



Office of the Special Representative
of the Secretary-General for

CHILDREN AND ARMED CONFLICT

WORKING PAPER N° 2

The Rights and Guarantees of Internally Displaced Children in Armed Conflict



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Cover photo

Children Play at Sosmaqala IDP Camp in Afghanistan, 30 August 2009.

UN PHOTO/ERIC KANALSTEIN

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IDPs arrive at Zamzam Camp, Sudan, 4 June 2009. UN PHOTO/OLIVIER CHASSOT

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Preface

THERE is no child more vulnerable in the world today than a child internally displaced by armed conflict, forced to leave home and community behind. Not only do they fear for their lives when they flee for safety, but often face discrimination as their families search for means of survival. They are at high risk of recruitment as soldiers and are frequently sexually assaulted or otherwise abused by unscrupulous adults, sometimes even by the aid workers or peacekeepers sent to protect them. They are exploited for personal or material gain: forced to become prostitutes; trafficked as sex workers or forced labourers; enslaved in diamond or coltan mines. They languish without education or adequate food or clean water in IDP camps or become invisible people in huge cities desperate with hunger and a decent place to sleep. Sometimes in the chaos of war and flight, displaced children become separated from their families and, unable to indicate where they come from, end up alone on the streets vulnerable to the worst forms of abuse or placed in orphanages that are barren of resources and often, it seems, hope. These children are in desperate need of protection and assistance, which should come primarily from national authorities but is also needed from the international community.

In my visits to conflict areas, I have met with many children in IDP camps. In Sudan, young boys in Darfur explained to me how they lived in constant fear of being recruited. In the DRC, young IDP children spoke of the need for education and schools and in Uganda I watched as children enjoyed their right to play by playing a game of football sponsored by a caring humanitarian group. In Sierra Leone, I noticed camps that had no health facilities, where all the children exhibited some form of skin infection while newborns died more frequently than they lived. I spoke with girls who were raped while searching for firewood and young mothers shielding themselves and their children from domestic violence. In Kabul, children spoke of brothers who had been “martyred” and camp elders thanked us for providing schools even for the girls. They also showed me shelter that was nothing more than a dugout where they left the women and girls. The threat of violence was everywhere.

It was during one of these visits, where one was left speechless at the inadequacy of the humanitarian response and the differences among camps run by diverse actors, that the idea emerged for formulating a set of basic principles that focused on children; a list of criteria that could be used by child protection partners to ensure that children’s rights were being protected.

In 2009, on behalf of child protection partners, my office put forward the Rights and Guarantees of Internally Displaced Children, first before the Human Rights Council and then as part of my report to the General Assembly. The Assembly endorsed these principles in the Resolution on Protection of and Assistance to Internally Displaced Populations, A/Res/64/162. This working paper outlines these rights and guarantees, placing them in real life context while explaining the legal basis for their formulation. The working paper also outlines key advocacy points under each right so as to make national authorities and others aware of what needs to be done to better

protect internally displaced children. We hope the document will be a useful tool for all child protection partners both in their advocacy and in the field to further ensure that children who are displaced are treated with care and dignity. These children are the future of their communities, of their people. Despite all they have experienced and witnessed, as Ishmael Beah, a former child soldier from Sierra Leone and writer has said, "...children have the resilience to outlive their sufferings, if given a chance".

RADHIKA COOMARASWAMY

*Special Representative of the Secretary-General
for Children and Armed Conflict*

Foreword

WHETHER visits a camp, collective shelter or settlement where internally displaced persons have found refuge, will be impressed by the large number of children of all ages. They belong to those who have escaped ethnic cleansing, warfare and other dangers of armed conflict and found a minimal degree of security. There is much comfort to be found in this. Once out of the immediate dangers of warfare, the process of healing, reclaiming their rights, and rebuilding their lives should be the next steps. The reality however, is that the new challenges facing these children and their families as displaced persons, can in addition to the original trauma of conflict and loss, present new risks, often as harmful and almost always profoundly life changing.

New challenges for displaced children include various types of violations of their rights, including deprivation, exploitation, abuse and neglect. Moreover, they are still too often overlooked as active agents of change, partly because we assume they are passive actors under the care and protection of someone responsible for and able to care for them. Their lives however, present a different picture. From a very young age many of these children become pillars of support, assistance and hope to their families and communities. Heroes come in all sizes, and blossom at all ages, always of course under extraordinary circumstances. Most children will strive for this, and many prove resilient time and time again. We can and must improve our methods for empowering them by consulting with them, soliciting their participation, and supporting them at a level and in a manner commensurate with their actual maturity, experience and reality. This right to information, participation and consultation is perhaps as vital to many children's emotional and physical well being, as many other rights which we associate closely with their "protection".

Among displaced children, there will be those with additional and very specific needs. I cannot forget the deep horror in the eyes of the traumatized boy in the Balkans who had to witness unspeakable atrocities. I remember the teenage mother in Western Africa who told me how she had to sell her body to whatever man crossed her path to be able to feed her children. I still picture the little orphaned boy, too small to carry a gun, trotting behind his bigger but still underage brother who had joined the rebels in a Central African country after their village was attacked and all survivors displaced. I recall the bitter tears of the girl in a Latin American country who wanted nothing else than a good education in order to get out of poverty and now realized that as an internally displaced person she would never make it beyond primary school.

These are situations where the consequences of armed conflict and displacement pose formidable challenges to those on the ground who are in a position of assisting these children and their families. These are in addition to the basic elements of assistance and protection for children, such as ensuring their basic food, shelter and educational needs, as well as providing them structure and childhood recreational opportunities, and hope. Hope, meaningful activities and some prospects for the future

are what many adolescents lack. We know that sites of displacement, such as camps or settlements, are too often sites of grave violations, exploitation and danger for children, and we have made, and will continue to make progress in addressing this. But they can equally be sites of despair when factors beyond their control force these young men and women into a life of idleness and poverty, without visible prospects for improvement—as is the case in so many situations of protracted displacement.

Internally displaced children are not without rights. They are protected by all human rights contained in relevant international instruments including, in particular, the Convention on the Rights of the Child, and specifically codified in the Guiding Principles on Internal Displacement. It is not the lack of legal norms but the failure to respect, protect and fulfil these rights that cause suffering for too many internally displaced children.

This is why the initiative taken by the Special Representative of the Secretary General for Children and Armed conflict to put forward the Rights and Guarantees of Internally Displaced Children and to outline their content in this Working Paper is so important. Its description of the problems children are facing under each of the rights listed are accurate, the references to relevant legal principles useful, and the key advocacy messages to the point. This easy to read but comprehensive advocacy and capacity-building tool will no doubt help everyone concerned with child protection to better ensure that children can enjoy their rights even though they are displaced. I wish and hope that this paper gets the wide dissemination it deserves.

WALTER KÄLIN

*Representative of the Secretary-General
for the Human Rights of Internally Displaced Persons*

Acronyms and Abbreviations

AU	African Union
ACHR	American Convention on Human Rights
AfCHPR	African Convention on Human and Peoples' Rights
BID	Best Interest Determination
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment
CFS	Child Friendly Space(s)
COE	Council of Europe
CPA	Child Protection Advisor
CRC	Convention on the Rights of the Child
ERW	Explosive Remnants of War
FGM	Female Genital Mutilation
GBV	Gender-Based Violence
GC	Geneva Convention(s)
GC IV	Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 1949
GC AP I	Geneva Conventions, Additional Protocol Relating to the Protection of Victims of International Armed Conflicts, 1977 (Additional Protocol I)
GC AP II	Geneva Conventions, Additional Protocol Relating to the Protection of Victims of Non-International Armed Conflicts, 1977 (Additional Protocol II)
GPIDP	Guiding Principles on Internal Displacement
IASC	Inter-Agency Standing Committee
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRC	International Committee of the Red Cross
IDMC	Internal Displacement Monitoring Centre
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDMC	Internal Displacement Monitoring Centre
IDP(s)	Internally Displaced Person(s)
IHL	International Humanitarian Law
ILO	International Labour Organization
Kampala Convention	African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa
NGO	Non-Governmental Organization
PEP	Post-Exposure Prophylaxis
Rome Statute	Rome Statute of the International Criminal Court
SRS	Special Representative of the Secretary-General
Trafficking in Persons Protocol	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime
UDHR	Universal Declaration of Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNSC	United Nations Security Council
WHO	World Health Organization

Shagarab Camp school. 6,000 of a total of 15,000 children in eastern Sudan's 12 camps do not have education opportunities—the camp's schools don't have space for them.



Introduction

In one dreary morning, I, the pupil of kindergarten #2, became an IDP; to be more specific, I was forced to become an IDP. In several hours, I lost my friends, home and happy childhood. I experienced the horror of hunger and cold. At age of 6, I realized words “peace” and “bread”. The vision of endless flow of people worn out from hunger and cold and the taste of a piece of bread I clutched in my fist will never fade from my memory.

NINO, 15 (DISPLACED AT AGE 6), GEORGIA¹

INTERNALLY displaced persons, or “IDPs”, are people who have been forced to flee or to leave their homes or places of habitual residences and who, unlike refugees, remain within their own country.² Around the world today, across more than 50 countries, there are an estimated 27.1 million internally displaced persons as a result of armed conflict³. At least half of these internally displaced persons that is, at least 13.5 million, and likely more, are children.⁴

The experience of internal displacement is devastating for all those affected, and disproportionately so for children as they face specific risks. Graça Machel, in her landmark 1996 study on *The Impact of Armed Conflict on Children* drew special attention to the situation of children uprooted by armed conflict:

During flight from the dangers of conflict, families and children continue to be exposed to multiple physical dangers. They are threatened by sudden attacks, shelling, snipers and landmines, and must often walk for days with only limited quantities of water and food. Under such circumstances, children become acutely undernourished and prone to illness, and they are the first to die. Girls in flight are even more vulnerable than usual to sexual abuse. Children forced to flee on their own to ensure their survival are also at heightened risk. Many abandon home to avoid forced recruitment, only to find that being in flight still places them at risk of recruitment, espe-

cially if they have no documentation and travel without their families.⁵

Moreover, many, if not most, internally displaced children lack access to education. Without access to education, they are deprived not only of the opportunity to learn but of an important protection tool and source of psychosocial support. A lack of access to education also undermines their development and future potential.

Displacement is an especially destabilizing and traumatic experience for children as it uproots and exposes them to risks at a time in their lives when they most need protection and stability. Perhaps most troubling, the difficult conditions that internally displaced persons endure typically persist for years, even decades, without a solution. Worldwide, the average duration of displacement today is nearly 20 years. Many children grow up experiencing life as internally displaced persons.

Yet, there is simply no reason why millions of children should suffer internal displacement. Parties to conflict have obligations under international humanitarian law to protect civilians in times of war. The International Committee of the Red Cross (ICRC) rightly emphasizes that if only these obligations and human rights were respected, most people who today are displaced by violence would have been able to remain safely at home.⁶ In reality, as the Internal Displacement Monitoring Centre (IDMC) points out, “displacement will continue to disrupt and

destroy people's lives unless there is continuing engagement to encourage all parties to conflicts to uphold these obligations".⁷

This Working Paper—the second in a series issued by the Office of the Special Representative of the Secretary-General for Children in Armed Conflict⁸—draws attention to the particular vulnerabilities and risks faced by children who are internally displaced in armed conflict, and to the responsibilities of Governments and all other authorities to provide internally displaced children with the protection that they require and to which they have a right.

Its purpose is to guide and support advocacy efforts, in particular in relation to Governments, as they bear primary responsibility for protecting, assisting and securing the rights of internally displaced children, but also advocacy vis à vis all parties to a conflict, as they are obliged under international humanitarian law to protect civilians, including the youngest among them.

The Working Paper begins with a brief overview of the legal foundation for the protection of IDPs. It then describes sixteen rights and guarantees covering a range of concerns that internally displaced children face in armed conflict.⁹ Each chapter on the rights and guarantees sketches the **main challenges** that internally displaced children face, sets out the most **relevant legal principles**; and suggests **key advocacy points** to raise, in particular with Governments and all other authorities, with the goal of ensuring that internally displaced children's rights are realized. For further guidance, a list of selected resources on each of these issues as well as on the legal framework follows the Conclusion.

The first three of the rights and guarantees addressed represent overarching principles that apply to all sixteen of the rights and guarantees of internally displaced children covered by this paper. They are:

- ▶ **Non-discrimination:** internally displaced children have rights just like all other children, and must be able to enjoy these rights without discrimination. To ensure that internally displaced children can ac-

cess their rights in full equality requires taking into account and addressing their specific needs and vulnerabilities.

- ▶ **Best interests of the child:** all measures and initiatives undertaken for the protection of children must be aimed, above all, at ensuring the physical, mental and social well-being of the child.
- ▶ **Participation:** children have rights and should be engaged and empowered as rights-holders with entitlements, including the right to have a say and to be heard in the decisions affecting their lives. The voice of internally displaced children finds reflection in this working paper, through the words of just some of the millions of internally displaced children in the world today.

