

Chapter 2:

The Legal Framework for the Protection of Internally Displaced Persons

Key message:

1. Protection is about ensuring that all women, men, girls and boys enjoy their rights in full equality in all circumstances, including in situations of internal displacement. An awareness and understanding of the rights and guarantees provided for by international law therefore is essential. This does not mean that in order to do protection work, everyone must have the specialist knowledge of a human rights lawyer; in fact, protection often requires non-legal skills and practical initiatives. Protection efforts nonetheless must be anchored in international law and be based on rights. To work for the protection of internally displaced persons, we must be aware of, and take measures to ensure respect for, their rights.
2. This chapter provides an overview of the rights of internally displaced persons – which are summarized in the **Guiding Principles on Internal Displacement** – and of the international legal framework in which these rights are grounded. It explains this framework which must guide and underpin our protection work and provides guidance on how this framework can be mobilized to support our efforts to ensure protection for internally displaced persons and other populations at risk.

The relevance of international law to our work

3. International law sets out the rights of every individual and the responsibilities of States and other authorities to ensure the protection of these rights. Understanding what are the rights of IDPs as well as the international legal obligations of States and other authorities towards them, is essential to our protection work and to a rights-based approach to humanitarian action.

All those engaged in humanitarian action (including not only human rights, humanitarian and development workers but also members of UN peacekeeping missions) have a responsibility at all times to respect human rights.
4. International law gives clear and objective criteria for the protection of IDPs and other populations, which can be used to:
 - *assess* whether and to what extent the rights of IDP women, men, girls and boys are being respected and to identify the protection risks they face;
 - *develop and implement* rights-based and community-based responses to these risks;
 - *strengthen* efforts to assist and to hold accountable national and other authorities to fulfil their protection obligations;
 - *inform* advocacy, awareness-raising, training, capacity-building and other similar activities;
 - *guide* our own activities, conduct, and interactions with populations of concerns and ensure that these are consistent with and respect international human rights and international humanitarian law.

SOURCES OF INTERNATIONAL LAW

International law is derived from two primary sources: international treaties; and customary law:

- **International treaties** are contracts between States that are legally binding on States that have formally indicated (usually by ratification) their consent to be bound by the particular treaty. A “treaty” may also be known as a “covenant”, “convention”, “charter”, or “protocol”.
- **Customary international law** or **custom** describes a general and consistent practice followed by States in accordance with a sense of legal obligation. It is binding on all States, unless a State has persistently voiced its objection to the practice.

Resolutions of the UN Security Council, when adopted under Chapter VII of the UN Charter, are also binding on States. Moreover, other resolutions and declarations adopted by States, for instance in the UN General Assembly and the UN Human Rights Council, although non-binding, can be important normative statements and may even provide an indication of emerging international custom.

The rights of internally displaced persons

5. There is no international convention specifically focused on the protection of internally displaced persons. Nor do any existing international law instruments or rules of customary law explicitly address their plight. This does not mean that internally displaced persons are not protected under international law. In fact, a comprehensive **international legal framework for protection** in all situations of internal displacement, including in times of armed conflict, is collectively provided by the following three bodies of law:
 - **international human rights law;**
 - **international humanitarian law;** and
 - **international criminal law.**
6. Moreover, as citizens or habitual residents¹ of their country, IDPs remain entitled to protection under the State’s domestic law, which must be compatible with the State’s obligations under international law.
7. The challenge, however, for international agencies, NGOs, and States has been to easily identify those guarantees and concepts implicit and dispersed in the rich body of existing international law which respond to the particular needs and protection risks that arise in situations of internal displacement.
8. The **Guiding Principles on Internal Displacement**² bring together in one document the main rules of international law – drawn from international human rights law, international humanitarian

Internally displaced persons are entitled to enjoy, equally and without discrimination, the same rights and freedoms under international and domestic law as do other persons in their country.

¹ Internally displaced persons, according to the definition discussed in Part I, Chapter 1, are habitual residents of the country in which they are displaced. They are not necessarily citizens of the country; indeed, they may even be stateless persons. The specific issues that arise concerning statelessness are addressed in Part III of this Handbook.

² Prepared by the Representative of the UN Secretary-General on Internally Displaced Persons, at the request of the UN General Assembly and UN Commission on Human Rights, UN Doc. E/CN.4/1998/53/Add.2. Reproduced in Annex I of this Handbook.

law and international criminal law, as well as refugee law by analogy³ – relevant to protection in situations of internal displacement. The Guiding Principles set out the **rights of IDPs and the responsibilities of States and other authorities towards them**, providing a useful tool and reference in situations of internal displacement.

9. To fully understand and most effectively use the Guiding Principles, however, it is important first to situate them within the broader international legal framework that underpins them.

1. INTERNATIONAL HUMAN RIGHTS LAW

10. Human rights are freedoms and entitlements which *every* individual should enjoy.
11. International human rights law, which consists of customary as well as treaty law, guarantees these rights and obliges **States to respect, protect and fulfill the human rights of all persons without discrimination** of any kind, such as on the grounds of age, gender, ethnic origin, language, religion, political or other opinion, national or social origin, property, birth or other status, including on the grounds of being or having been internally displaced.

Key human rights instruments

12. The ***Universal Declaration on Human Rights (UDHR)*** of 1948 – the first human rights instrument developed by the United Nations – sets out the main civil, political, economic, social and cultural rights to which all persons are entitled, without discrimination of any kind. Although not a binding instrument, many of its provisions have been incorporated into treaties and gained binding force. Moreover, several of the principles that it articulates constitute customary international law.⁴
13. Building upon the UDHR and incorporating the principles it enshrines into legally binding instruments are two Covenants, which together with the UDHR constitute what is regarded as the “International Bill of Rights”. These are:
- ***International Covenant on Civil and Political Rights (ICCPR)***; and
 - ***International Covenant on Economic, Social and Cultural Rights (ICESCR)***.
14. Several additional instruments reinforce and elaborate human rights protection relating to:
- **particular issues**, such as torture or racial discrimination, or
 - **specific groups of persons** who historically have faced particular obstacles to enjoying their rights in full equality, including women, children and indigenous persons.
15. Although none of these instruments specifically address internal displacement, they do cover a range of risks that IDPs often face and reinforce protection for particular groups of persons, who tend to be disproportionately affected by displacement (see MATRIX 1).

