedures, or lacked access to electoral information in a language they understand.

- **Conflict and insecurity** – In many situations of displacement, elections have occurred in a climate of ongoing violence and communal tensions. Voters and candidates have been threatened, harassed or assaulted at all stages of the electoral process: during voter registration, when obtaining replacement documentation, while en route to or at polling stations, during the electoral campaign, or when taking office. Elections can only be free, fair and legitimate if voters can participate without fear of risk, intimidation or harm.
- **Lack of access to polling stations** - Security constraints or practical difficulties owing, for instance, to the distant location or an inadequate number of polling stations may arise. Socio-cultural norms, for instance restricting women’s right to freedom of movement, can also pose a challenge to political participation of IDPs.
- **Lack of information** – IDPs require, but often lack, adequate and information about the particular voting arrangements that may be put in place to enable their electoral participation. IDPs electors, in particular those residing in camps or remote settlements, also may not have access to information on candidates and their election platforms.

5. Within an IDP community, certain groups may face additional challenges or restrictions to exercising their right to political participation owing to their age, gender, ethnic or racial origin, religion or assumed political opinion. Women may be barred under the national or traditional law of their country from participating in political and public affairs, although they have the right to do so under international law. Older persons and persons with disabilities may face practical difficulties, for instance in accessing polling stations. In situations of ethnic conflict, minorities are at risk of violence, intimidation or harassment when exercising their political rights.

### **Responsibility of the State**

6. The State has a central role and responsibility to ensure that IDPs are able to freely and fully exercise their rights to political participation, both *while* they are displaced as well as upon their return or relocation. This may require the State to take specific measures, such as to:
  - establish absentee registration and voting arrangements so that IDPs can participate in elections being held in their area of origin while they are displaced outside of this area;
  - undertake legal and administrative reform to enable IDPs to exercise the right to vote in the area of their displacement;
  - enhance security en route to and at polling stations, including the deployment of trained police officers, both female and male;
  - conduct targeted public outreach campaigns informing displaced voters about voting arrangements;
  - provide transportation assistance to enable displaced and other voters to safely access polling stations;
  - request international assistance, if needed, to organise, supervise and monitor fair elections.<sup>3</sup>
7. The national election management body -- typically an electoral commission -- has a critically important role to play, although other national actors also are relevant (see below, Key Actors).

### **Role of human rights and humanitarian actors**

8. Where the State has limited capacity or technical expertise to ensure the free and fair conduct of elections, including the equal participation of IDP electors, international assistance can be valuable. While election assistance and monitoring activities should be led by those specialised agencies with expertise in this area (see below, Key Actors), human rights, humanitarian and development actors nonetheless can make an important contribution to safeguarding IDPs’ right to political participation.

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<sup>3</sup> For detailed guidance on the specific legislative, administrative and institutional measures that States can take to ensure the electoral rights of internally displaced persons, see the paper “Democracy and the Displaced”, by J. Grace and E. Mooney (2007) and, its summary, in the manual for domestic legislators that is being drafted by the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons (forthcoming 2008).

<b>IN OUR WORK</b> , we can contribute to efforts to safeguard the rights of IDPs to political participation by integrating attention to the issue in a range of our protection activities:	
<b>Assessment and analysis*</b>	<ul style="list-style-type: none"> <li>Identify: (i) any obstacles – legal, administrative or practical - to IDPs’ political participation, paying particular attention to issues of residency, registration and documentation requirements; (ii) groups most at risk of exclusion from political and public affairs; and (iii) key stakeholders – local, national and international - that can take steps to address these obstacles.</li> </ul>
<b>Protection monitoring*</b>	<ul style="list-style-type: none"> <li>Ensure attention to monitoring and reporting on any particular violations that IDPs face in exercising their electoral rights. Election observation and monitoring generally is undertaken by specialised agencies/NGOs with technical expertise in these areas. Human rights and humanitarian actors can support these efforts by: encouraging election monitors to pay attention to IDPs’ ability to exercise their political rights; sharing information received about any obstacles faced by IDPs; and suggesting and assisting implementation of measures to address such obstacles.</li> </ul>
<b>Advocacy*</b>	<ul style="list-style-type: none"> <li>Advocate with relevant national authorities to ensure that any obstacles that IDPs face in exercising their electoral rights are addressed. This may require: (i) amendments to electoral legislation and administrative practices; (ii) establishment of absentee registration and voting arrangements; and (iii) easing of unreasonable residency and documentation requirements as well as ensuring that women are issued documentation in their own name.<sup>4</sup> Advocacy for measures to ensure safety during all phases of the electoral process also may be required with national and local law enforcement agencies and, if present, with regional and international actors (e.g. civilian police and peacekeeping forces).</li> </ul>
<b>Information, education and communication activities*</b>	<ul style="list-style-type: none"> <li>Support voter education campaigns aimed at informing IDPs and other affected communities about: (i) their political rights; (ii) where, when and how to register and vote, including any absentee voting arrangements; and (iii) availability of complaints and appeal mechanisms. Information campaigns must reach areas where IDPs are located, including camps, reach women voters, and be conducted in a language that IDPs understand and through means (e.g. radio) accessible to illiterate voters.</li> </ul>
<b>Technical advice and assistance*</b>	<ul style="list-style-type: none"> <li>Support the capacity of the State to conduct free and fair elections, through the provision of technical advice and assistance on election administration and monitoring, available from specialised international and regional organizations as well as NGOs. Complementing this, we can provide information to national and local authorities about the obstacles faced by IDPs and on ways to address these. In some cases, material or financial assistance might be provided towards addressing these obstacles, for instance, by supporting the establishment of absentee voting arrangements or by contributing to costs for voter transportation.</li> </ul>
<b>Training*</b>	<ul style="list-style-type: none"> <li>Support training about the rights of IDPs, including the right to political participation, and standards for free and fair elections, for relevant stakeholders, including: governmental officials, in particular electoral officials and law enforcement agencies; IDP communities, particularly community leaders – both female and male; and local NGOs and civil society.</li> </ul>
<b>Presence*</b>	<ul style="list-style-type: none"> <li>Encourage and establish a protection presence (security conditions allowing) in areas of displacement during and immediately after elections have taken place. Visible protection presence, including the presence of independent election monitors, can facilitate political participation and discourage election related fraud, violence and abuse.</li> </ul>