Another common thread running throughout this Working Paper—and all efforts for the protection of IDPs and other persons in their own country—is the concept of national responsibility. As noted above, States bear the primary responsibility for addressing internal displacement. Specifically, States have a responsibility to: safeguard populations on their territory from arbitrary displacement; to protect and assist those who have been displaced; and to support and facilitate voluntary, safe and dignified solutions to displacement. National responsibility for addressing internal displacement must be promoted, supported, and monitored.¹⁰ When national governments are unwilling or unable to meet their responsibilities, the international community has a role to play in promoting and reinforcing efforts to ensure protection, assistance and solutions for IDPs.

The number of at least 13.5 million children internally displaced by conflict worldwide is staggering and may even appear overwhelming. Yet, for each and every one of these children, there are steps that can—and must—be taken by their Governments and parties to conflict to protect, assist, and find durable solutions for them. It is to be hoped that wide dissemination and use of this Working Paper will catalyze and contribute to these efforts.

National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons.

GUIDING PRINCIPLES ON
INTERNAL DISPLACEMENT,
PRINCIPLE 3

The Legal Foundation: An Overview

“We want our rights to be respected. Wars are no excuse for violating our rights. We all have rights [...] and we ask you to raise awareness of these rights and to promote them. We want to learn more about our rights so that we can demand them. We want our parents, teachers and people from communities, development organizations and government offices to be trained on children’s rights so that they can respect and protect them”.

“WILL YOU LISTEN?” YOUNG VOICES FROM CONFLICT ZONES¹¹

CHILDREN in armed conflict who are internally displaced, or are at risk of becoming displaced, have rights just like all other children. These rights are expressly guaranteed and firmly entrenched in an extensive body of international law, in particular international human rights law and international humanitarian law. Before turning to the sixteen rights and guarantees addressed in this Working Paper, it is important to have an overview of the legal framework underpinning them.

Human rights are freedoms and guarantees every human being is entitled to enjoy. International human rights law, which consists of both treaty law and customary law, affirms these rights and obliges States to respect, protect, and fulfil the human rights of all persons without discrimination of any kind, including on the bases of age, gender, ethnic origin, religion, birth or other status (see Non-discrimination chapter).

The **Universal Declaration of Human Rights (UDHR)** of 1948 establishes the main civil, political, economic, social and cultural rights to which all persons are entitled. Although not a binding legal instrument in and of itself, many of its principles constitute customary law and/or have been incorporated into treaty law and consequently have gained binding force.

Building upon the UDHR and incorporating its principles into legally binding treaty law are two Covenants: the **International Covenant on Civil and Political Rights (ICCPR)** and the **International Covenant on Economic Social and Cultural Rights (ICESCR)**, both of 1966.

Several additional international human rights instruments reinforce and elaborate the protection of human rights relating either to: (a) particular issues, such as torture or racial discrimination; or (b) specific groups of persons who may face particular obstacles to the full and equal enjoyment of their rights, including women, persons with disabilities, and children.¹²

The rights of children are most comprehensively articulated in the **Convention on the Rights of the Child (CRC)** of 1989. Significantly, the CRC is the most widely ratified international human rights instrument in the world; all but two States—Somalia and the United States—are signatories. Many of the provisions of the CRC also form part of customary law, meaning they apply irrespective of whether a particular State has ratified the CRC. Moreover, the CRC does not allow for any derogation in times of emergency: the full range of rights it articulates apply in all circumstances. In situations of armed conflict, the CRC’s **Optional Protocol on the Involvement of Children in Armed Conflict** of 2000 is particularly relevant.¹³

In situations of armed conflict, **international humanitarian law (IHL)** comes into effect (and applies along with the international law applicable in armed conflict in general, including most provisions of international human rights law). IHL applies in all situations of armed conflict, whether international or non-international, and it applies equally to all parties to a conflict. The core instruments of IHL are the four **Geneva Conventions** of 1949

The Convention on the Rights of the Child (CRC) is a powerful protection tool: it protects the rights of all children in all situations.

For guidance on the legal foundation of the six grave violations against children in armed conflict, see Working Paper No. 1.

and their two **Additional Protocols** of 1977.¹⁴ IHL, in particular its core principle of distinction—demanding that parties to a conflict must distinguish between combatants and civilians at all times—provides critically important protection for civilians, including special protection for children. Especially important in this regard are:

- ▶ **Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War** (GC IV);
- ▶ **Article 3 common to all four Geneva Conventions**, which affirms that in non-international armed conflicts persons not taking part in hostilities must “in all circumstances be treated humanely without adverse distinction”, specifically prohibits acts including: “violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture” and “outrages upon personal dignity, in particular humiliating and degrading treatment” and provides that “the wounded and sick shall be cared for”,¹⁵
- ▶ **Additional Protocol relating to the Protection of Victims of International Armed Conflict** (GC AP I); and
- ▶ **Additional Protocol relating to the Protection of Victims of Non-International Armed Conflict** (GC AP II).

International humanitarian law (and international law applicable to armed conflict in general) grants children special protection, in addition to the general protection granted to civilians, through a number of specific provisions setting out, for instance: special measures for the welfare of children, for the protection of expectant mothers, measures for family reunification, guarantees of education, and the prohibition of attacks against civilian objects, including schools.¹⁶

Although neither international human rights law nor international humanitarian law contain any explicit mention of “internally displaced persons”, much less “internally displaced children”, the rights and guarantees that they articulate offer extensive protection for internally displaced children and provide a solid legal foundation upon which to advocate for their rights.

Reaffirming the main rights and guarantees provided for in international law, regional legal instruments and recommendations often also elaborate upon them, including with express reference to internally displaced children. Most notably, the **African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa** (Kampala Convention), adopted in October 2009, reaffirms the commitment of States to implement international human rights law and international humanitarian law, and includes specific provisions reaffirming the right of internally displaced persons to personal documentation, to education, for children to be protected against recruitment and any other participation in hostilities and against kidnapping, abduction, sexual slavery and trafficking, and for protection that addresses the special needs of separated and unaccompanied minors as well as of mothers with young children.¹⁷ The **African Charter on the Rights and Welfare of the Child**¹⁸ of 1990 emphasizes the responsibility of States to ensure that internally displaced children “receive appropriate protection and humanitarian assistance” and pays special attention to the importance of reuniting families separated by displacement (Articles 23 and 25). The Council of Europe has adopted a number of recommendations concerning internal displacement, including as regards the right of internally displaced children to education.¹⁹

National legislation is important for reaffirming international and regional standards within the domestic context. A growing number of countries have adopted or revised national legislation in order to better promote and protect the rights of internally displaced persons.²⁰ Typically, these national laws and policies relating to internal displacement include specific provisions reaffirming the rights and guarantees of internally displaced children.

The Guiding Principles on Internal Displacement²¹

Useful guidance in support of efforts to realize the rights and guarantees of internally displaced persons is found in the **Guiding Principles on Internal Displacement** (GPIDP)

of 1998. Developed by the Representative of the United Nations Secretary-General on Internally Displaced Persons at the request of the UN General Assembly and UN Commission on Human Rights, the Guiding Principles spell out the rights of internally displaced persons and the responsibilities of States and other actors towards them.

Although not a binding document, like a treaty, the Guiding Principles are based on and reflect existing standards of international law (international human rights law and international humanitarian law as well as international refugee law by analogy),²² which are binding.²³ The Guiding Principles bring together in one document of 30 Principles the relevant norms of international law, which otherwise were dispersed across a range of instruments, and clarify how these norms should be applied in the specific context of internal displacement.

The authoritative nature of the Guiding Principles is reinforced by their broad international acceptance; they have been recognized by all heads of State, at the 2005 World Summit, 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.²⁴

The Guiding Principles cover all phases of displacement: protection from arbitrary displacement; protection and assistance during displacement; and while finding a durable solution, whether return, local integration or resettlement, and reintegration. They address a wide range of particular concerns that typically arise in situations of internal displacement, covering rights relating to:

- ▶ Physical security and integrity (e.g. right to life and to protection from torture and rape);
- ▶ Basic necessities of life (food, potable water, shelter, health and sanitation);
- ▶ Other economic, social and cultural protection concerns (e.g. access to education); and

- ▶ Other civil and political protection issues (e.g. right to personal documentation and to participate in community affairs).

Special attention is paid in the Guiding Principles to the situation of internally displaced children. As a general principle, internally displaced children, especially unaccompanied minors as well as expectant mothers and mothers with young children are “entitled to protection and assistance required by their condition and to treatment which takes into account their special needs” (Principle 4.2). More specifically, the Principles also affirm:

- ▶ The right of families to remain together and to be rapidly reunified (Principles 7 and 17);
- ▶ Protection of children from sale into marriage, exploitation and forced labour (Principle 11);
- ▶ Protection of children from recruitment or from taking part in hostilities (Principle 12);
- ▶ The right to documentation in their own names, including birth certificates (Principle 22);
- ▶ The right to education, including the equal participation of girls (Principle 23).



Group of children inside an IDP camp.

OFFICE OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL FOR CHILDREN AND ARMED CONFLICT

Around the world, the Guiding Principles, which have been translated into over 40 languages, are being widely disseminated and used, including by and among internally displaced children, to promote and protect the rights of internally displaced persons. For example: in Indonesia, a comic book version of the Guiding Principles was published and widely circulated in conflict affected areas, especially targeted to children and adults with low literacy; in Colombia, the Defensoría del Pueblo (ombudsman) launched a public awareness

campaign based on the Guiding Principles that focused on the rights of internally displaced children; in Burundi and Liberia, performance troupes communicated key messages of the Guiding Principles to IDP and host communities through drama, dance and song; and in Georgia, a local NGO supported internally displaced children to produce drawings and paintings depicting key messages of the Guiding Principles, for instance about property rights, which were made into posters as part of a country-wide advocacy campaign.

Key Advocacy Points

- ▶ States and all parties to conflict have **obligations under international human rights law and international humanitarian law** to protect the rights of children, including internally displaced children;
- ▶ Internally displaced children as well as all relevant authorities and other actors with a responsibility for their protection, **should be made aware of the rights and guarantees of internally displaced children** through dissemination of the Guiding Principles, including versions targeted to children (e.g. posters, comic-book versions, radio programmes and dissemination of key messages through drama troupes) and of this Working Paper;
- ▶ National authorities should:
 - **Strengthen national and local institutional capacities** for addressing internal displacement, including by designating a national institutional focal point for addressing internal displacement, with a special office dedicated to addressing the situation of internally displaced children, and ensuring that all relevant national authorities, including the military and the police, receive training on the Guiding Principles on Internal Displacement;²⁵
 - **Collect and report disaggregated data** that assesses the conditions of IDPs and respect for their rights, including by identifying the specific risks facing internally displaced girls and boys, and groups of internally displaced children with particular vulnerabilities, updating this data on a regular basis;
 - **Review and assess national law, policy or action plans** relating to IDPs to ensure that these respect the rights of internally displaced children and introduce any necessary amendments to overcome legal, administrative and practical obstacles in the realisation of the rights of internally displaced children.²⁶

Rights and Guarantees for the Protection of Internally Displaced Children in Armed Conflict



*Children play at IDP camp in Arare, 12 km from Jamame, southern Somalia, 15 December 2006.
MANOOCHER DEGhati/IRN*

Internally displaced children shall enjoy the same rights and freedoms as those not displaced in their country

"Wherever you go, if they find out that you're a displaced person, they don't treat you as kindly as they do others. Of course, it shouldn't matter if you are a displaced person, black or white. They should still treat you as an equal".

RAUL, 16 YEARS OLD, COLOMBIA²⁷

INTERNALLY displaced children have the same rights and freedoms as all other children in their country. In reality, however, internally displaced persons often face discrimination. In many cases, discrimination along ethnic, racial or religious lines is what causes people to flee. Once displaced, internally displaced persons often find that these forms of discrimination persist and impede their access to protection and assistance.

Moreover, many IDPs are stigmatized simply for being displaced. Instead of being seen as people who require protection and humanitarian assistance, internally displaced persons often are marginalized and face discrimination, for instance in accessing food aid, medical care, education, civil registration including birth registration, protection from the government, police and military, and even national systems for child protection.

Discrimination against IDPs also can stand in the way of their finding a durable solution to displacement. Even when the conflict subsides and armed hostilities have ceased, discriminatory attacks and practices may persist. It may not be safe for IDPs to return home, to resettle in another community or to reintegrate because they are sometimes perceived as a burden on local communities and a threat to already limited resources. They also may not have equal access to public services, such as education, health care and social services and to employment opportunities, and therefore are unable to their reintegrate into their communities and rebuild their lives.