³ Refugee law, which applies to persons fearing persecution who are displaced *outside* of their country does not directly apply to IDPs. However, given its focus on issues arising in a situation of displacement, some of its principles are instructive by analogy, in particular that of *non-refoulement* – the core principle of international refugee law – prohibiting forcible return of refugees to a place where their life or freedom would be at risk. In fact, this principle has its basis in human rights law, in particular the rights to freedom of movement, life, liberty, and protection against torture or cruel, inhuman and degrading treatment. On these grounds, IDPs similarly have the right to be protected against forcible return or resettlement to a place where their life, safety, liberty and/or health would be at risk. Principle 14 15(d), *Guiding Principles on Internal Displacement*.

⁴ Indeed, a number of commentators argue that the entire Declaration has gained the status of customary international law.

16. Moreover, international human rights are reflected and reinforced in a number of **regional human rights instruments** (see BOX at end of chapter).
17. Many human rights also constitute **international customary law**. These are norms which, through the practice of States have come to be considered as rules that are legally binding on *all* States, even if they have not ratified the relevant international instrument (or even if a specific treaty obligation does not exist). Norms of customary international law include, for example: the rights to life; freedom from torture; freedom from discrimination on grounds of gender, race or ethnic origin; freedom from slavery; and from genocide – all of which also are affirmed in international conventions.

States have the duty to respect customary international human rights law as well as all those human rights treaties to which they have committed themselves to implement. They must ensure that their domestic laws, policies and practices are consistent with these obligations.

DO YOU KNOW... which international human rights instruments the country where you work has committed itself to abide by? You should!

Go to the link bellow to find out:

<http://www.unhcr.ch/tbs/doc.nsf/Statusfrset?OpenFrameSet>

MATRIX 1**Key international human rights instruments in situations of internal displacement**

Name	Description
Universal Declaration of Human Rights 1948 (UDHR)	Worldwide instrument, setting out the basic human rights of all persons on the basis of equality and non-discrimination.
International Covenant on Civil and Political Rights 1967 (ICCPR)	Sets forth a broad catalogue of civil and political rights, including the rights to: life, physical integrity, recognition before the law, and political participation as well as to freedom of movement and choice of residence, and protection of the family.
International Covenant on Economic, Social and Cultural Rights 1967 (ICESCR)	Sets out economic, social and cultural guarantees, including the rights to adequate food, shelter, clothing, health care, an adequate standard of living, as well as guarantees concerning work, social welfare, education and participation in cultural life.
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984 (CAT)	Defines torture and bans it under all circumstances. Stipulates that States cannot return a person to her/his country if there is reason to believe s/he will be tortured (principle of <i>non-refoulement</i>).
International Convention on the Elimination of All Forms of Racial Discrimination 1965 (CERD)	Prohibits racial discrimination: when a person or group is treated differently because of their race, colour, descent, national origin or ethnic origin with the aim or effect of impairing their human rights and fundamental freedoms.
Convention on the Prevention and Punishment of the Crime of Genocide 1948	Defines genocide – acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group – and declares it as a crime, whether committed during peacetime or war.
The Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW)	Sets a framework for national action for ensuring women enjoy, on an equal footing with men, their rights in all fields, including employment, education and administration of property, and for ensuring the protection of women, especially against threats to their physical safety and against rape and sexual exploitation.
The Convention on the Rights of the Child 1989 (CRC)	A comprehensive code to protect the rights and “best interests” of children (defined as 18 years or under). Obliges States to take all feasible measures to ensure protection, care, psychological recovery and social reintegration of children affected by an armed conflict. Specifically addresses the situation of separated or unaccompanied children and of refugee children. It also has two optional protocols (on children in armed conflict; and on the sale of children, child prostitution and child pornography).
Indigenous and Tribal Peoples (No. 169) adopted by the International Labour Organisation 1989	Sets a framework for ensuring indigenous and tribal peoples enjoy their rights on an equal footing with other persons. Specifically addresses issue of relocation of peoples, setting out conditions and guarantees to be fulfilled this to be lawful.

For the text of all of these as well as other international human rights instruments, see: *Human Rights. A Compilation of International Instruments: Universal Instruments* (OHCHR, 2003).

Online at: <http://www2.unog.ch/intinstr/uninstr.exe?language=en>

When does human rights law apply?

Responsibility of the State

18. A State bears primary responsibility for ensuring the enjoyment of human rights of all individuals on its territory or under its jurisdiction. This duty extends to all agents of the State (including military and police) and all public authorities, whether at the national, regional or local levels.⁵
19. This responsibility has three dimensions: to **respect, protect** and **fulfill human rights**.
- The **duty to respect** requires that the State act in compliance with the rights of individuals, including by refraining from any measure that may interfere with or impair an individual's enjoyment of rights. For example, the State must not restrain people's right to freedom of movement: people must be allowed to flee to safe areas in, or even outside of, the country and IDPs must be able to move freely in and out of any camps or settlements.
 - The **duty to protect** obliges the State to take all necessary measures to ensure that individuals are safeguarded against threats to and abuses of human rights by both State and non-State actors. This includes requiring States to take measures to prevent and put a stop to any violations of rights by private individuals or groups. They are also responsible for investigating incidents of abuse and ensuring that victims have access to an adequate and effective remedy under domestic law. A State therefore may be held responsible for *not* having taken action to prevent private individuals or groups from carrying out acts that violate human rights. For example, if an IDP child is recruited into a guerrilla group or IDP women are raped in or near a camp, and the State is aware, or reasonably should have been aware, of these abuses but did not seek to provide protection against them, it would have failed to fulfill its duty to protect.
 - The **duty to fulfill** requires the State to take all possible measures to ensure that individuals under its jurisdiction enjoy their human rights. The development and adoption of national laws and policies often is important, but so too is building national capacity to support their implementation. For instance, for IDPs and all other persons to enjoy the right to a fair trial requires building an effective judicial system, while enforcing the ban on torture must include training prison guards and police, and the right to free and fair elections depends upon the development of a comprehensive electoral system. In other words, to ensure the realization of rights often requires an investment of resources on the part of the State.
- Many countries experiencing conflict and displacement face significant resource constraints. Human rights law recognizes, in particular as regards economic, social and cultural rights, that States with very limited resources may not have the capacity to ensure full realisation of certain rights. However, a State cannot use the lack of resources as an excuse to do nothing. A State is obliged to take steps "to the maximum of its available resources, with a view to achieving progressively the full realisation" of rights recognised in the ICESCR.⁶ It must:
- ensure access, at a minimum, to rights essential to survival, i.e. to: food and water, basic shelter, medical services and sanitation; and
 - request international assistance where State resources are insufficient.
20. The duty of the State to respect, protect and fulfill human rights applies at **all times, including during armed conflict and disasters**.