## Key Actors

- National and local actors:** National electoral commissions; Ministry of Justice; Ministry of the Interior; national courts and tribunals; law enforcement agencies; national human rights institutions; local NGOs and civil society including the media.
- Regional organizations:** *In Africa:* the African Union’s Election Unit; and at the sub-regional level, the Economic Community of West African States (ECOWAS) and the Southern African Development Community (SADC). *In the Americas:* the Organization of American States (OAS) Unit for the Promotion of Democracy. *In Europe:* the Office for Democratic Institutions and Human Rights

<sup>4</sup> See Action Sheet [12](#) on addressing the risks that IDPs face related to issues of lack of documentation.

(ODIHR) of the Organisation for Security and Cooperation in Europe (OSCE); the European Commission for Democracy through Law (Venice Commission) of the Council of Europe; and the European Union.

- **International actors:** United Nations Electoral Assistance Division (EAD) of the Department of Political Affairs; International Organisation for Migration (IOM), in particular its project on Political Rights and Enfranchisement System Strengthening (PRESS); International Institute for Democracy and Electoral Assistance (IDEA); Inter-Parliamentary Union (IPU); the Commonwealth Secretariat; and the United Nations Office of the High Commissioner for Human Rights (OHCHR). In addition, a number of international non-governmental organizations, such as the International Foundation for Electoral Systems (IFES) and the Carter Center, provide electoral assistance and undertake election observation missions.

## Protection principles

9. The **right to political participation**, which is guaranteed in international and regional human rights law, includes: the right to participate in governmental and public affairs, to vote and to stand for election, and to have equal access to participate in public service.<sup>5</sup>
10. While certain limitations on the right to political participation may be permissible, these must be reasonable, objective and non-discriminatory in nature. For example, the right to vote generally is conditional on citizenship and typically also contingent in national legislation on having attained age of majority. However, discrimination, including on the basis of gender, ethnic origin, religion or political opinion, is absolutely prohibited as would be any restrictions on grounds of income, education, literacy, disability, descent, property status, political affiliation or displacement. If residency requirements apply, these **must not exclude the internally displaced any other voters without a permanent residence**.<sup>6</sup>
11. Internally displaced persons - the *Guiding Principles on Internal Displacement* underscore – must not be discriminated as a result of displacement in their ability to exercise the right to political participation. IDPs have the right to political participation, including the right to vote, while they are displaced as well as upon their return or settlement in another part of the country. Any documentation necessary to exercise this right IDPs must be able to obtain or replace without unreasonable requirements, such as having to return to their place of origin. They should be allowed to choose whether to have their vote count in their original electoral constituency or to re-register as a voter in their site of displacement, and must be able to do so without facing repercussions such as loss of assistance and other benefits.
12. A number of other rights guaranteed by international law are important to enabling meaningful political participation:
- The right to **freedom of opinion and expression**, including the right to seek, receive and impart information in a language of one's choosing, without threat of harassment, coercion or violence. It implies the freedom to discuss, support and oppose ideas, candidates or political parties, including through the media, without risk of censorship or restraint.<sup>7</sup> However, under no

### Guiding Principles

**Principle 22(1)(d)** - “Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of...[t]he right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right.”

**Principle 29(1)** - “Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country ... shall have the **right to participate fully and equally in public affairs at all levels...**”

<sup>5</sup> International: UDHR Art. 21; ICCPR Art. 25; ICERD Art. 5(c); CEDAW Art. 7 and 8; CMW Art. 41 (in the State of origin) and 42 (in the host State). Regional: AfCHPR Art. 13; AFCHPR Protocol on the Rights of Women in Africa (various articles); AmCHR Art. 23/ AmDHR Art. XX; Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, Art. 4(j); ArCHR Art. 19 and 33; and ECHR PI Art. 3.

<sup>6</sup> United Nations Human Rights Committee, General Comment No. 25(1996), The right to participate in public affairs, voting rights and the right to equal access to public service (Art. 25), paras. 3 and 11.