Relevant Legal Principles

Protection from discrimination is a fundamental human right, which cannot be violated under any circumstance. It is articulated in virtually every international and regional human rights instrument. The Convention on the Rights of the Child affirms that all of the rights spelled out in the CRC are to be respected "without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status" and that States are to "take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members".²⁸ The principle of non-discrimination also comprises customary law, meaning that it applies whether or not a State has signed a particular human rights convention.

In situations of armed conflict, international humanitarian law affirms that all civilians shall be "treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria".²⁹

It is evident, therefore, that internally displaced persons shall enjoy in full equality the same rights and freedoms as other persons in their country. In addition to stating this explicitly, the Guiding Principles also reaffirm

that internally displaced persons, like all other persons, are to enjoy their rights “without discrimination of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property or birth, or on any other similar criteria”.³⁰ Moreover, the Guiding Principles specify that internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement, including (but not limited to) the rights to freedom of thought, religion or belief, opinion and expression, to associate freely and participate equally in community affairs, and to communicate in a language that they understand.³¹

It is important to understand that the principle of non-discrimination does not preclude taking special measures to address the needs of internally displaced persons and, in particular, of certain groups of internally displaced persons, including children. Indeed, the Guiding Principles recognize that “[c]ertain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs”.³²

“Internally displaced persons shall enjoy in full equality, the same rights and freedoms [...] as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced”.

GUIDING PRINCIPLES ON
INTERNAL DISPLACEMENT,
PRINCIPLE 1

Key Advocacy Points

- ▶ States should assess and ensure that **national laws, policies and programmes** do not, explicitly or implicitly, discriminate against or otherwise restrict the rights of internally displaced children, amending legislation wherever legislative barriers are identified;
- ▶ National authorities should raise awareness through public statements and **public awareness campaigns** to sensitize the general public and public officials to the particular risks and challenges faced by IDPs, including how internal displacement has impacts on children;
- ▶ National authorities and other relevant actors engaged in responding to internal displacement should develop and implement **programmes that support IDPs alongside other populations affected** by displacement experiencing vulnerabilities, which include communities at risk in IDPs’ place of origin, and host communities in reception place of IDPs;
- ▶ IDPs should have access to **legal aid programmes** to investigate and work for redress in cases where IDPs believe they have faced discrimination in the enjoyment of their rights. Such legal aid programmes should include focal points specializing in the rights of IDPs and of children.



A group of children are at the International Rescue Committee kindergarden at the Hamadiya IDP camp in Zalingei, West Darfur, 31 January 2007.

UN PHOTO/FRED NOY

The principle of “the best interest of the child” shall be a primary consideration in all actions concerning children

“We could express our concerns and raise voices, but chances are very limited due to cultural barriers. Adults are seen as the key decision makers at all times”.

SAMIRA, SOMALIA³³



A young Timorese girl at the Motael IDP camp, 14 December 2007.

UN PHOTO/EVAN SCHNEIDER

THE term “best interests” can be broadly defined as “the well-being of a child”, encompassing the physical, mental and social aspects of the child’s life. Internal displacement often threatens all three of these indicators of well-being.

The concept of “best interests of the child” developed within the child welfare system over time as children came to be seen as unique individuals with different needs who required assistance from adults given their lack of experience and judgment, not because they were less than whole human beings or the property of their parents.

Unaccompanied and separated children are among the most vulnerable internally displaced children. The best interest of the child must therefore be particularly emphasized when considering the care and safety of these children.

When determining what is best for the child, one might also consider what might be the “least detrimental alternative” when options and resources are limited.³⁴ Mechanisms must be established to identify and evaluate alternatives to the status quo as part of a comprehensive child protection system. Further, the possible negative effects of any proposed law, policy or budgetary allocation that affects children and the enjoyment of their rights must be considered early on, and a continuous process of evaluation should be developed.

Guidance on action to ensure the best interests of the child has been developed by UNHCR in coordination with UNICEF, ICRC, the UN Committee on the Rights of the Child and several non-governmental partners. UNHCR, for example, has developed a process called a “Best Interest Determination” (BID). Although States have the primary responsibility to undertake a BID, UNHCR’s own guidelines require making a BID in three situations:

1. During the identification of the most appropriate durable solution for unaccompanied and separated refugee children;
2. When making temporary care decisions for unaccompanied and separated children in certain exceptional circumstances; and
3. When making decisions that may involve separation of a child from parents against his or her will.

A BID includes strict procedural safeguards that should facilitate adequate, non-discrim-

inatory child participation, ensure the involvement of decision-makers with relevant areas of expertise and balance all relevant factors when considering best options.

In cases involving unaccompanied and separated children where UNHCR has been asked to assist in family reunification and a formal BID is not required, UNHCR will nonetheless make a best interests assessment to verify that family reunification is in the best interests of the child and does not expose the child to abuse or violation of human rights outweighing the benefits of family reunification.

In situations where State structures are not functioning, and a UN-led Protection Working Group/Child Protection Working Group exists, that group may consult regarding BID procedures.

Relevant Legal Principles

The legal norm of “best interests” of the child was transformed by the CRC into a principle that requires States to systematically consider how children’s rights and interests might be affected by their decisions and actions, which must be based on the child’s “best interest”, one of the four core principles of the CRC.³⁵

Since respect for the views of the child is one of the core CRC principles and cannot be divorced from the concept of best interest,³⁶ every effort should be made to take under consideration the wishes and views of children old enough of expressing them.

The UNHCR Executive Committee emphasizes, “States should refrain from detaining children, and do so only as a measure of last resort and for the shortest appropriate period of time, while considering the best interests of the child” and that States should take all possible measures to prevent the separation of children from their parents and to reunite them as quickly as possible when separation occurs.³⁷

National law and domestic jurisprudence may provide more specific guidance on general principles set forth in international instruments, and should be carefully analysed for relevance.

The African Charter on the Rights and Welfare of the Child states that the best interests of the child shall be the primary consideration in all actions concerning the child, and that children capable of communicating their own views shall have the opportunity to be heard in all judicial or administrative proceedings.³⁸

“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”.

CONVENTION ON THE RIGHTS OF THE CHILD, ART. 3 (1)

Key Advocacy Points

- ▶ States parties are urged to make provisions for children to be represented in all proceedings affecting their lives by persons who will advocate for their best interests and who will **ensure the child’s views are heard** when they are able to express opinions and/or preferences.
- ▶ States should ensure that Best Interest Determinations are **systematic, participatory, age-appropriate, child-friendly and gender-sensitive**.
- ▶ In order to effectively guarantee the rights of internally displaced indigenous and minority children, States should undertake training and awareness-raising initiatives among relevant professionals regarding the **importance of considering collective cultural rights** in determining the best interests of the child.³⁹

Child participation shall be promoted in devising local strategies for recovery and reintegration

"This is giving young people a voice. It's telling you to make the right decisions. We want to be brought into the process".

CHERNOR BAH, A YOUNG IDP FROM SIERRA LEONE, SPEAKER ON THE PANEL OF YOUTH PRESENTING THE YOUTH REPORT, "WILL YOU LISTEN? YOUNG VOICES FROM CONFLICT ZONES".

RECOVERY should begin as early as possible following a crisis, but this does not necessarily mean that there is peace throughout a country or that there is stability. The psychosocial and educational recovery of internally displaced children should therefore begin at the soonest possible moment, and this requires their full participation if they are to meet their full potential and to overcome their adversities.

Even when there is peace or relative calm, there will be a period of transition to "normalcy" or rule of law that can take a long time to achieve. In Kenya, for example, UNICEF pointed that even once the violence had passed, it was still important to provide adequate security and "safe areas" for internally displaced children and, "confidence building among youth and local community groups around messages of peace is essential to mitigate further acts of violence".⁴⁰

In Northern Uganda, a major study of the effects of armed conflict on displaced youth found, "camp life has seriously damaged the Acholi people's" social structure and norms, so that not only have young people been displaced physically...they have also lost their role in society and social responsibilities". Young people had little access or hope of access to land and many were not interested in the traditional agricultural way of life upon return to their home communities.⁴¹ One youth in Pader District said, "Life for young people is really hard in the camps. We have nothing to do here. We spend the

day playing cards. We don't go to school, and we cannot progress in any sense".⁴² The disengagement of youth had gone on for nearly 20 years in these camps.

For children and youth in Northern Uganda their full participation in education, livelihoods, cultural programmes and psychosocial support and in the development of such programmes, is critical to their successful reintegration into society outside the camps, whether they return to the countryside or live in towns.

Girls' participation is often particularly affected when they must assume adult responsibilities such as domestic chores and caring for younger children. Adolescent girls, many of them mothers and heads-of-households, are at special risk of social marginalization and isolation and are often overlooked.⁴³ Early recovery and reintegration programmes must include a gender component.

Relevant Legal Principles

The Committee on the Rights of the Child has identified participation as one of the overarching principles of the Convention on the Rights of the Child. The CRC states that children have the right to participate in decision-making processes that may be relevant in their lives and to influence decisions taken in their regard—within the family, the school or the community.⁴⁴

As a fundamental right of the child, the right to participation stands on its own but requires a clear commitment and effective action to become reality and is relevant to the exercise of all other rights.

Children's participation is particularly important to the **right to education**.⁴⁵ Education encourages initiative, creativity and informed decision-making. Participation is also critical to a child's **right to dignity**⁴⁶—feeling recognized as a human being; the sense that one is seen and heard. During reintegration, dignity is especially important as internally displaced children may not feel welcome in school or in their "new" communities, depending on circumstances of return.

The right to participation is closely linked to fulfilling the **right to information**⁴⁷ a key prerequisite for children's participation to be relevant and meaningful. This is especially important during return and reintegration, as children may not remember their old homes or may have been born in an IDP camp.



Young IDPs read information leaflets distributed by the International Organization for Migration (IOM), NGOs and UN staff as part of the third Information Campaign Day activities for IDPs at the Haj Yousif /Hey Al Baraka camp, Sudan, 4 November 2006.

UN PHOTO/FRED NOY

Children have the **right to freedom of association** and to **peaceful assembly**.⁴⁸ Both have implications for **freedom of expression**⁴⁹ and are critical to the participation of children in the realization of their rights.

In Eastern Congo, a Back to School project was initiated involving education, protection and psychosocial support to internally displaced children in camps and upon return to their homes in villages of Rutshuru and Masisi territory. The project built upon ongoing relief and rehabilitation efforts and aimed to increase the active engagement of IDPs and children in decision-making and in seeking fulfillment of their rights to education, etc., aiding community and individual early recovery.⁵⁰

In the Occupied Palestinian Territory, a peer-to-peer counselling project trained university students and other young volunteers to provide mentoring and recreational activities for children and adolescents as part of a psychosocial support programme. The volunteers worked in the most violent-stricken areas, providing them a way to actively contribute to their community and to increase self-esteem. They learned new skills such as active listening and methods of stress relief. The adolescents who attended found a peaceful outlet to express fears and opinions and to learn how to deal with stress following attacks.⁵¹

Key Advocacy Points⁵²

- ▶ The national ministry responsible for children's rights should incorporate concerns of displaced children into planning for recovery and reintegration, whether to places of origin or places of resettlement within the country. Training on the rights of the child should be offered to government officials and those working in public institutions such as teachers, police, health care workers and others to increase commitment to listening to children and to increase awareness of their rights. UNICEF provides many useful examples of youth participation ethics, standards and programmes via toolkits, manuals, etc.⁵³

- ▶ National authorities should facilitate coordination between schools, parent associations, health care providers and local leaders to **promote child participation activities** during recovery and reintegration and encourage the understanding of specific cultural considerations relating to the participation of internally displaced children. Experienced partners can help ensure that adults do not hinder the participation of children due to fears of undermining their authority in the family or society.
- ▶ National authorities should **provide children with information** about their rights in legal matters, choices relating to educational and vocational opportunities, conditions regarding return and resettlement, etc. and the possible consequences of various options, so that they can make informed decisions. For example, child representatives could be included in “go and see” visits with adults visiting areas of return or resettlement so that they can report back to their peers what things are like and can present views and ideas about how to make return easier for children.

The right to life, dignity and physical, mental and moral integrity

“Zaraguinas [bandits] attacked our village and burned everything. I don’t want to go back to our village because I’m afraid that I will die like my brother”.

HEBA, 9, CENTRAL AFRICAN REPUBLIC⁵⁴

THE most fundamental right that internally displaced children share with all other human beings is the right to life. Closely associated to this, and just as fundamental, is the right to dignity and physical, mental and moral integrity. Displacement almost inevitably entails severe threats to the right to life. Moreover, as the ICRC has emphasized, “[h]uman dignity is generally very severely affected by the fact of having to leave one’s home on account of events associated with armed hostilities or other forms of violence, because of the utter dependence in which the displaced persons then find themselves”.⁵⁵

Relevant Legal Principles

The CRC affirms, “every child has the inherent right to life”. States have an obligation

to “ensure to the maximum extent possible the survival and development of the child”.⁵⁶ While the CRC does not expressly refer to the right to dignity, it does state, “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”.⁵⁷ The CRC therefore promotes a conceptualization of “dignity” centred on the importance of the child being recognized—being seen and heard—and respected on the basis of her/his inherent worth and status equal to all other human beings.