⁵ While non-state groups formally are not bound by human rights treaty law – although they do, however, have obligations under customary law and international humanitarian law (as discussed later in this chapter) - there are many examples of non-state groups agreeing to respect human rights standards, either generally or regarding specific groups such as children. Non-state groups may have also committed to human rights standards through a cease-fire or peace agreement. It therefore is possible and often appropriate to undertake human rights advocacy with non-state actors. See *Human Rights Guidance Note for Humanitarian Coordinators* (IASC, 2006), pp. 8, 10, 15.

⁶ ICESCR, Article 2(1).

IN OUR WORK

Although in certain exceptional circumstances, such as war, certain human rights may be legitimately limited or suspended, this does not mean States *must* restrict or suspend these rights. The continued respect for these principles (which in any case may only be temporarily restricted) can always be encouraged. Certainly, we should monitor and advocate for respect of those rights which *cannot* be limited.

21. In specific circumstances, however, the enjoyment of particular rights can be subject to certain **limitations or restrictions**. Restrictions on rights may *only* be imposed if they are: determined by law; necessary in a democratic society for ensuring the rights and freedoms of others or for public order, public health or morals, national security or public safety; and consistent with other human rights, including that of non-discrimination, as well as international humanitarian law, where applicable.
22. In situations of a declared **state of emergency**, the enjoyment of certain rights may be temporarily derogated (suspended). Such derogations are exceptional measures which are subject to strict requirements. There must be an actual or imminent danger which threatens the physical safety of the population, the political independence or territorial integrity of the state.
23. Any derogation of rights must not go beyond what is necessary to address this danger, must not last longer than required by the circumstances and must not be inconsistent with the State's other obligations under international law. In addition, such measures may never be discriminatory, i.e. applied solely to members of a particular race, religion, ethnic, sex, linguistic or other group.
24. Moreover, a **number of human rights can never be suspended** whatever the situation, including in armed conflict. In addition to the principle of non-discrimination, highlighted above, these include:
 - the right to life
 - the prohibition of genocide,
 - freedom from torture and inhuman treatment or punishment,
 - freedom from slavery,
 - freedom of thought, conscience and religion, and
 - the prohibition of punishment for any act that was not a crime when the act was committed.⁷

Monitoring respect for international human rights law

25. Several mechanisms charged with monitoring and encouraging State compliance with human rights law exist at the international, regional and national levels. At the international level, of particular relevance are the UN treaty-monitoring bodies and the "Special Procedures" created by the UN Human Rights Council.
26. **UN Treaty-Monitoring Bodies:** For each of the main human rights treaties, there exists a corresponding committee, composed of independent experts, charged with monitoring State compliance with the treaty.⁸ In general, the Committees fulfil this role in three ways:

⁷ ICCPR, Article 4 (3). Some regional treaties, such as the American Convention on Human Rights (ACHR), contain a more extensive list of non-derogable rights, including the rights of the child, the right to juridical personality, the rights to a name, family and nationality and to participate in government.

⁸ The UN human rights treaty monitoring bodies are: the Human Rights Committee (ICCPR), the Committee on Economic, Social and Cultural Rights (CESCR), the Committee against Torture and other forms of Inhuman or Degrading Punishment (CAT), the Committee on the Elimination of Racial Discrimination (CERD), Committee on

- by examining State reports and issuing concluding observations that outline the main concerns and provide recommendations to the State;
- by developing general comments that provide guidance on the interpretation of particular rights; and
- by examining, individual complaints of alleged violations of human rights, subject to the consent of the State to do so.⁹ The treaty-monitoring bodies increasingly are devoting attention in their work to the particular obstacles to enjoyment of rights that can arise in situations of internal displacement, providing useful guidance towards ensuring the protection of IDPs' rights.

IN OUR WORK

We can:

- ✓ *Consult* the treaty-monitoring reports for the country where we work, in particular the recommendations for improving respect for human rights, including for IDPs;
- ✓ *Promote and support* follow-up to the recommendations, including by strengthening the State's capacity (ex. through training or legislation) to respect human rights;
- ✓ *Monitor* State compliance with the recommendations;
- ✓ *Provide* information relating to protection concerns for consideration during review of a State report (Note: check whether your office has a focal point for this).

27. **UN Human Rights Council's Special Procedures:**¹⁰ A whole network of independent human rights experts have been appointed by the UN Human Rights Council to examine, monitor, advise and publicly report on particular human rights themes or country situations.
- **Thematic Experts** cover a range of issues relevant to the protection of internally displaced persons, including in countries that have not ratified relevant human rights treaties, such as: violence against women, minority issues, the rights of indigenous people, and the rights to education, to adequate housing, to food, and to physical and mental health. One mandate specifically focuses on promoting the rights of internally displaced persons (see Box).
 - **Country-specific Experts** address particularly serious situations of human rights violations. Such situations almost inevitably include large numbers of internally displaced persons. Country situations currently covered include, for instance: the Democratic Republic of Congo, Myanmar, Somalia, and the Sudan.

the Elimination of Discrimination against Women (CEDAW), the Committee on the Rights of the Child (CRC), and the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMR).

⁹ Specifically: the HRC, CERD, CAT and CEDAW, though the procedural requirements vary. For guidance, see <http://www.ohchr.org/english/bodies/petitions/index.htm>

¹⁰ For more information on the Special Procedures, see <http://www.ohchr.org/english/bodies/chr/special/index.htm>

A Global Advocate for IDPs: The Representative of the Secretary-General on the Human Rights of Internally Displaced Persons

The Representative, who reports to the UN Human Rights Council and UN General Assembly, engages in dialogue and advocacy with Governments and other actors concerning the rights of IDPs, and works to strengthen the international response to internal displacement and to mainstream IDPs' rights throughout the UN system. Activities include:

- promoting the rights of IDPs as articulated in the *Guiding Principles on Internal Displacement*
- engaging governments and other actors regarding specific situations of internal displacement, including by undertaking country visits;
- sponsoring national and regional seminars on issues related to internal displacement;
- engaging UN agencies and departments to mainstream the rights of IDPs; and
- undertaking research on issues of IDPs' human rights

For more information, including country-specific reports and recommendations, on the Representative's work, see online at: <http://www.ohchr.org/english/issues/idp/index.htm>

IN OUR WORK

We can make use of the Special Procedures of the UN Human Rights Council in a number of ways, including:

- ✓ *Consult reports* by Special Procedures that address the human rights situation in the country where we work. These provide valuable insight for understanding the range of protection concerns and developing a protection strategy;
- ✓ *Provide information* to specific country and thematic experts. In response, they may: send a written communication to the State concerned, conduct a country mission and raise the issue directly with national officials, make a public statement, report on the issue to the UN Human Rights Council and/or General Assembly;
- ✓ *Suggest* when advocacy on a particular human rights concern would be valuable;
- ✓ *Seek technical guidance and advice*, as needed, from special procedures on issues related to their mandate, for instance on issues of national legislation;
- ✓ *Suggest a country mission* by the Special Procedure to examine and discuss the human rights situation with national authorities and other stakeholders including IDPs, NGOs, national human rights institutions;
- ✓ *Disseminate the recommendations* (which may be directed not only to States but also to non-state actors, UN agencies etc.) to relevant stakeholders, including: Government, civil society, IDP associations, international agencies, donors etc.;
- ✓ *Promote and support* follow-up to the recommendations, including by strengthening the State's capacity (ex. through training) to respect human rights;
- ✓ *Monitor* implementation by the State of recommendations made.