<sup>7</sup> International: UDHR Art. 19; ICCPR Art. 19; ICERD Art. 5(d)(viii); CRC Art. 12, 13 and 17; and CMW Art. 13. Regional: AfCHPR Art. 9; AfCRWC Art. 7; AMCHR Art. 13; AMDHR Art. IV; and ECHR Art. 10. The right is reflected in the Guiding Principles in Art. 22(1)(a). Further information: Human Rights Committee, General Comment No. 10(1983), Freedom of expression (Art. 19).

circumstances should propaganda for war and violence or advocacy of national, racial or religious hatred be tolerated.<sup>8</sup>

- The right to **peaceful association and assembly**, which includes the right to form and join organizations and associations, including political parties, to debate political and public affairs, and to hold peaceful demonstrations and meetings.<sup>9</sup>
- The right to **freedom of movement**, which includes the right to move freely, without fear or threat of harm, for the purposes of campaigning, voting or assuming public office.<sup>10</sup>

13. Overall, elections should be free and fair: based on universal and equal suffrage and held by secret ballot, enabling voters to express their will freely and without violence, intimidation or threat. Internationally recognised electoral standards and principles should be respected and mechanisms available for independent and impartial review and appeal.

## Key References and Tools

- **Safeguarding IDP Voting Rights** by E. Mooney and B. Jarrah, *Forced Migration Review*, Vol. 23 (2005). Available at: [www.fmreview.org](http://www.fmreview.org)
- **Democracy and the Displaced: Political Participation Rights, in Particular the Right to Vote and to Be Elected**, by J. Grace and E. Mooney (Brookings-Bern Project on Internal Displacement and American Society of International Law, 2007 *forthcoming*).
- **Enfranchising Conflict-Forced Migrants: Issues, Standards, and Best Practices**, by J. Grace and J. Fischer, Participatory Elections Project (PEP), Discussion Paper No. 2 (IOM, 2003). Available at: [http://www.geneseo.edu/~iompress/Archive/Outputs/Standards\\_Final.pdf](http://www.geneseo.edu/~iompress/Archive/Outputs/Standards_Final.pdf)
- **Political Participation, in Particular Electoral Rights** chapter in *Manual for Domestic Legislators on the Implementation of the Guiding Principles* (Brookings-Bern Project and American Society of International Law, *forthcoming* 2008).
- **Displaced and Disenfranchised: Internally Displaced Persons and Elections in the OSCE Region**, by E. Mooney and B. Jarrah, in 29 *Ethnopolitics* 36 (2005). Available at: <http://www.informaworld.com/smpp/content~content=a713735032~db=all>
- **Internally Displaced Persons' Voting Rights in the OSCE Region**, by E. Mooney and B. Jarrah (Brookings-SAIS Project on Internal Displacement, 2004). Available at: [www.brookings.edu/idp](http://www.brookings.edu/idp)
- **Enhancing Women's Participation in Electoral Processes in Post-Conflict Countries** (UN Office of the Special Adviser on Gender Issues and Advancement of Women, UN Doc. EGM/ELEC/2004)
- **Women and Elections: Guide to Promoting the Participation of Women in Elections** (United Nations, 2005)
- **Human Rights and Elections: A Handbook on the Legal, Technical and Human Rights Aspects of Elections** (UN Doc. HR/P/PT/2, United Nations Centre for Human Rights, 1994)
- **Training Manual on Human Rights Monitoring**, Chapter XIV: Election Observation (OHCHR, 2001)

## Useful websites

- Electoral Assistance Division (EAD) of the United Nations Department of Political Affairs: <http://www.un.org/Depts/dpa/ead/>
- European Commission for Democracy through Law (Venice Commission) of the Council of Europe: [http://www.venice.coe.int/site/main/Elections\\_Referendums\\_E.asp](http://www.venice.coe.int/site/main/Elections_Referendums_E.asp)
- Inter-Parliamentary Union: <http://www.ipu.org/dem-e/overview.htm>
- International Institute for Democracy and Electoral Assistance (IDEA): <http://www.idea.int/>
- Office for Democratic Institutions and Human Rights (ODIHR) of the Organisation for Security and Cooperation in Europe (OSCE): <http://www.osce.org/odihr-elections/>
- Political Rights and Enfranchisement System Strengthening (PRESS) project of the International Organisation for Migration (IOM): <http://www.geneseo.edu/~iompress/>

<sup>8</sup> Propaganda for war and advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence should be prohibited by law. Art. 20 of the ICCPR.

<sup>9</sup> International: UDHR Art. 20; ICCPR Art. 21 and 22; CEDAW Art. 14(2)(c); and CRC Art. 15. Regional: AfCHPR Art. 10 and 11; AfCRWC Art. 8; AmCHR Art. 15 and 16; AmDHR Art. XXI and XXII; Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women Art. 4(h); ArCHR Art. 28; and ECHR Art. 11. The right is reflected in the Guiding Principles in Art. 22(1)(c).

<sup>10</sup> See Action Sheet [\[redacted\]](#) on the right to freedom of movement.