The right to life is the most fundamental human right.⁵⁸ An important corollary to this is the right of every human being to dignity and physical, mental and moral integrity.⁵⁹ These rights also find reflection in the range



Cuban doctors administer diphtheria and tetanus vaccinations provided by the World Health Organization (WHO) to children at Delmas 33 IDP camp in Port-au-Prince, 16 February 2010.

UN PHOTO/SOPHIA PARIS

of rules on the conduct of hostilities, as set out in international humanitarian law.⁶⁰

The right to life, dignity and physical, mental and moral integrity encompasses a wide range of rights and guarantees, including: protection from physical attack, violence and abuse; access to life-sustaining assistance (food, potable water, basic shelter and housing, appropriate clothing and essential medical services and sanitation); psychosocial support; education; respect for cultural identity, language and religion; return or settlement in safety; and ensuring that children have a voice in the decisions affecting their lives.

The Guiding Principles explicitly reaffirm internally displaced persons' right to life⁶¹ and their right to dignity and physical, mental and moral integrity⁶², and emphasize aspects of particular relevance in the different phases of internal displacement.

(a) Prevention of Arbitrary Displacement

The Guiding Principles assert the right of all persons to be protected against arbitrary displacement.⁶³ This right is based on the explicit prohibition of displacement that is found in international humanitarian law, unless the security of the population or imperative military reasons so demand⁶⁴ as well as the human right to freedom of movement and choice of residence⁶⁵ (see also chapter on freedom of movement). Displacement must not be carried out in a way that violates the rights to life, dignity, liberty and security.⁶⁶

(b) During Displacement

Reaffirming the right to life, the Guiding Principles recognize the precarious situations in which internally displaced persons often find themselves and gives special attention to the need to protect them from, "genocide; murder; summary or arbitrary executions; and enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death".⁶⁷ Threats and incitement to commit any of these acts also are prohibited. The Guiding Principles also reaffirm IHL's prohibition in all circum-

stances of attacks or other acts of violence against civilians, namely:

- ▶ Direct or indiscriminate attacks or other acts of violence;
- ▶ Starvation as a method of combat;
- ▶ Use of internally displaced persons to shield military objectives from attack or to favour or impede military operations;
- ▶ Attacks against internally displaced persons camps or settlements;
- ▶ Anti-personnel landmines.⁶⁸

Regarding the right to dignity and physical, mental and moral integrity, the Guiding Principles emphasize that this includes ensuring that internally displaced persons are protected against:

- ▶ Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault;
- ▶ Slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour of children; and
- ▶ Acts of violence intended to spread terror among internally displaced persons.⁶⁹

Threats and incitement to commit any of these acts also are prohibited.

(c) During return or settlement (including local integration):

Internally displaced persons have the right to return voluntarily in safety and in dignity to their homes or places of habitual residence or to settle in another part of the country⁷⁰ (see also the chapter on durable solutions).

Return "in safety" refers to return which takes place under conditions not only of physical security, but also legal security (such as public assurances of personal safety, non-discrimination and freedom from fear or persecution or punishment upon return) and material security (including access to land or means of livelihood).

In the specific context of displacement, “dignity” includes that internally displaced persons and refugees are treated with respect by the authorities, including full respect for their rights, that they are not “manhandled” (i.e. pressured or forced) in any organized return process, nor are arbitrarily separated from family members, that they are able to return without conditions, and that if they are returning spontaneously that they can do so

at their own pace.⁷¹ Implicit in the concept of dignity therefore is the principle of consent. Moreover, closely connected with the concept of dignity, the Guiding Principles call for “special efforts” to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration. Certainly this must include internally displaced children, both girls and boys.⁷²

Key Advocacy Points

- ▶ Parties to a conflict have specific responsibilities to protect children’s right to life in all circumstances, including to prevent and to address the six grave violations against children during armed conflict.
- ▶ Parties to a conflict should be encouraged to support “days of tranquillity”, which typically involve ceasefires brokered with the assistance of UNICEF, for the specific purpose of allowing the delivery of life-saving services to children such as immunization and nutritional supplements. Special efforts must be made to ensure that such initiatives reach internally displaced children.
- ▶ National authorities and all other actors engaged with internally displaced persons should take special measures to ensure that the **views and concerns of internally displaced children are taken into account** in the design and delivery of programmes for their protection and assistance (see chapter on participation).



IDP children in the east of Afghanistan. AYUB FARHAT/IRIN

The right to an adequate standard of living, both during and after conflict

“Yea, it’s tough getting used to things you’re not used to: withstanding hunger, sleeping in the open air... No, no, no, I don’t want to get used to that bad life that we lived!”

MANUEL, 11 WHEN FIRST DISPLACED, COLOMBIA

FORCED to flee their homes and cut off from their land and livelihoods, internally displaced persons abruptly are deprived not only of shelter but also of their usual means of survival. Typically, they flee only with the food and possessions they can carry. Suddenly and in an unfamiliar environment, they must find a safe place to sleep, a way to feed themselves and their families, water to quench their thirst and for cooking and washing, and must struggle to meet other basic needs such as medical care. The high rate of separation of families during displacement means that many IDPs face these challenges without the traditional primary provider for the family; separated or unaccompanied internally displaced children must survive entirely on their own.

This struggle continues for internally displaced persons even if and when they find a place to stay, whether in a camp, settlement, urban area, or with a host family. Many internally displaced children go hungry and fall seriously ill due to a lack of access to humanitarian assistance and overcrowded, unsanitary conditions in the camp or settlement. In Somalia in 2009, for instance, the entire internally displaced population (and half of the Somali population in general) is food insecure and access to health care for internally displaced children was among the worst in the world. One in four internally displaced children was acutely malnourished.⁷³ In Myanmar, internally displaced persons in hiding in the eastern part of the country have experienced severe food shortages as their farms

and crops have been burned, and internally displaced persons in relocation sites also can face chronic malnutrition due to limited access to land while inadequate water and sanitation facilities render inhabitants more susceptible to disease, with the result that mortality rates of internally displaced children in conflict areas are three times the national average.⁷⁴ Globally, since the early 1990s, internally displaced persons—and in particular internally displaced children—experience among the highest rates of mortality and morbidity recorded in humanitarian emergencies.⁷⁵

Whether or not internally displaced persons receive the basic assistance they need to survive is too often a matter of chance. Unlike for refugees, there is no established international regime for assuring that IDPs secure the protection and assistance they require. While efforts are underway to fill this gap through the “cluster approach” of inter-agency coordination, other constraints include insecurity, safe and unimpeded access by humanitarian agencies, and availability of funding.

Relevant Legal Principles

The CRC affirms the “right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development” and specifies, “States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this

right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing".⁷⁶ Also relevant are the obligations under the CRC for States concerning the right of the child to enjoy "the highest attainable standard of health".⁷⁷

International humanitarian law does not make specific reference to a right to an adequate standard of living. However, it does contain numerous provisions concerning the obligation of parties to a conflict to ensure that the civilian population has access to the basic provisions necessary for survival, such as food, water and shelter, including special provisions that children receive provisions essential to their survival.⁷⁸

The Guiding Principles affirm that internally displaced persons have the right to request and receive humanitarian assistance and protection,⁷⁹ and that internally displaced children have the right to protection and assistance that addresses their specific needs.⁸⁰

More specifically, the Guiding Principles affirm that internally displaced persons have the right to an adequate standard of living and spell out that this means, "at the minimum, regardless of the circumstances, and without discrimination, competent authori-

ties shall provide internally displaced persons with and ensure safe access to:

- ▶ Essential food and potable water;
- ▶ Basic shelter and housing;
- ▶ Appropriate clothing; and
- ▶ Essential medical services and sanitation".⁸¹

Regarding medical services, internally displaced persons are to have access "to the fullest extent possible and with the least possible delay" the care they require, including psychological and social services (see also chapter on psychosocial support). Special attention should be paid to the health needs of women and girls, including access to female health care providers and services, reproductive health care and counselling for survivors of sexual and gender-based violence and other abuses. Special attention must also be given to preventing contagious and infectious diseases, including HIV/AIDS.⁸²

Primary responsibility for assisting internally displaced persons rests with national authorities.⁸³ Yet, when they are unable or unwilling to do so, they may not arbitrarily withhold consent to offers of assistance from international humanitarian organizations, but are



Afghan children waiting in line outside of the kitchen for the "wet feeding project" which is funded by the World Food Programme (WFP) in Maslakh IDP Camp, situated near the western Afghan city of Herat, 3 February 2002.

UN PHOTO/ESKINDER DEBEBE

to grant and facilitate safe and unimpeded access of humanitarian assistance and personnel to internally displaced persons (and to other populations at risk), both during displacement⁸⁴ and to assist internally displaced persons' return or resettlement and reintegration (see also the chapter on durable solutions).⁸⁵

In the planning and distribution of humanitarian assistance, and in planning internally displaced persons' return or resettlement and reintegration, special efforts should be made to ensure the full participation of internally displaced persons, including children, both boys and girls⁸⁶ (see the chapter on child participation).

Key Advocacy Points

The authorities and all other relevant actors should:

- ▶ Assess and address systematically the **particular condition and vulnerabilities** of internally displaced children, and of groups who have specific needs, e.g. separated children and unaccompanied minors.
- ▶ Tailor the provision of **assistance, services and information** to be child-friendly (e.g. food chewable by young children, ensuring safe access to water and sanitation facilities at schools and in Child-Friendly Spaces, water taps that children can reach and operate, child friendly, life-saving messages about hygiene, landmine risk etc.).

The right to physical security and the provision of safe spaces

“While I was playing football with friends, I heard an explosion. I rushed to the place where the explosion happened and I saw Hassan, our 14-year old neighbour who was dead. We collected his scattered body. I could not sleep for nights; I used to dream of people drenched in blood”.

MAXAMAD, 13, SOMALIA. MACHEL STUDY 10-YEAR STRATEGIC REVIEW, CHILDREN AND CONFLICT IN A CHANGING WORLD, 2007

THE concept of “children as a zone of peace” was conceived as a fulfillment of the irrefutable notion that the targeting of children during hostilities can never be justified or tolerated, under any conditions.

The physical safety of all children in zones of armed conflict is a moral imperative and a legal responsibility. While refugees have often moved outside the war zone, internally displaced people usually remain within or close to the fighting and are often likely to be displaced repeatedly.

In Sudan, the Kalma IDP camp has come under attack numerous times. A UN investigation revealed that nine children were killed and 38 injured in what was the fifth assault on the camp in 2008. In Yemen, IDPs, including children, were killed and wounded when the Al-Sam IDP camp was caught in the crossfire between belligerents in October 2009. Following these attacks, the UN in both countries called for humanitarian corridors to be established to enable access to IDPs and in Yemen, to allow civilians to leave the area.

There is a critical need for protected “safe places” for displaced children in war zones, for those seeking to escape imminent harm from bombing, strafing and other attacks on their villages, and for those who have reached a place of expected safety such as an IDP camp, but who continue to face security threats, or are at risk of further displacement. Children traumatized by such attacks and other events need places where they can find respite from the psychological stresses of war:

- ▶ **Child Friendly Spaces (CFS):** are places where children can play and learn. CFSs must be secure and provide water and sanitation. Measures should be taken to ensure child safety by identifying safe routes to and from the CFS, and raising awareness on the dangers of landmines, unexploded ordnance and other explosive remnants of war.
- ▶ **Hospital and safety zones:** Parties to a conflict can agree to establish hospital and safety zones, and may seek the good offices of the ICRC in doing so, with a view toward protecting children under 15, expectant mothers, mothers of children under seven⁸⁷ the aged and the wounded and sick.
- ▶ **Neutralized zones** are intended to give shelter to both civilian and military wounded and sick, as well as all civilian persons not taking part in hostilities. They are generally set up on a temporary basis to meet the tactical situation at a particular moment, whereas hospital and safety zones tend to be more permanent in character. Parties to the conflict, neutral States or humanitarian organizations may propose neutralized zones. Explicit, formal agreements must exist between belligerents regarding the establishment of and respect for such zones.⁸⁸
- ▶ **Humanitarian Corridors:** Humanitarian corridors are to permit the more regular delivery of humanitarian assistance such as food and medicine. They may be negotiated with the parties to the conflict by humanitarian or other actors.