28. At the **regional level**, there also exist regional human rights monitoring mechanisms, in particular in Africa, the Americas and Europe, which provide important protection, especially as rights can be enforced in regional human rights courts (see Box at end of chapter). Regional mechanisms increasingly have become actively engaged in addressing human rights issues in situations of internal displacement and protecting the rights of IDPs.

You can access and search the observations and recommendations of the treaty-monitoring bodies as well as the special procedures online – in English, French and Spanish – at: www.universalhumanrightsindex.org.

For more guidance on how you can make use of these mechanisms to support your efforts to protect the rights of IDPs, see: the *Guide to International Human Rights Mechanisms for Internally Displaced Persons and Their Advocates*, online at: www.brookings.edu/fp/projects/idp/2006_guidebook.htm

29. At the national level, national human rights institutions have a critical role to play in providing a channel for individuals to claim their rights. These institutions also can work to ensure to that domestic legislation, policies and programs respect human rights, including in situations of internal displacement.

2. INTERNATIONAL HUMANITARIAN LAW

30. In situations of armed conflict, in addition to international human rights law, which continues to apply, **international humanitarian law (IHL)** also comes into effect.
31. Because some human rights can temporarily be limited or suspended during such situations, the protection provided by IHL is particularly important. The more specific rules of IHL also assist in interpreting applicable human rights principles in situations of conflict. For instance, evacuations of civilians on grounds of military necessity that are permissible under IHL are a legitimate limitation of the right to freedom of movement under human rights law.
32. Also known as the law of armed conflict or the law of war, IHL is a body of principles and norms intended to limit human suffering in times of armed conflict. It aims:
- **to protect persons who do not, or no longer, take part in hostilities**, namely: civilians; prisoners of war; and sick, wounded or shipwrecked combatants; and
 - **to regulate the method and means of warfare** between parties to a conflict (ex. prohibiting particularly barbarous weapons and tactics, such as the use of chemical and biological weapons, military attacks on civilian targets and “indiscriminate attacks” that strike military objects and civilians at the same time without distinction.
33. IHL applies in **all situations of armed conflict**: both international conflict (between States) and non-international conflict (within States). It is binding on **all parties to an armed conflict**: States, their armed forces and non-State armed groups (whether insurgent groups opposing the State or groups such as paramilitary groups supported by the State). IHL also applies to troops participating in multilateral peacekeeping and peace-enforcement operations if they take part in hostilities.

Key instruments of IHL

34. The core instruments of international humanitarian law are the four **Geneva Conventions of 1949** and their **two Additional Protocols of 1977**.¹¹ Many of the key principles contained in these instruments also constitute customary international law, i.e. they are automatically binding in *all* situations of armed conflict and on *all* parties to a conflict.

Type of Conflict	Definition	International humanitarian law applicable
International armed conflict	Armed conflict between two or more States	Customary law The four Geneva Conventions of which the Fourth Convention is specifically devoted to the Protection of Civilian Persons Additional Protocol I to the Geneva Conventions
Non-international armed conflict	Armed conflict between the State and a non-state actor, or between two or more such actors, taking place in the territory of a single state	Customary law Article 3 common to the Four Geneva Conventions Additional Protocol II to the Geneva Conventions

Key principles of IHL

35. Fundamental to international humanitarian law is the distinction between the **civilian population** – persons who do not take a direct part in hostilities – and **combatants**. The parties to a conflict must at all times distinguish between the civilian population and combatants, in order to spare the civilian population and civilian property.¹² The civilian population shall not be the object of attack; attacks shall be directed solely against military objectives.
36. Internally displaced persons, provided they are not taking a direct part in hostilities, are entitled to the same protection under IHL as any other civilians.¹³

¹¹The text of these instruments is available at: www.icrc.org. In 2006, the Geneva Conventions achieved universal ratification, i.e. every State in the world is now a party to, and therefore has committed itself to respect, these instruments.

¹² It is important to note that in case of doubt a person should be considered to be a civilian. Civilian property is defined as anything which is not a military objective, i.e. which by its nature, location, purpose or use does not effectively contribute to military action and whose total or partial destruction, capture or neutralization would not offer a definite military advantage in the circumstances ruling at the time. In case of doubt, a property which is normally assigned to civilian use should be considered as civilian and must not be attacked.

¹³ It is important to clarify that IDPs taking part in hostilities are *not* civilians. Throughout this Handbook, and indeed generally speaking in the humanitarian community, references to the protection of IDPs “and other affected populations” refer to those who are civilians.

Protection of Civilians: Key Principles of IHL

Parties to the conflict must distinguish at all times between combatants/fighters and military objects, on the one hand, and civilians and civilian property on the other. Any attacks must be directed only against military objects and all feasible measures must be taken to protect civilians from the indiscriminate effects of hostilities.

The following acts are prohibited at all times:

- **targeted or indiscriminate attacks** against civilians or civilian targets;
- **starvation of civilians** as a method of warfare and attacking, destroying, removing or rendering useless any objects indispensable for the civilian population's survival;
- **reprisals or collective punishments** against civilians;
- using civilians to **shield military objectives** from attack or to shield, favour or impede military operations;
- acts of violence intended to spread **terror**;
- using **weapons that cause unnecessary injury or suffering**, or that cause widespread, long-term and severe damage to the natural environment or jeopardise the health or survival of the population;

Principles of humane treatment

- Persons who do not, or have ceased to, take part in hostilities must be **treated humanely and protected against violence** to life, health and physical or mental well-being, including murder, mutilation, torture and cruel, humiliating or degrading treatment;
- **Rape, enforced prostitution and any form of indecent assault** as well as sexual slavery, exploitation and abuse are prohibited in all circumstances and at all times.

Forced displacement

- Unless essential for the security of civilians or imperative military reasons, parties to an *international* armed conflict may **not deport or forcibly transfer the civilian population of an occupied territory** and parties to a *non-international* armed conflict may **not order the displacement of the civilian population**;
- Displaced persons have a **right to voluntary return in safety** to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist;
- States may **not deport or transfer parts of their own civilian population into** a territory they occupy.