Attacks or other acts of violence against IDPs who do not or no longer participate in hostilities are prohibited in all circumstances. IDPs shall be protected, in particular, against:

- (a) Direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks are permitted;
- (b) Starvation as a method of combat;
- (c) Their use to shield military objectives from attack or to shield, favour or impede military operations;
- (d) Attacks against their camps or settlements;
- (e) The use of anti-personnel landmines.

GUIDING PRINCIPLES ON
INTERNAL DISPLACEMENT,
PRINCIPLE 10

Relevant Legal Principles

The CRC obliges States to protect children from any form of maltreatment, including all forms of physical or mental violence, abuse, exploitation or neglect, and States Parties must implement all appropriate legislative administrative, social and educational measures to this effect.⁸⁹ This implies a responsibility to ensure that internally displaced children have safe places to live and play.

Common Article 3 of the Geneva Conventions establishes that persons not taking part in hostilities must be protected at all times and in all circumstances from, among other acts, violence against life and person,⁹⁰ The principle of distinction in international humanitarian law demands that

parties to a conflict must distinguish between combatants and civilians at all times. Attacks must never be directed against civilians or civilian areas such as IDP camps.⁹¹

Children are entitled to special protection under the Geneva Conventions by virtue of their age, and all parties to a conflict must prioritize children's welfare during hostilities.⁹²

Acts of violence against civilian objects (all objects that are not military objectives)⁹³ are prohibited. Schools and hospitals are civilian institutions that often provide shelter and assistance to children during armed conflict. Attacks against them are considered violations of well-established international humanitarian law (both treaty and customary law) and may constitute crimes against humanity and/or war crimes.⁹⁴

Key Advocacy Points

- ▶ National authorities, UNHCR and other actors should **select safe locations for camps and settlements** and undertake child and gender-sensitive protection-based site planning.⁹⁵
- ▶ Appropriate action, consistent with human rights principles, should be taken to ensure the **disarmament of persons seeking shelter** in internally displaced persons camps. Further, demining and removal of cluster munitions and other Explosive Remnants of War (ERWs) should be undertaken as a priority.
- ▶ States should seek to **prevent incursions of armed elements** into internally displaced persons camps and settlements;
- ▶ National authorities must take action to **criminalize attacks against IDP camps or persons in the camps**, and must bring the perpetrators to justice;
- ▶ National authorities are urged to **consult regularly** with internally displaced persons, including children and youth, about their security concerns.

A Non-Governmental Organization's staff member explains to children of the Al Salam IPD camp in Omdurman, the meaning of mines warning boards, as part of the activities for the observance of the International Day for Mine Awareness and Assistance, 19 March 2007.

UN PHOTO/FRED NOY



Internally displaced children must not be recruited or permitted to take part in hostilities

"We were distributed to men and I was given to a man who had just killed his woman. I was not given a gun but I helped in the abductions and grabbing of food from the villages. Girls who refused to become prostitutes were killed in front of us".

KATIJAHA, 15, SUDAN. THE USE OF CHILDREN AS SOLDIERS IN AFRICA, COALITION TO STOP THE USE OF CHILD SOLDIERS, 1999

THE recruitment of children and internal displacement are closely linked. In a study of child soldiers in 19 African countries, the major explanation for significant variation in the percentages of child soldiers recruited was found to be the degree of protection against abduction and forced recruitment provided by governments and external actors to camps housing internally displaced persons and refugees.⁹⁶

In Colombia, Yemen and elsewhere, displacement often became the only avenue left for families in certain areas to avoid their children's recruitment by armed groups, but evidence also suggests that refugee and internally displaced person camps are often prime recruiting grounds for child soldiers owing to the convenient concentration of vulnerable children. The lack of security around some camps increases the likelihood of child recruitment. In Sri Lanka and the Democratic Republic of the Congo, armed groups abducted and recruited children from internally displaced person camps.

Unaccompanied/separated children, adolescents living alone or outside their own families and street children are just some of internally displaced children in special danger of recruitment. Children who are psychologically vulnerable due to loss or abuse may see joining an armed group as a way to achieve a sense of belonging and identity.

Many internally displaced children are killed, maimed, beaten, arbitrarily detained, tor-

tured and otherwise abused by soldiers. Girls often stay with armed groups once they have been forced into or have entered into a relationship with a soldier, sometimes because they have children as the result of rape.

One step in preventing the recruitment of children is to maintain the civilian character of camps for displaced persons, ensuring the separation of armed elements from civilians. Plans to avoid the militarization of camps should be created before camps are established whenever feasible. Further, IDP camps should be located away from conflict zones.

Relevant Legal Principles

Recruiting or using children under the age of fifteen years as soldiers or allowing them to participate in hostilities is expressly prohibited by the Convention on the Rights of the



"Never again child soldiers in armed forces and groups". DRC, 18 April 2009. OFFICE OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL FOR CHILDREN AND ARMED CONFLICT

“In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities”. Further, “internally displaced persons shall be protected against discriminatory practices of recruitment...as a result of their displacement. In particular any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment are prohibited in all circumstances”.

GUIDING PRINCIPLES ON
INTERNAL DISPLACEMENT,
GP 13

Child⁹⁷ and by the Additional Protocols to the Geneva Conventions.⁹⁸

The International Criminal Court and the Special Court of Sierra Leone have both brought war crimes charges against individuals for the conscription and enlistment of children under the age of 15 into armed forces and the use of children for active participation in hostilities.

The Optional Protocol to the Convention on the Rights of the Child (2000) requires State parties to raise the minimum age for compulsory recruitment into their armed forces to 18 years and to place strict safeguards on the voluntary recruitment of persons under 18. States must prevent the recruitment and use of children in hostilities and take steps to criminalize such practices. Parties to a conflict must pay particular attention to child

soldiers and all children involved in hostilities during the disarmament, demobilization and reintegration process, ensuring that programmes are offered that provide for the “psychological recovery and social reintegration of these children into society”.⁹⁹

Non-state armed groups should not, under any circumstances, recruit or use in hostilities persons under the age of 18.

The UN Security Council has repeatedly condemned the use of child soldiers and proposed measures to stop child recruitment such as dialogue with parties to armed conflict aimed at the immediate cessation and release of all children associated with armed forces or groups and targeted measures to sanction those who continue to recruit and use children as soldiers.

Key Advocacy Points

- ▶ All parties to a conflict should refrain from recruiting internally displaced children. Governments are obligated to **hold those who recruit and use children in hostilities accountable**.
- ▶ Military and police forces involved in the provision of security for IDP camps must be trained and **sensitized to the obligation to protect children from recruitment and use in armed forces**.
- ▶ Parties to the conflict who recruit and use children should **enter into dialogue** with the UN to prepare concrete, time-bound Action Plans to halt the practice and release all children in their ranks. Governments should allow the UN to dialogue with armed groups for this purpose.
- ▶ Parties to the conflict should **release and transfer all children to civilian control** immediately, where they should receive health care, counselling and psychosocial support, including testing and treatment for HIV/AIDS.
- ▶ National authorities and all other relevant actors must prioritize **family tracing and reunification** in the reintegration process. Special counselling can assist families and communities in understanding the experiences and needs of the child.
- ▶ National authorities and other relevant actors must provide **long-term support** for children, including girls, associated with armed forces or groups, including catch-up education, vocational programmes and livelihoods projects. Disarmament, demobilization, rehabilitation and reintegration (DDRR) programmes require a commitment to long-term funding and engagement.

The right to protection from all forms of sexual and gender-based violence

“I was defiled by some older boys when we were being marched to the rebel camp. After returning from Sudan, I was a wife to one rebel commander, then another junior commander and then two ‘older’ rebel soldiers. I had one child who died when he was a few days old. I was a slave to the rebels for 19 months. I do not think I will marry again”.

HELEN (NOW 18-YEARS-OLD), ABDUCTED BY THE LORD’S RESISTANCE ARMY¹⁰⁰

RAPE and other forms of gender-based violence (GBV) against children and the witnessing of such violence by children are endemic in armed conflict and occur in a climate of near total impunity. The destruction of communities and family life due to displacement and the nature of life in IDP camps render internally displaced girls especially vulnerable. Rape is a continual threat, as are other forms of GBV, including enforced prostitution, trafficking and domestic abuse.¹⁰¹ Forced early marriage of internally displaced girls occurs in part due to the economic pressures faced by internally displaced families deprived of their usual sources of income and female genital mutilation remains common practice among some groups.¹⁰²

Internally displaced boys are also vulnerable to sexual violence, especially during military operations in civilian areas, military conscription or abduction and in detention.

Children in flight are preyed upon by soldiers, bandits, traffickers, border guards and other opportunists. Internally displaced children in camps must often venture out alone to collect water, food or fuel and are defenceless against attacks by soldiers who are often present due to the proximity of camps to hostilities. Internally displaced children are also abused by those sent to protect them—security forces, peacekeepers and even humanitarian aid workers.

Displaced children in urban areas may face abuse at school or work. Many work as domestic servants, where abuse is shrouded

in secrecy. Poverty and hunger among IDPs leads to exploitation—internally displaced children may exchange sex for food and basic goods or fall prey to traffickers who promise a better life.

In Darfur, approximately one-third of rape victims are under 18 years old. The constant presence of armed men in and around IDP camps, towns and markets creates a state of fear that profoundly affects children, especially since many IDPs believe these are in some cases the same men who displaced them.¹⁰³

In Liberia, internally displaced children were exposed to rape, sexual abuse and commercial sex work in camps even after the war ended by soldiers, block leaders, businessmen and humanitarian workers.¹⁰⁴

In Northern Uganda, internally displaced children sent to urban areas to pursue an education were subjected to sexual abuse and exploitation by extended family and others. Due to a lack of accommodation in towns, girls were often sent to sleep in neighbours’ houses, where they were sexually abused; many returned pregnant. Mothers interviewed in IDP camps in Northern Uganda admitted that they “sent the girls to town”—a euphemism for pressing their daughters into survival sex—exchanging sex for money to buy food for the family. Internally displaced boys were sexually abused by older women in exchange for food. Although middlemen organized transport and “introductions” for internally displaced girls, few recognized these activities as sex trafficking.¹⁰⁵

IDPs must be protected against rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages against personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault; they must also be protected from slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour of children.

GUIDING PRINCIPLES ON
INTERNAL DISPLACEMENT,
PRINCIPLE 11

Rape and sexual violence against internally displaced children has been particularly dramatic in eastern Democratic Republic of the Congo (DRC). Most rapes in DRC are committed by armed men and include gang rape. The incidence of civilian-perpetrated rape is increasing. Many children have been displaced from their homes as the result of sexual violence, often due to rape of their mothers. Many rapes result in pregnancy. Abortion is outlawed in the DRC and adoption is rare, so many women must raise children conceived during rape.¹⁰⁶ Internally displaced girls in the DRC reported that rape was not only the most extensively committed grave violation against children but also was in their view the most severe of all crimes committed against children.¹⁰⁷

Sexual violence can cause debilitating psychological harm such as lasting depression, post-traumatic stress disorder and even suicide. Survivors may experience stigmatization, rejection by their families, and a sense of isolation. Serious physical consequences include early pregnancy, fistulas and sexually transmitted diseases that can cause disability or death.

Relevant Legal Principles

The CRC and its optional protocol on sex trafficking affirm unequivocally that children must enjoy protection from torture, cruel,



North Kivu province, Goma,
14 August 2006. Cepac
Cashero clinic for women
victims of sexual violence.

W. LEMBRYCK/ICRC

inhuman or degrading treatment; widely accepted as encompassing rape and other acts of sexual violence.¹⁰⁸ Regional instruments such as the African Charter on the Rights and Welfare and of the Child (1990) also forbid sexual violence against minors.¹⁰⁹

Many other international conventions such as the Convention Against Torture, (1984), the Convention for the Suppression of Trafficking in Persons and of the Exploitation of the Prostitution of Others (1949) and the Vienna Declaration of the World Conference of Human Rights (1993) also prohibit the sexual abuse and exploitation of women and children.¹¹⁰

Rape and other forms of sexual violence (including sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and related acts) are prohibited under both international humanitarian and human rights law and the military codes of most States. Some of these acts amount to grave breaches of IHL insofar as they involve torture or inhuman treatment or wilfully causing great suffering or serious injury to body or health.¹¹¹ Rape has been recognized as a form of torture by the ICTR and ICTY, the European Court of Human Rights and the Inter-American Commission on Human Rights and is thus absolutely forbidden.¹¹²

Common Article 3 to the Geneva Convention implicitly prohibits rape or any other form of sexual violence. The Geneva Conventions also state that women [including girls] shall be protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.¹¹³

The prohibition of rape and other grave forms of sexual abuse represent customary international humanitarian law.¹¹⁴ Child-specific provisions of the GC and their Additional Protocols specifically forbid sexual violence against children.¹¹⁵ Certain acts of sexual violence may constitute crimes against humanity and/or war crimes.¹¹⁶

The Statutes of the Special Court for Sierra Leone (SCSL), ICTY and ICTR all cite rape and sexual abuse as war crimes and, when widespread or systematic, as crimes against humanity. The Rome Statute of the ICC states that rape, sexual slavery, enforced prostitu-

tion, forced pregnancy, enforced sterilization and “other crimes of comparable gravity” may constitute war crimes and crimes against humanity.¹¹⁷

In a groundbreaking case, the ICTR convicted Jean-Paul Akeyesu of rape as both a crime against humanity and an instrument of genocide.¹¹⁸

The UN Security Council (UNSC) has adopted numerous resolutions asserting the need to

protect girls from sexual violence.¹¹⁹ UNSC Resolution 1882 (2009) on children and armed conflict expanded the “triggers” for the listing of parties in the annexes of the reports of the Secretary-General to include rape and other forms of sexual violence against children and calls for more accountability.¹²⁰ Parties listed in annexes as having committed rape or other sexual violence against children must prepare concrete, time-bound Action Plans to halt violations.

Key Advocacy Points

- ▶ Steps should be taken by national authorities and humanitarian actors to:
 - Implement a coordinated prevention and response plan for GBV;
 - Ensure the identification of children at increased risk during IDP registration;
 - Create confidential complaint mechanisms that include ways for children to report violations (peer-to-peer reporting may increase child reporting of sexual violence);
 - Develop community-based committees to coordinate, monitor and follow-up responses to GBV;
 - Train the military, police and humanitarian staff in the prevention of and response to GBV (including abuse against boys);
 - Create mechanisms to protect survivors from retaliation; and consider how to obtain compensation/reparations for survivors.
- ▶ Governments should **criminalize all acts of gender-based violence** and investigate allegations of GBV against internally displaced children without delay, prosecuting and punishing those responsible.
- ▶ Local authorities and humanitarian organizations should identify and support **safe alternatives to girls having to venture outside camps and settlements to collect water and firewood**, exposing themselves to tremendous risks.¹²¹ Preventive measures might include discouraging children from going out alone in unsafe settings; supplying whistles to children in dangerous areas, creating community watch groups; providing locks, fences and adequate lighting around latrines and bathing areas; ensuring safe access to water for drinking, bathing and laundry; placement of unaccompanied/separated children in structured, supervised living and school settings, etc.¹²²
- ▶ Government officials should work with the community to **design innovative campaigns** to raise awareness and develop new initiatives to combat GBV and to address harmful traditional or cultural practices.¹²³
- ▶ Local police should create **child friendly desks** staffed by officers trained in responding to GBV and sexual violence.¹²⁴
- ▶ National authorities should offer adequate **protection, care, treatment and support to victims/survivors** with access to health care (including post-exposure prophylaxis or PEP and early contraception or EC), psychosocial support, rehabilitation services and compensation for harm.
- ▶ All UN staff, humanitarian aid workers and the general population should be made aware of the UN Secretary-General’s **zero tolerance policy for the sexual abuse and exploitation of children** by peacekeepers or other UN staff.¹²⁵

Internally displaced children shall be protected from trafficking, forced labour, forced prostitution, sexual exploitation, forced early marriage and illegal adoption

"[The] older girls washed clothes, cooked and danced every day...¹⁴ and under...some of the older [men] dance[d] with them. After dancing, those who have a young man/boy go and sleep with him. If you do not accept, they will take you to a place, and then kill you. Even if you don't want to, you are forced to. The soldiers who want to have sex with the girls sent their servants to fetch a girl..."

TERESA, ABDUCTED BY SOLDIERS IN ANGOLA¹²⁶

INTERNAL displacement in armed conflict increases the risk of trafficking, forced labour, sexual exploitation (including enforced prostitution), early marriage and illegal adoption due to the weakening or destruction of family and community protection mechanisms.

Internally displaced children often have limited access to education and livelihoods, rendering them more vulnerable to traffickers who appear to offer life-saving access to employment or even food. Internally displaced girls are especially vulnerable to domestic forced labour, hidden away in private homes where they are often sexually abused. In Uganda, internally displaced girls were forced into survival sex/prostitution by local middlemen and even family members just to obtain money for food. In Nepal, internally displaced

children living in cities were found to be at high risk. Unable to register for school due to lack of documentation, many have been subjected to forced labour, trafficking and sexual exploitation, often as domestic servants.¹²⁷ According to the Government of Nepal, half of the 40,000 female workers aged between 12 and 30 working in restaurants, dance bars and massage parlours—of whom many had been internally displaced—were victims of trafficking and sexual exploitation.¹²⁸

Internally displaced children are trafficked as child soldiers, forced labourers, child prostitutes and for use in pornography. Some are sold in illegal adoptions. Internally displaced children perform dangerous work in mining, construction, tobacco farming, etc. and are pressed into illegal activities such as the drug trade and human trafficking or are forced to beg on the street.

Early marriage is more common when resources are scarce. Internally displaced girls may be seen as burdens or as assets to be sold, with dowries used for family survival. Children are legally unable to give consent due to age, thus child marriage is considered forced marriage, recognized as a form of contemporary slavery, trafficking and sexual exploitation.^{129,130} Early pregnancy may result in obstructed labour, causing fistulas and maternal death.¹³¹ Girls married as children are at greater risk of domestic abuse, HIV/AIDS, cervical cancer, and death by homicide.

War has forced Rosa, 25, to flee her home four times. Rosa's parents and two brothers have been killed and she has seen her village burned to the ground. Now she is taking care of a 15-year-old orphan and works as a labourer.

R. HAVIV/ICRC



Relevant Legal Principles

The CRC prohibits child labour, the use of children in the production and distribution of drugs and the sexual exploitation, sale and trafficking of children.¹³² The **Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography** (2002), The **Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption** (1993) and the **United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children** (2000) all contain relevant provisions for the action of States. Trafficking is prohibited by international and regional human rights law and often domestic law and is generally considered a form of slavery.¹³³

Early marriage is also proscribed by the CRC and the **African Charter on the Rights and Welfare of the Child**.¹³⁴ The **ILO Convention 182 on the Worst Forms of Child Labour** (1999) includes all forms of slavery; the sale

and trafficking of children; debt bondage and serfdom; forced or compulsory labour; the use of children in armed conflict; the production of child pornography/ pornographic performances; the use of children in prostitution, drug trafficking or other illicit activities and work that by its nature or circumstances is likely to harm the health, safety or morals of children.¹³⁵

International humanitarian law prohibits rape, enslavement,¹³⁶ sexual slavery, enforced prostitution, forced pregnancy and enforced sterilization and regards such acts as war crimes and/or crimes against humanity, depending on circumstances. Enslavement in all its forms, including sexual enslavement and forced labour, are prohibited under customary law during armed conflict (and at any other time).¹³⁷

The Special Court of Sierra Leone established that forced marriage is an offence under international criminal law when it found three militia leaders guilty of crimes against humanity for forcing girls into marriage.¹³⁸

The Guiding Principles on Internal Displacement state,

“...displaced persons... shall be protected in particular against rape; mutilation; torture; cruel, inhuman or degrading treatment or punishment and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault as well as slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour of children...”

GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT, PRINCIPLE 11

Key Advocacy Points

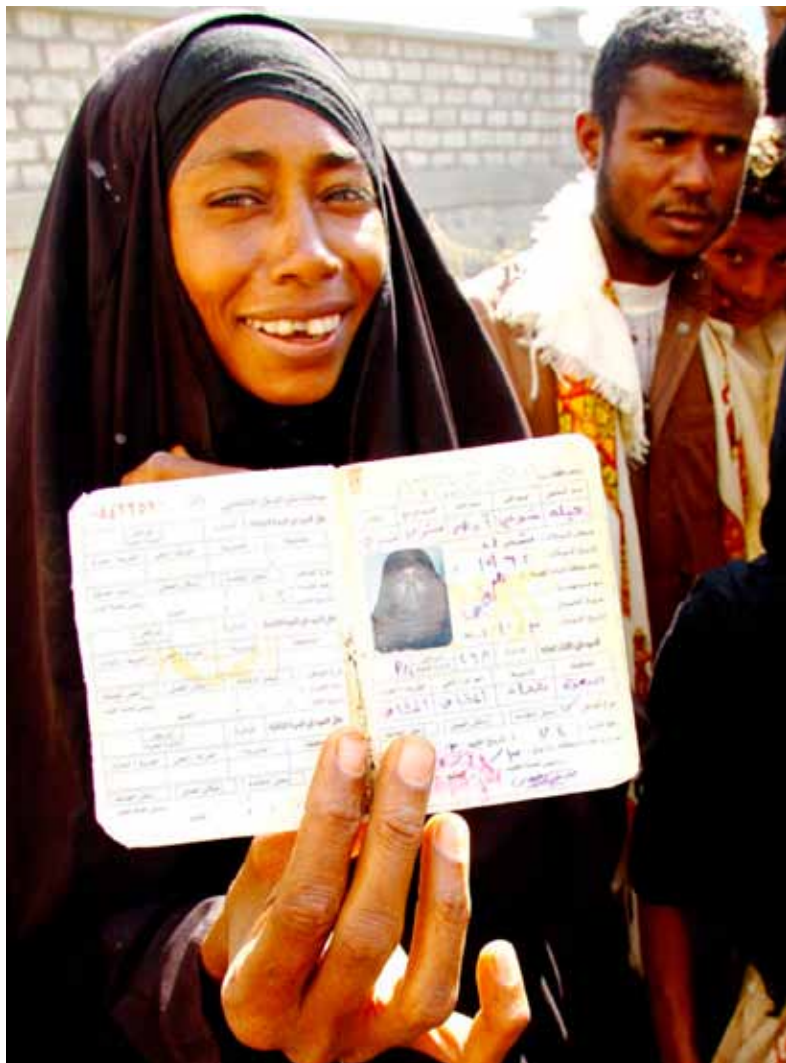
- ▶ National authorities and partners should establish **confidential, accessible, child and gender-friendly complaint and referral systems** regarding the trafficking, enforced prostitution, early marriage and/or forced labour of internally displaced children. IDPs, including children, should be informed about the availability of these mechanisms.¹³⁹
- ▶ National authorities should **establish time-bound measures** to prevent and directly remove children from the worst forms of child labour by ensuring access to community schools and rewarding parents financially or otherwise (for enrolling their children, for example).
- ▶ National authorities should provide the rescued children with a **range of social services**, e.g. emergency shelter, medical care, psychosocial counselling, legal support, family tracing and post reintegration follow-up.¹⁴⁰
- ▶ States should enact domestic laws that **criminalize trafficking, enforced prostitution, forced labour** and other acts (including inducing consent for illegal adoption); ensure prompt investigation and prosecution of offenders and create legal support services, including witness protection, for witnesses/victims.¹⁴¹
- ▶ National authorities, in cooperation with civil society, should prevent and combat trafficking through the **alleviation of social and economic factors** that render children vulnerable to trafficking and to prevent re-victimization.¹⁴² Community discussions between local authorities and IDPs to share ideas about minimizing vulnerabilities such as poverty and food shortages, social/behavioural stigmas and lack of awareness are key.¹⁴³
- ▶ Governments should **raise the minimum age of marriage to 18 years**, require compulsory official registration of all marriages and create awareness among parents and children of the harmful effects of early marriage.

The right to documentation

“A birth certificate is more than just a piece of paper. It’s legal armour: proof of existence, and protection against child trafficking and abuse. It’s also a key that opens the door to social, educational and political rights”.

C. CODY, COUNT EVERY CHILD: THE RIGHT TO BIRTH REGISTRATION¹⁴⁴

IDENTITY documentation is a vital protection tool. Without it, children are effectively rendered “invisible” to authorities and are bound to face difficulties in enjoying a wide range of rights.



The all important Yemeni ID card. Some 137,000 IDPs are registered in Hajjah Governorate. As many as 300 families have not been able to register.

ANNASOFIE FLAMAND/IRIN

Children lacking documentation are likely to be unable to enrol in school, may miss out on immunizations, may be unable to access basic social services including healthcare, and may be hindered from claiming their inheritance rights or from enjoying legal protection in courts of law. Without birth registration, which legally establishes their age, it also is much more difficult to safeguard children against child marriage, child trafficking, illegal adoption and military recruitment as well as to prosecute the perpetrators of these crimes. Identity documentation also is instrumental to reuniting separated and unaccompanied children with their families.

Left unaddressed, the lack of documentation will continue to hinder internally displaced children’s access to rights into their adulthood, such as their right to vote, to marry, to be employed in the formal sector, to access credit, to enjoy property and inheritance rights, and even to register the birth of their own children. Without documentation, they and their children risk becoming stateless.

Lack of documentation among internally displaced persons

In the chaos of displacement, personal documentation often is lost or even left behind in the rush to flee to safety. It may be confiscated from the displaced at checkpoints. Or it may be destroyed when, for instance, homes are shelled or set on fire as a result of the conflict. It may also be the case that IDPs never possessed such documentation even before they were displaced, whether due to discrimination or to other barriers to registration.