Assistance and basic living conditions

- All parties to the conflict must grant **and facilitate the unimpeded passage of relief assistance** necessary for the survival of civilians;
- All possible measures must be taken in order that displaced civilians receive **satisfactory conditions of shelter, hygiene, health, safety and nutrition**.

Individuals and groups with specific needs

- **Women's specific protection, health and assistance needs** must be respected
- **Children** are entitled to **special respect and protection**. It is prohibited for children to be recruited into armed forces/groups or to otherwise participate in hostilities (e.g. aiding combatants by bringing them weapons and munitions, carrying out reconnaissance missions etc.);
- The **elderly, infirm and persons with disabilities** who are affected by armed conflict are entitled to special respect and protection;
- The **family** should be protected; measures should be taken to ensure that **family members are not separated**, and if separation occurs, that they are reunited.

International humanitarian law and internal displacement

37. Because internal displacement so often occurs in situations of armed conflict, IHL is especially important for the protection of internally displaced persons and other affected populations in situations of armed conflict. Indeed, respect for IHL in many cases would prevent the displacement of civilians from occurring in the first place.
38. **IHL prohibits any party to an armed conflict from compelling civilians to leave their places of residence.** Only exceptionally may temporary evacuations be carried out, provided that the security of civilians or military imperatives absolutely require this, and subject to strict conditions.¹⁴ Any such displacement must be non-discriminatory. All possible measures must be taken to ensure that family members are not separated and that the civilian population affected is received under satisfactory conditions of shelter, hygiene, health, safety and nutrition. Moreover, such evacuations must be temporary: those affected have the right to return in safety to their homes as soon as the reasons for their displacement cease to exist.
39. In addition to this express prohibition of displacement, the **rules of IHL that are intended to spare civilians from the hostilities and their effects** play an important role in preventing forced displacement; it is often the violation of these rules that cause civilians to flee their homes and become displaced.
40. If displacement does occur, IDPs, like all other civilians, are entitled to **protection and assistance**, as required. Parties to a conflict have a duty to allow humanitarian access and assistance to civilian populations in need.

“When civilians flee a conflict zone, this is a good indication that the warring parties are indifferent to their rights under IHL or, worse, are deliberately targeting them.”

- ICRC, 2007

Responsibility to respect and ensure respect for IHL

41. All parties to a conflict have an obligation to ensure that military activities and the activities of the member of the armed forces respect IHL. For States, this includes:
- providing training to the armed forces and the public;
 - criminalising violations of the law and putting in place adequate legal, administrative and disciplinary structures to prevent, monitor and investigate violations, and
 - prosecuting and punishing – or extraditing – those responsible for violations of the law.
42. In addition, IHL obliges other (neutral) States to work to ensure respect for IHL by parties to a given conflict. This can be done, for instance, through advocacy, support to human rights and humanitarian actors, and prosecution or extradition of those responsible for violations of the law.
43. All States – regardless of whether or not they are parties to a given conflict – have the duty to prosecute and punish in their own courts, or to extradite, those responsible for serious violations of IHL, such as war crimes and/or grave breaches of the law, regardless of where the crime took place or the nationality of the perpetrator.¹⁵ Members of armed forces and groups can be held

The International Committee of the Red Cross (ICRC) is an independent and neutral organisation with a mandate founded in IHL as well as its Statutes to provide assistance and protection to victims of armed conflict and to promote and monitor respect for IHL.

¹⁴ See Protocol II, Article 17.

¹⁵ Grave breaches are defined in the four Geneva Conventions, Articles 50, 51, 130 and 147) and Additional Protocol I, Articles 11 and 85. They include, for example, willful killing, torture and inhuman treatment, willfully causing great

individually responsible for violations of IHL irrespective of their rank and of whether or not they were acting under orders. Military commanders can also be held responsible for either ordering or failing to take measures to prevent such violations from taking place. Individual criminal responsibility has been further developed under international criminal law, which is discussed below.

3. INTERNATIONAL CRIMINAL LAW

44. Usually, violations of people's rights are subject to prosecution and punishment under national penal law. However, particularly grave violations are considered to be crimes of international concern, for which individuals must be brought to justice under **international criminal law**.
45. The Rome Statute¹⁶, the instrument which established the International Criminal Court (ICC), defines the category of international crimes. In particular, and of potential relevance in situations of displacement, are:
- **Genocide** – acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, namely: killings; inflicting serious bodily or mental harm; imposing conditions of life calculated to bring about the group's destruction; preventing births; and/or forcibly transferring children to another group (see also the Convention on the Prevention and Punishment of the Crime of Genocide 1948)
 - **Crimes against humanity** – acts committed as part of a widespread or systematic attack directed against a civilian population, whether in times of war or peace, including: murder, extermination, enslavement, **deportation or forcible transfer of population**; arbitrary imprisonment or other severe deprivation of liberty; rape and sexual violence; persecution; enforced disappearance; and other inhuman acts intentionally causing great suffering or serious injury to body or to mental or physical health; and
 - **War crimes** – grave breaches of the Geneva Conventions and serious violations of international humanitarian law, covering a range of acts, including: **ordering the displacement of the civilian population**, unless required for the security of civilians or military imperatives.
46. Also relevant are provisions of the Rome Statute relating to the protection of civilians more broadly. These include the recognition of a broad spectrum of **sexual and gender-based violence**, including rape, sexual slavery and enforced prostitution, as crimes against humanity when committed as part of a widespread or systematic attack against a civilian population, and of war crimes if committed during armed conflict. The Rome Statute also specifies that **conscripting or enlisting children under 15 years of age into armed groups** or to otherwise participate actively in hostilities¹⁷ constitutes a war crime.
47. Any individual alleged to have committed such crimes must be brought to justice, either in national courts or, if the State has ratified the Rome Statute and the individual is not being effectively prosecuted by national courts, by the International Criminal Court.

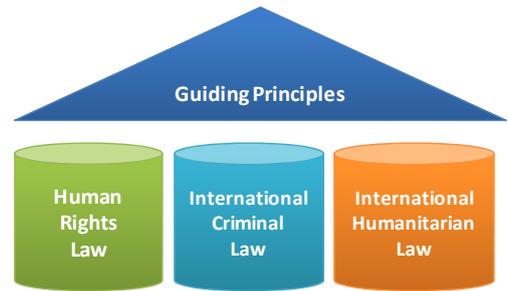
suffering or serious injury to body or health, and unlawful deportation or transfer of populations.

¹⁶ Rome Statute of the International Criminal Court (1998), UN Doc. A/CONF.183/9*. Available at: <http://www.un.org/law/icc/statute/romefra.htm>

¹⁷ This prohibition covers not only the recruitment of "child soldiers" but also enlisting children to aid combatants, e.g. as porters bringing them weapons and munitions, as scouts carrying out reconnaissance missions etc. See also earlier box on "Key Principles of IHL".

4. THE GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT

48. Based on and reflecting these bodies of international law – international human rights law, international humanitarian law and international criminal law, as well as international refugee law by analogy – the Guiding Principles on Internal Displacement set out the **rights of IDPs** and the **responsibilities of national authorities and non-state actors towards them**.



49. Although not a binding document like a treaty, the Guiding Principles are **based on, reflect, and are consistent with, existing standards of international law**, which *are* binding.¹⁸

50. Moreover, the Principles' authority is reinforced by the wide international acceptance which they have received. They are recognized by States as **"an important international framework for the protection of internally displaced persons"**, as well as a "tool" and "standard" to guide governments, international organizations and all other relevant actors in situations of internal displacement.¹⁹

51. The Principles provide a comprehensive statement of what protection should mean in situations of internal displacement. They cover all phases of displacement:

- the pre-displacement phase, providing protection from unlawful displacement;
- protection and assistance during displacement; and
- durable solutions, namely return, local integration at the place of displacement or resettlement in another part of the country and reintegration.

52. They address the range of **particular needs and protection risks that typically arise in situations of internal displacement** (e.g. family separation, loss of documentation, freedom of movement in and out of camps, loss of property etc.), and identify the corresponding rights and guarantees to address these concerns. Incorporating civil and political rights as well as economic, social and cultural rights, the Principles cover the broad spectrum of rights, including those not typically at the forefront of humanitarian action. They cover rights relating to:

- **physical security and integrity** (e.g. rights to life, protection from torture, rape);
- **basic necessities of life** (e.g. rights to food, water, shelter, health and sanitation);
- other **economic, social and cultural protection needs** (e.g. access to education, property restitution or compensation); and
- other **civil and political protection issues** (e.g. rights to personal documentation, and to political participation).

¹⁸ The basis in international law for each Principle is summarized in: Walter Kälin, *Annotations. Guiding Principles*, American Society of International Law (2000), available at: http://www.asil.org/pdfs/study_32.pdf.

¹⁹ United Nations General Assembly, 2005 World Summit Outcome resolution adopted by Heads of State, UN doc. A/RES/60/1, 15 September 2005, para. 132. See also UN Commission on Human Rights Resolution 2003/1, 23 April 2003; and UN General Assembly Resolution 58/177, 22 December 2003.

Guiding Principles on Internal Displacement: Overview of Content

Section	Key Points
Introduction	<ul style="list-style-type: none"> – Provides a definition of internally displaced persons – Affirms that the Principles reflect international human rights law and IHL – Explains that the purpose of the Principles is to provide guidance in situations of displacement
I. General Principles (Principles 1-4)	<ul style="list-style-type: none"> – National authorities have the primary responsibility to protect and assist IDPs within their jurisdiction – IDPs are entitled to enjoy in full equality the same rights and freedoms as other persons in their country and shall not be discriminated against – Certain IDPs – especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and the elderly – may require specific attention
II. Protection from Arbitrary Displacement (Principles 5-9)	<ul style="list-style-type: none"> – Articulates a right not to be arbitrarily (unlawfully) displaced and spells out the situations in which displacement is absolutely prohibited – States have a duty to avoid the displacement of populations unless absolutely necessary and in particular to protect against the displacement of groups with a special dependency on their lands – When displacement is unavoidable, certain guarantees must be observed for displacement to be lawful
III. Protection and Assistance During Displacement (Principles 10-23)	<ul style="list-style-type: none"> – All persons, including IDPs, should enjoy, a broad range of civil, political, economic, social and cultural rights, including rights to: – life and to protection against acts of violence and torture, sexual and gender-based violence, landmines, children’s military recruitment – safe access to essential food, potable water, basic shelter, appropriate clothing, medical services and sanitation – freedom of movement, including in and out of IDP camps – seek asylum in another country – personal documentation – education and training, equally for women and girls – employment and participation in economic activities – vote and participate in governmental and public affairs
IV. Access to Humanitarian Assistance (Principles 24-27)	<ul style="list-style-type: none"> – When State authorities are unable or unwilling to provide assistance to the displaced, international organizations have the right to offer their services and to enjoy rapid and unimpeded access to the displaced – Humanitarian assistance shall be provided consistent with the principles of humanity and impartiality and without discrimination – Humanitarian actors should take into account and work to address not only the assistance but also the protection concerns of IDPs
V. Durable Solutions (Principles 28-30)	IDPs should have access to a durable solution to displacement, namely rights to: <ul style="list-style-type: none"> – return to their place of origin; integrate locally at displacement site; or resettle elsewhere in the country; – voluntarily, safely and in dignity – participation in planning their return or settlement and reintegration – return of lost property or, where not possible, to receive compensation – equal access to public services

The Guiding Principles as a Protection Tool

53. The Guiding Principles are much more than a simple compilation and restatement of legal rules. They provide a comprehensive framework for identifying protection concerns and for planning, implementing and monitoring protection activities in situations of internal displacement. They are a tool that can be used by Governments, international agencies, NGOs and IDPs themselves to promote and protect the rights of the internally displaced.

IN OUR WORK

The *Guiding Principles on Internal Displacement* can be used to support our work in a number of ways. In particular, in:

- ✓ **Monitoring and assessing** the extent to which IDPs are able to enjoy their rights and identifying what protection risks they face;
- ✓ **Data collection** - providing a frame of reference as to the various concerns, causes of displacement, and groups with particular vulnerabilities, about which specific data should be collected in order to ensure comprehensive, but targeted, effective humanitarian response;
- ✓ **Programming** - providing a framework to guide national and international responses to internal displacement, including in developing protection strategies and identifying programming priorities;
- ✓ **Advocacy and awareness-raising** promoting respect for the rights of IDPs and fulfilment of the responsibilities of States and other entities to protect, assist and ensure durable solutions for them. Such activities should include training programmes targeting State authorities (including military and police), non-state actors where relevant, civil society and of course IDPs themselves. International humanitarian, human rights, development and peacekeeping staff also would benefit from training on the rights of IDPs and their own responsibilities to observe these;
- ✓ **Empowering IDPs** – not only with knowledge of their rights but also support to claim their rights;
- ✓ **Capacity-building of States and other authorities** – to support them to fulfil their protection responsibilities. Beyond training, this can include technical assistance and advisory services;
- ✓ **Offering advice as regards national law, policy or action plans relating to IDPs** to ensure these respect the rights of IDPs (see also section below on the National Legal Framework).