Replacing lost identity documentation (or issuing such documentation for the first time) for internally displaced persons, including internally displaced children, is vital for their protection and enjoyment of human rights. However, efforts to do so often are frustrated, by factors including:

- ▶ Lack of understanding of the right to identity documentation and its importance for the enjoyment of other rights, including for securing access to State assistance and services;
- ▶ Complex procedures for obtaining or re-registering for such documentation;
- ▶ Unreasonable requirements by the authorities, e.g. requiring internally displaced persons to return to their area of origin (even if unsafe) to register there or retrieve other related documents;
- ▶ Distance or other obstacles (e.g. money for transportation) to registration offices;
- ▶ Discrimination.

Ensuring that internally displaced children have identity documentation, in particular birth registration, must be a priority.

Relevant Legal Principles

Every child has the right to be registered at birth. This right is grounded in the Universal Declaration of Human Rights, which states, “every human being has the right to recognition everywhere as a person before the law”.¹⁴⁵ More specifically, the International Covenant on Civil and Political Rights states, “[e]very child shall be registered immediately after birth and shall have a name”.¹⁴⁶ The CRC reaffirms the right of all children “to be registered immediately after birth and [...] the right from birth to a name” and requires States to “undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law”.¹⁴⁷

This responsibility applies also in situations of international armed conflict, when international humanitarian law specifies that occupying powers must take all necessary steps to facilitate the identification of children and the registration of their parentage.¹⁴⁸

Consistent with these standards, the Guiding Principles on Internal Displacement affirms the responsibility of the authorities to issue internally displaced persons “all documents necessary for the enjoyment and exercise of their legal rights”, including personal identification documents and birth certificates.¹⁴⁹

The authorities are to issue new documents to internally displaced persons or replace documents lost in the course of displacement, and to do so without imposing unreasonable requirements such as requiring internally displaced persons to return to their area of habitual residence in order to obtain related documentation. Women and men, girls and boys, have equal rights to obtain these documents and to have such documents issued in their own names.

Ensuring that internally displaced children have access to personal documentation typically requires a multifaceted effort, involving a wide range of stakeholders, including internally displaced children themselves.

In Colombia, for example, the State Registry Office’s Unit for Attention to Vulnerable Populations, in cooperation with UNHCR, UNICEF and IOM, launched a national birth registration campaign specifically targeting populations affected by displacement due to armed conflict in order to “guarantee their right to an identity, facilitate their access to services, and make them less vulnerable to exploitation”. Reinforcing this campaign, internally displaced children produced a newspaper promoting awareness among children of their right to birth registration. With UNHCR’s assistance, seven mobile units, known as “registration brigades”, including travelling by canoe, have been instrumental for ensuring that registration efforts reach internally displaced persons, communities at risk of displacement and indigenous communities, in the most difficult and isolated areas of the country. Between 2004 and 2009, more than 700,000 identity documents were issued through this programme, providing a critical protection tool not only for accessing basic rights but also in some cases bringing some measure of protection against risks, including the military recruitment of children that force families into flight.¹⁵⁰

“If you don’t have an ID card, you are a suspect for everybody”, one man explained while waiting for his card in the small chapel of La Virginia, where the registration team had set up for the day. He had left his farm at dawn to make the seven-hour walk to the chapel, bringing his five children, his wife and his elderly father. No one in the family had a birth certificate, and he was especially relieved to be able to register his three sons, aged 14, 12 and 10.

“Without documents, they don’t even exist legally. They can be taken away and we will never be able to prove they even existed”.

UNHCR, “MOBILE REGISTRATION UNIT BRINGS DOCUMENTS TO COLOMBIA’S CONFLICT ZONES”, 28 MAY 2009

Key Advocacy Points

- ▶ National authorities have a responsibility to issue identity documentation, including to internally displaced children, by replacing documentation lost in the course of displacement or issuing new documentation.
- ▶ National authorities should assess relevant national legislation to identify any obstacles to IDPs' access to documentation and amend legislation to address any such obstacles accordingly. (For further guidance, refer to the Manual for Legislators, see Resources)
- ▶ National authorities should organize public awareness campaigns explaining to internally displaced children and their parents the importance of identity documentation. This information must be conveyed not only in writing, but also through means accessible to people with low literacy (e.g. radio, drama, illustrations).
- ▶ National authorities should ensure that birth registration programmes and other documentation efforts reach IDPs in camps and in remote areas, for instance through the deployment of mobile registration teams.



Congo-Kinshasa, South Kivu province, Shabunda. Seven demobilized child soldiers are reunited with their families.

A. GUTMAN/ICRC

The right to family unity

... My daughter left home with her baby but got caught up in the fighting] and fled toward Beni... Later we got a phone call that my daughter had died but she had left a baby who was being looked after by a policeman... I thought we'd have a party when she came home but everybody is in mourning. We saw a mother leave with her child but now the child comes back alone..."

ABRAHAM, AN ICRC DRIVER IN THE DRC WHO HAS HELPED MANY FAMILIES REUNITE WITH THEIR CHILDREN.

FEW threats to a child's well-being equal that of being separated from their families during armed conflict. It is these children whose survival may be most threatened and who are in greatest danger of rape, recruitment by armed group, trafficking, forced labour, and other forms of exploitation. Girls are particularly vulnerable, especially to sexual abuse and forced early marriage. Child heads of households are also at special risk.

Families often become separated while literally running for their lives in the chaos and terror of gunfire or shelling. Hiding until too hungry to stay out of sight, they sometimes wander for days seeking food and shelter, sometimes with a younger sibling on their back. Children may have seen their parents killed or lost a parent due to injury or illness. Separation may also occur when a desperate parent places a child into the care of another person or a residential centre with the hope that the child will have a better chance of survival.

Many of the over 1800 internally displaced children who arrived at the IDP camp in Kenya's Rift Valley town of Nakuru following election violence in 2007 came alone due to the haste with which families fled their homes. In January 2008, they were caught up in a violent attack on the camp. Some teenage girls were forced to resort to survival sex.¹⁵¹ In a 2008 report on Pakistan, humanitarians expressed concern about the risk of abduction and trafficking of un-

accompanied children and the vulnerability of unaccompanied boys to militants seeking suicide bombers.¹⁵²

In Sierra Leone, it is believed that as many as 10,000 children were separated or orphaned due to the war, with forced displacement cited as one of the major causes of separation. In 1998, a group of 200 orphaned children were found living alone in the forest, having been displaced from their orphanage. In Freetown, more than 3000 children were living on the streets, and during the Revolutionary United Front (RUF)/Armed Forced Revolutionary Council (AFRC) assault on the city in 1999, street children were detained as suspected rebels and abused by Economic



Liberia, Lofa county, Poluwo. A father is reunited with his daughter thanks to the Family Links Network.

B. HEGER/ICRC

Families separated by displacement should be reunited as quickly as possible. All appropriate steps shall be taken to expedite the reunion of such families, especially when children are involved.

GUIDING PRINCIPLES ON
INTERNAL DISPLACEMENT,
PRINCIPLE 17 (3)

Community of West African States Monitoring Group soldiers and government police.¹⁵³

The goal of all activities relating to separated and unaccompanied children is to ensure their protection and well-being and to reunite each child with her or his family as soon as possible. In cases where tracing and reunification has been unsuccessful, or in the few cases where reunification is not in the best interests of the child (due to abuse in the home, for example), the goal is to identify an alternative care solution that is in the best interest of the child—in other words, is consistent with his or her background, needs and wishes.

Relevant Legal Principles

The Geneva Conventions state that parties to a conflict shall facilitate the reunification of dispersed families and encourage the work of humanitarian organizations engaged in this task.¹⁵⁴ Parties must take all steps to

identify children (through the wearing of identity discs or other means) and to make arrangements for the care of children separated or orphaned due to war who cannot be adequately cared for by a near relative or friend.¹⁵⁵ The education of such children should, insofar as possible, be entrusted to persons of similar cultural tradition.¹⁵⁶ These principles are reflected in customary international humanitarian law and thus apply to all parties in both international as well as non-international conflicts.

The CRC underscores the obligation of States Parties to take measures to ensure that unaccompanied and separated children receive appropriate protection and humanitarian assistance and urges States to cooperate with the UN and other intergovernmental or non-governmental organizations in protection, tracing and family reunification.¹⁵⁷ Various regional instruments also underscore the importance of State responsibilities to assist separated families.¹⁵⁸

Key Advocacy Points

- ▶ Relevant government and other agencies should be aware of **basic protocols for separated and unaccompanied children** such as those described by the ICRC in the Inter-agency Guiding Principles on Unaccompanied and Separated Children (see Resources).
- ▶ National authorities should implement a **plan of action to help prevent the separation of children from families** when displacement seems imminent and should take immediate action to seek rapid reunification when separation does occur.
- ▶ National authorities should inform families on **what to do if children become separated**. This can be accomplished via radio and television announcements, posters and other public information campaigns.
- ▶ National authorities should **restrict access to separated/unaccompanied children who are in temporary shelters** except to persons who have legitimate reasons to be in those shelters and possess proper ID cards. They should shield these children from media attention for protection and privacy.
- ▶ Government agencies and child protection actors should take all possible action to prevent illegal adoptions. Legal adoptions may be considered only if tracing efforts fail.
- ▶ National authorities should make efforts to **coordinate with national Red Cross/Red Crescent societies, ICRC, UNICEF and others** with special mandates and expertise to set up family tracing processes that are highly visible and accessible to IDPs.

The right to education

“When will I continue my education? Because of the war, I went to the interior and the bush and stopped my education”.

FADO, SEPARATED CHILD, AGE UNKNOWN, LIBERIA

CHILDREN have a right to quality education in all circumstances, including in situations of armed conflict and when they are internally displaced. Education is critical to children’s development and to help ensure future opportunities. The daily routine of going to school provides a degree of stability and a source of psychosocial support in the context of upheaval and uncertainty that the experience of displacement entails. Education also can be a protection tool, with the potential to reduce children’s exposure to military recruitment, sexual exploitation and child labour. Further, schools can be safe spaces for raising awareness about other risks, such as landmines and HIV/AIDS. When well-designed, education also can contribute to reconciliation and the rebuilding of war-torn societies.

Obstacles to education faced by internally displaced children

In reality, many internally displaced children are unable to enjoy their right to education. In several countries the majority of internally displaced children lack access to education.¹⁵⁹ Among the barriers to education often faced by internally displaced children in situations of armed conflict are:¹⁶⁰

- ▶ **Attacks against schools, teachers and students:** Schools may be destroyed or damaged due to conflict and even subject targeted attacks. In a number of conflicts, teachers and students have been singled out and targeted for attack.
- ▶ **Lack of infrastructure:** School buildings often are damaged or destroyed due to the conflict, while their repair and other investments in education are constrained by insecurity and lack of resources.
- ▶ **Insecurity travelling to and from school:** Going to school may mean crossing minefields or military roadblocks or running other risks. In a number of countries, the threat of sexual violence or of abduction of children by armed groups while en route to or in school have kept internally displaced children at home.
- ▶ **Loss of documentation:** Displacement often results in the loss or destruction of identity documentation (see Documentation chapter). Without documentation, internally displaced children may be unable to enrol in school. Getting replacement documents is often very difficult and can be dangerous, requiring IDPs to return to their area of origin, even if the area remains unsafe.
- ▶ **Language barriers:** Displacement disproportionately affects minorities and indigenous groups, who may not know the local language in the areas to which they are displaced. In Peru, Quechua-speaking internally displaced students were unable to understand or communicate with their Spanish-speaking teachers, resulting in high levels of non-attendance and illiteracy, especially for girls.
- ▶ **Discrimination:** The discrimination that internally displaced persons often face (see chapter on Non-discrimination) often extends into the classroom. Indigenous and minority internally displaced students have been turned away even before entering schools. In Colombia, one internally displaced boy struggling at school reported

being told by his teacher: “No wonder you are so stupid, you are a displaced person”.

- ▶ **Curriculum biases:** A curriculum that is ethnically, religiously or politically biased can fuel conflicts causing mass displacement, can lead to discrimination against IDPs, and can stand in the way of IDPs exercising their right to secure a durable solution through sustainable reintegration.
- ▶ **School fees:** Although primary education is supposed to be free, informal levying of school fees often occurs. In Colombia, the UN Special Rapporteur on the Right to Education reported that internally displaced families were forced to choose between eating or sending their children to school.
- ▶ **Material requirements:** The uniforms and school supplies typically required for school attendance are items that most internally displaced families, having been cut off from their usual livelihoods, find particularly difficult to afford. Without these and other items, such as soap, internally displaced children may be turned away from school or they often report feeling too ashamed or even afraid to go to school.
- ▶ **Economic responsibilities:** Internally displaced children often miss school because their labour is needed at home or to generate household income. Post-primary dropout rates are particularly high among adolescents, especially girls burdened by

domestic, childcare and/or agricultural responsibilities. Family poverty drives many internally displaced girls out of school and into early marriage, prostitution and trafficking and boys into military recruitment.