The Principles provide an authoritative reference document on which to base such efforts, supplemented by reference to the specific provisions of international law as needed.

DO YOU KNOW...? The *Guiding Principles on Internal Displacement* have been translated into over 40 languages, including: Arabic, Dinka, Georgian, Luo, Nepali, Pashtu, Sinhala, Somali, Spanish, Swahili, Tamil and Turkish.

Online at: http://www.brookings.edu/fp/projects/idp/gp_page.htm

In addition to the *Guiding Principles on Internal Displacement*, there exist other principles and guidelines addressing specific protection issues that can arise or certain types of internal displacement. These include:

- Principles on **Housing and Property Restitution** for Refugees and Displaced Persons (2005)
- Basic Principles and Guidelines for **Development-based Evictions and Displacement** (1997) and Comprehensive Human Rights Guidelines on **Development-based Displacement** (2006)
- Protection Persons Affected by **Natural Disasters**, IASC Operational Guidelines on Human Rights and Natural Disasters (2006)

5. THE NATIONAL LEGAL FRAMEWORK

54. The rights that IDPs and all persons enjoy under international law should be reflected and enforced in the national legal framework. States have encouraged the strengthening of legal frameworks for the protection of IDPs and have been encouraged to promote the Guiding Principles on Internal Displacement through national legislation.²⁰
55. To ensure that national legislation protects the rights of IDPs and therefore is in line with the Guiding Principles as well as the international legal standards underpinning them, it may not be necessary or even appropriate in all contexts to adopt IDP-specific laws. After all, IDPs' rights do not exist in isolation, but are rights to which all citizens or habitual residents of a State are entitled. It is simply that the particular situation of internal displacement often creates specific obstacles for IDPs to access and enjoy their rights.
56. Any specific legislation on internal displacement must have as its aim and effect to ensure that IDPs enjoy their rights *equally* with other citizens or habitual residents of the country. Caution must be taken to ensure that the consequence of an IDP specific law is not to isolate IDPs as a separate legal category, which in extreme cases may actually lead to their discrimination from the rest of the community and even the violation of their rights.
57. Two distinct types of national legislation therefore need to be considered in any given situation of internal displacement:
- 1. Generally-applicable laws** which, although they likely will not explicitly address internal displacement, nonetheless relate to issues affecting the internally displaced.
Examples would include: administrative laws determining how individuals can regain lost personal documents; property laws setting out rules and procedures for claiming compensation; electoral codes determining voter eligibility criteria; and education laws defining admissibility criteria and languages of instruction.
 - 2. Laws specifically focused on addressing situations of internal displacement**
These could take a number of forms. In some instances, governments have adopted laws on a specific phase of displacement, for instance spelling out minimum standards to be observed during the return or resettlement and reintegration process. In other cases, government have adopted comprehensive national laws on internal displacement, covering all phases of displacement, from prevention to solutions, and all causes of displacement, including both conflict and disasters.
A number of countries around the world have adopted national legislation specifically relating to internal displacement. These include: Angola, Bosnia and Herzegovina, Colombia, Georgia, Peru, Russia, and Turkey.²¹
58. Whether IDP-specific legislation would be important to ensure the protection of IDPs' rights will depend upon the context. In many cases, modification of existing legislation may well be sufficient

To assist such efforts, the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons is developing a *Manual for Domestic Law and Policy Makers on Implementing the Guiding Principles on Internal Displacement*, providing guidance on key elements to consider in national legislation to ensure protection of the rights of IDPs. The Manual is due for publication in 2008.

²⁰ United Nations Economic and Social Council (ECOSOC) Resolution 2003/5 (15 July 2003), para. 8; *In Larger Freedom*, Report of the Secretary-General, 21 March 2005, A/59/2005, para. 210. Regional organizations have similarly encouraged States in this regard. See, for example, the Box at the end of this chapter.

²¹ These are available at www.brookings.edu/fp/projects/idp/idp_policies_index.htm

to address the particular protection concerns that arise in situations of internal displacement. Indeed, even when there is IDP-specific legislation, amendments to general legislation often will be essential. For instance, to address the particular obstacles that IDPs face in enjoying their rights to property, documentation, education or political participation, simply affirming these rights in an IDP law, usually will not be sufficient; rather, it will be necessary to amend the relevant piece of general national legislation (e.g. civil status legislation, education act or electoral code) to remove the legislative impediments that IDPs face.

59. What is essential is that **the national legislative framework respects the rights and guarantees to which IDPs are entitled under international law and that it is consistent with the State's international legal obligations.**
60. It therefore is important to review and analyze national legislation in terms of its compatibility with international legal standards and, on this basis, to identify any legislative reform necessary to ensure respect for the rights of the internally displaced. In some countries, local lawyers' groups have conducted studies of national legislation and then worked with the Governments to bring national laws into line with the Principles and, therefore, with the international standards underpinning them.²² Indeed, national laws and policies generally will be most effective when elaborated in consultation with civil society, including IDPs themselves.
61. International humanitarian and protection agencies also can play an important role in assisting States in this regard, by providing technical assistance and advice in the development of national legislation and policies, in particular to ensure these are in compliance with international standards.

IN OUR WORK

It is important to have an understanding of the national legal framework and its relevance for protecting the rights of IDPs. In particular, we should:

- ✓ *Be aware of the national laws and policies* that relate to internal displacement and to issues of particular concern to internally displaced persons;
- ✓ *Understand* the extent to which these policies are consistent with the state's obligations under international law and are in accordance with the *Guiding Principles on Internal Displacement*;
- ✓ *Offer advice*, as appropriate, to the Government in the strengthening of national laws to ensure that IDPs do not face any legislative barriers to realising their rights;
- ✓ *Raise awareness among IDPs* of those national laws and policies relevant to their protection, empowering them to advocate and claim their rights;
- ✓ *Advocate for and monitor the implementation of national laws and policies* of particular relevance in situations of internal displacement;
- ✓ *Support the capacity of national authorities* to implement national legislation and policies that would protect the rights of IDPs, including through training and awareness-raising, technical assistance and advice, program support and resource mobilization.

²² See Roberta Cohen, Walter Kälin and Erin Mooney (eds.), *The Guiding Principles on Internal Displacement and the Laws of the South Caucasus*, Studies in Transnational Legal Policy, no. 34 (American Society of International Law and the Brookings Institution Project on Internal Displacement, 2003).

REGIONAL HUMAN RIGHTS LAW AND MECHANISMS RELEVANT TO IDPS

Reinforcing international human rights are several **regional human rights instruments**, which enhance human rights protection for all persons in the region, including IDPs. In Africa, Latin America and Europe, the regional human rights framework is particularly important because rights can be enforced in regional human rights courts.

In Africa:

The ***African Charter on Human and Peoples' Rights*** affirms the range of civil, political, economic, social and cultural rights, including the right of every individual to freedom of movement and choice of residence as well as the right to property.

Supplementing the Charter's provisions for protection of the rights of women and children are the ***African Charter on the Rights and Welfare of the Child*** and the ***Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa***.

Both instruments include specific provisions relating to State obligations to respect human rights in times of armed conflict and reiterate the responsibility of States to respect and ensure respect for international humanitarian law, including protection of civilians. *The Charter on the Rights of the Child* also affirms that **no child is to be recruited** or otherwise take direct part in hostilities, and makes express reference to the need to **protect and assist internally displaced children** and to ensure **family reunification** in situations of displacement. The *Protocol on the Rights of Women* also includes commitments to:

- **protect internally displaced women against all forms of violence, rape and sexual exploitation** and ensure perpetrators are brought to justice;
- ensure the increased **participation of displaced persons, in particular women, in the management of camps and settlements**; and
- pay particular attention to **widows' property rights** (which is key for women heads-of-household, whose numbers tend to dramatically increase during displacement).

Monitoring the implementation of States' commitments under the African Charter is the **African Commission on Human and Peoples' Rights**. Individuals, including of course IDPs, can submit individual complaints of rights-violations to the Commission for consideration by the **African Court on Human and Peoples' Rights**.

The Commission also has a **Special Rapporteur on Refugees, Asylum Seekers and Displaced Persons in Africa**, who is mandated to: seek, receive, examine and act upon information concerning the rights of refugees, asylum seekers and IDPs, undertake fact-finding missions to displacement situations; engage in dialogue with states and others relevant actors; develop strategies to better protect the rights of these groups; and raise awareness of the legal standards for their protection.

Moreover, the African Union (formerly the Organization of African Unity) currently is in the process of developing a regional convention on internal displacement.

At the sub-regional level, there are instruments specifically relating to internal displacement, in particular:

- ***Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons and Model Law*** (2006) and the ***Protocol on the Property Rights of Returning Persons*** (2006) are legally binding on any country that ratifies them;
- the non-binding ***Khartoum Declaration of the Inter-Governmental Authority on Development (IGAD) Ministerial Conference on Internal Displacement*** (2003) contains important commitments by States in East Africa to protect the rights of IDPs.

In the Americas:

The Organization of American States (OAS), composed of the governments of Latin America, the Caribbean, and North America, has adopted a number of human rights instruments, most notably the ***American Convention on Human Rights 1969***.

Monitoring implementation of the American Convention are the **Inter-American Commission on Human Rights** and, for judicial issues, the **Inter-American Court of Human Rights**.

- The **Commission**, composed of independent human rights experts, has been active in recent years in monitoring and reporting on situations of internal displacement, and making recommendations to governments for more effective national responses. Spearheading these efforts has been a **Special Rapporteur on Internally Displaced Persons** (1996-2004). IDPs can directly submit complaints of human rights violations to the Commission, for referral to the Court.
- The **Court** increasingly has considered cases and issued decisions (which are binding on the State concerned) on issues relating to internal displacement. In two particularly important cases in 2005, concerning IDPs in Colombia, the Court concluded that arbitrary displacement violates Article 22 of the American Convention (concerning the right to freedom of movement) and also insisted that governments must affirmatively protect persons from displacement.

The OAS has called on all States in the region to address the causes of displacement and, if displacement occurs, to commit to providing IDPs with protection and assistance in accordance with the Guiding Principles on Internal Displacement (OAS resolution 2229 of 2006).

In Europe:

The **Council of Europe** has adopted several human rights instruments, most notably the *European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)* and its 14 Protocols, which contain important provisions relevant to IDPs (eg. right to property).

The Council of Europe recommends that States confronted with internal displacement be guided in their national legislation and practice by the *Guiding Principles on Internal Displacement* in addition to all relevant instruments of human rights and international humanitarian law. It has spelled out how the European Convention on Human Rights relates to addressing the specific needs faced by IDPs, including: safeguarding the civilian nature of camps; facilitating family reunification; and providing protection from forcible return to an area where IDPs' physical safety would be at risk. The Council of Europe also has specifically affirmed the rights of IDPs to replacement documentation, compensation for deprivation of property, education, and political participation. See Recommendation (2006) 6 *on internally displaced persons* adopted by the Committee Ministers on 5 April 2006.

The **European Court of Human Rights** reviews cases of alleged violations of the Convention and its protocols. IDPs can bring cases directly to the European Court for consideration. In recent years, the Court has issued a number of important binding judgments relating to rights violations suffered by IDPs, in particular regarding the right to property, and awarded victims of such violations financial compensation.

Also relevant are the "human dimension" commitments adopted by the **Organization for Security and Cooperation in Europe (OSCE)**, comprised of 56 states across Europe (including all the successor States of the former Soviet Union), Canada and the United States. Although not binding treaty obligations, these commitments reinforce and promote international human rights. The OSCE's Office for Democratic Institution and Human Rights (ODIHR) and its High Commissioner for National Minorities both undertake work relevant to IDP protection.

Further Reference and Tools:

Guide to International Human Rights Mechanisms for Internally Displaced Persons and Their Advocates (Brookings-Bern Project on Internal Displacement, 2006). Available at: www.brookings.edu/fp/projects/idp/2006_guidebook.htm

Guiding Principles on Internal Displacement. English (original) plus their translation into 40+ languages, available at: http://www.brookings.edu/fp/projects/idp/gp_page.htm

Human Rights: A Basic Handbook for UN Staff (Office of the United Nations High Commissioner for Human Rights). Available at: www.ohchr.org/english/about/publications/docs/handbook.pdf

Internally Displaced People (ICRC: January 2007), Available at: www.icrc.org

Guiding Principles on Internal Displacement: Annotations, by Walter Kälin, Studies in Transnational Legal Policy No. 32 (American Society of International Law, 2000). Available at: http://www.asil.org/pdfs/study_32.pdf

Manual for Domestic Law and Policy Makers on Implementing the Guiding Principles on Internal Displacement (Brookings-Bern Project on Internal Displacement and American Society of International Law, forthcoming 2008).

National and Regional Laws and Policies on Internal Displacement, http://www.brookings.edu/fp/projects/idp/idp_policies_index.htm

Protecting Persons Affected by Natural Disasters, IASC Operational Guidelines on Human Rights and Natural Disasters (2006). Available at: www.humanitarianinfo.org/iasc/content/documents/working/OtherDocs/2006_IASC_NaturalDisasterGuidelines.pdf

United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (2005). Available at: http://www.cohre.org/view_page.php?page_id=148