- ▶ **Lack of priority for funding:** Education is too often treated as a secondary need, to be addressed only once conflict has subsided. Only a handful of donors include education in their funding for humanitarian response. Further, a global survey on education in emergencies found that underfunding of educational services is particularly acute for internally displaced persons.

Relevant Legal Principles¹⁶¹

Every human being has the right to education. International human rights law affirms the right to free and compulsory education at the primary level¹⁶² and to access to secondary education, including general and vocational education that is free or subject to financial assistance in case of need. States must ensure access to education for all, without discrimination of any kind.¹⁶³ Education must be: available, accessible, acceptable and adaptable.¹⁶⁴ The criterion of accessibility includes that educational services and facilities should be within safe physical reach.

The right to education continues to apply in armed conflict. International humanitarian law affirms this right in times of conflict, including occupation and in the event of evacuations.¹⁶⁵ Deliberately targeting schools or hospitals by armed attack is prohibited under the general legal principle that parties to a conflict must, in the absence of military necessity, distinguish civilian objects from legitimate military objectives and protect them against the consequences of military operations.¹⁶⁶ This is a customary norm of international law applicable in all conflict situations.¹⁶⁷ The deliberate targeting or destruction of a school (or hospital or other civilian object) may amount to a grave breach of the laws of armed conflict.¹⁶⁸ Attacks against schools also may constitute crimes against humanity and war crimes, for which individuals can be prosecuted and punished under the Rome Statute of the ICC.¹⁶⁹ Attacks against schools and hospitals consti-



UNICEF and Danish Red Cross introduce “School in a Box” in Haiti IDP Camp, 25 February 2010.

UN PHOTO/SOPHIA PARIS

tute one of the six grave violations against children in armed conflict.¹⁷⁰ The Guiding Principles on Internal Displacement reaffirm the right of internally displaced persons to education, including vocational training,

whether they are in camps or not. Education must respect internally displaced persons' cultural identity, language and religion, and the full and equal participation of women and girls.¹⁷¹

Examples of good practices supporting access to education by internally displaced children

In Central African Republic, advocacy led to an agreement in June 2008 with rebel forces, who had a history of kidnapping teachers and parents, to create "neutral areas" where internally displaced children from "bush schools" set up by internally displaced communities could write examinations.¹⁷²

In Nepal, a "School as Zones of Peace" initiative by UNICEF and partners supports community facilitators to negotiate with armed forces and to develop codes of conduct for schools as zones of peace, mobilizing local media to monitor attacks against schools, and psychosocial support to students and teachers.

In Goma, DRC, "Mobile Teacher Support Teams" support local schools to integrate internally displaced children, including by providing "catch-up" classes for students who missed schooling because of displacement or insecurity, and raising the quality of learning through teacher training. Some 85 schools, serving 46,000 children (36% IDPs) have been supported since this programme began in October 2007.¹⁷³

In Sri Lanka, advocacy efforts prompted the Ministry of Education to issue a national circular directing local schools to facilitate the enrolment of displaced children, including by relaxing school registration requirements.

Key Advocacy Points

- ▶ National authorities, parties to the conflict and all other relevant actors (including humanitarian and development agencies, and donors) should take all necessary measures to ensure the right of internally displaced persons to education, including not only primary education but also secondary education, in all phases of displacement.
- ▶ Parties to a conflict have an obligation to treat schools as "zones of peace" and safe spaces. All parties to a conflict must respect the prohibition of attacks against schools. Any such attack constitutes a grave violation of international humanitarian law.
- ▶ National authorities should identify alternative "safe spaces" for children's education when schools are not safe or simply don't exist. Learning can take place in more informal environments, such as in tents or even under trees. Grassroots efforts by internally displaced communities who organize themselves to provide makeshift education should be supported.
- ▶ National and local education authorities should review the requirements for school enrolment and attendance that are applicable under normal circumstances, such as presentation of school records or transfer papers and the wearing of school uniforms, and relax those requirements whenever they pose obstacles to access to education for internally displaced children.
- ▶ National authorities should support existing schools to be able to accommodate IDPs, (e.g. through additional resources and teachers) rather than establish separate schools for IDPs, which risks marginalizing internally displaced children. Accelerated learning programmes, which condense many years of schooling into short modules, should be offered, in order to allow older children and youth who missed parts of their education due to displacement, to quickly catch-up with their peers and complete their education.

The right to psychosocial support and reintegration programmes

"I tell you, you cannot feel the pain of this suffering if you don't see it physically. If you only glance at it, a sword of sorrow will pierce your heart. ... What on earth is it that man today does not care for his fellow humans?"

ROSE, ESCAPED ABDUCTION BY THE LORD'S RESISTANCE ARMY¹⁷⁴

THE harmful effects of armed conflict upon a child's psychological and physical well-being are multiplied by the experience of displacement. Displaced children often speak about the extreme fear and anxiety they experience during bombing and other forms of attack; many have watched as their homes and villages burn. They vividly recount through drawings and stories the experience of displacement—of running for their lives while leaving behind grandparents, friends and beloved pets.

Many displaced children have suffered rape, detention, beatings and torture, some barely escaping death. Some have directly witnessed the killing of their parents and sib-

lings; others were forced to participate in violent acts, including killing of other children.

Internally displaced children may experience repeated nightmares and other symptoms of extreme stress such as intense separation anxiety, loss of appetite, withdrawal, a lack of interest in play or school, repetitive or disturbing play, difficulty concentrating and sometimes aggression toward others. Some become "frozen in their trauma"—unable to move forward in their development.

Danger to the physical well-being of internally displaced children in armed conflict is evident in their exposure to attack, the great risks they face during flight and the fact that they often live surrounded by Explosive Remnants of War. The level of disease and malnutrition among internally displaced children is disproportionately high.¹⁷⁵

Certain internally displaced children are at higher risk for psychological problems or trauma: separated or unaccompanied children (including orphans), children who have been recruited or used by armed groups or trafficked, children who have been forced to commit terrible crimes, children in conflict with the law, those engaged in dangerous labour, street children and those who are undernourished and/or under-stimulated. To identify children as "at risk" is not to suggest they are passive victims. Their strengths and capacities must be recognized and nurtured.

Following displacement, many children continue to live in an environment characterized by violence and fear. Violence breaks out in families due to high stress levels. Girls and boys are often sexually abused by people



Child drawing depicting armed violence. Uganda, 8 June 2006.

OFFICE OF THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL FOR CHILDREN AND ARMED CONFLICT

they know. Guns and drugs are prevalent in camps. Displaced children, especially in camps, continue to be vulnerable to attack and abduction.

Psychosocial support is often not considered a priority but is as important to children's well-being as physical needs and must be integrated at the earliest possible point in the humanitarian response. With the right kind of support, children can escape long-term trauma or post-traumatic stress disorder and the community can begin to rebuild itself, thereby enhancing the protection of children.

The 1996 Machel Report on Children in Armed Conflict called for psychosocial support for children to be a pillar of all humanitarian assistance, noting that the "most important factor contributing to a child's resilience is the opportunity for expression, attachment and trust that comes from a stable, caring and nurturing relationship with adults".¹⁷⁶

Relevant Legal Principles

The CRC obliges States Parties to promote the physical and psychological recovery and social reintegration of child victims of neglect, exploitation or abuse; torture or any other form of cruel, inhuman or degrading form of punishment; or of armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, peer-respect and dignity of the child.¹⁷⁷

The Optional Protocol to the CRC on the Involvement of Children in Armed Conflict (2000) requires States Parties to "take all feasible measures to ensure that children recruited or used in hostilities contrary to this Protocol (participating in hostilities under the age of 18) are demobilized and must, when necessary, accord to these persons all appropriate assistance for their physical and psychological recovery and their social reintegration".¹⁷⁸

"More than 60 per cent of the Rwandan children interviewed said they did not care whether they ever grew up".

THE MACHEL REPORT, 1996

Key Advocacy Points

- ▶ National authorities should take all possible steps to provide adequate medical and psychosocial care for internally displaced children and their families via coordinated, **inter-sectoral, community-based programmes** with trained staff members. Arrangements for longer-term assistance must be planned for and implemented for severely traumatized children with the assistance of mental health experts with an understanding of the child's experiences. Children with long-term mental illness and their families will also need appropriate assistance (see Resources).
- ▶ Government educational institutions should ensure the availability of regular school programmes with **mandatory attendance for primary school-age children**. The stability and establishment of a routine is critical to a child's sense of security. Beginning or returning to school should begin as early as possible.
- ▶ Teachers and other adults can be trained by mental health professionals to provide **psychological first aid**. A calm, friendly empathetic listening and reassurance—without pressing children to talk—can be provided by trained community members to internally displaced children.
- ▶ State-run child welfare agencies should play an important role in supporting programmes to meet the special needs of adolescents whose needs and strengths are often neglected and who may have had severely distressing experiences. Vocational and skills training provide financial support and **enhance a sense of identity, self-worth and well-being**. Peer support should also be considered.
- ▶ State-run child welfare agencies should provide community-based psychosocial programmes for children to connect with others and to **express feelings about experiences on their own terms**. Music, drawing and painting, creative writing, storytelling, drama, sports and team play all provide important ways "back to the self". Elders are valuable assets in the support of children by teaching traditional ways and passing along cultural information.

Certain internally displaced persons, such as children, especially unaccompanied minors...shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

GUIDING PRINCIPLE 4

Internally displaced persons shall have access to psychological and social services.

GUIDING PRINCIPLE 19

The right to freedom of religion and belief and to participate in cultural and community life

“Early in my life, when I was five years old, I was told the complete story of the Barí people. Everything was dark, there was no earth, no sun, water or stars, no food, fish, forest, fire nor any species at all...from there the Barí evolved and became known as children of the forest...They are stories that extend back beyond memory. We write our story day by day. We are young and we should be aware of our ancestors’ experiences, we should learn their wisdom, which brings our culture and traditions forward into the present. We are a people who resist displacement, we are brave”.

ALBUNA, OF THE BARÍ INDIGENOUS TRIBE OF COLOMBIA, DISPLACED WITHIN HIS ANCESTRAL LANDS¹⁷⁹

CONFLICTS fought along religious or ethnic lines are common causes of displacement, and cultural objects are often targets of destruction in an effort to destroy the identity, history, culture and faith of people.

A family’s strong religious beliefs and traditional or cultural practices can sustain children during difficult times such as displacement, conveying continuity, hope for the future, meaning and sense of self.

Communities usually provide varied and unique psychosocial resources that help members cope with the challenges posed by crises. Traditional rites of passage, cleansing ceremonies and artistic expression (dance, songs, body painting etc.) are just some examples of the process of socialization and becoming a member of the community and can be paths to healing and well-being.¹⁸⁰

Displacement and armed conflict make it difficult and sometimes dangerous or even impossible to observe religious and traditional practices, increasing internally displaced children’s feelings of loss. The intergenerational transmission of tradition is interrupted. Celebration of a child’s birth or birthday or coming of age—core to most cultures in the world—often falls to the wayside during displacement. Special foods, musical instruments, traditional dress etc. are often un-

available or unaffordable. In protracted situations, the fabric of the community may be so torn that people stop observing customs, exacerbating the sense of isolation, hopelessness and helplessness.

In Kitgum, Uganda, a project was initiated to bring elders together with youth in the IDP camps, recognizing that much Acholi cultural knowledge was being lost. The elders realized that culture evolves over time. Young people saw the value of preserving their cultural identity. This led to the re-introduction of traditional medicine and many young people have learned how to hunt to supplement their food supply, decreasing the isolation of both groups.¹⁸¹

In Croatia, a programme was developed to engage Croatian IDP and Bosnian refugee children and adults in joint projects such as exhibitions of traditional and contemporary art, the production of traditional plays, etc. Traditional musical instruments, weaving looms and ingredients for the preparation of traditional foods were provided for IDPs and refugees in collective centres. The programme was therefore not only a way to pass on traditional knowledge to children, but encouraged positive inter-ethnic interaction.¹⁸²

Displaced children are often discriminated against due to religious clothing or prac-

“At a workshop in rural Cambodia, the participants (aged 8-13) were asked to categorize their needs. We expected they would identify schools, food security and landmine clearance. These issues were included, but in two of three groups the restoration of the local pagoda (Buddhist temple) was given a higher priority. When asked to explain their choice, they said that if the pagoda were restored it would make them feel safe and calm”.

CIDA, A KIND OF FRIENDSHIP



Young girls entertain guests at Namokora IDP camp, Kitgum District, northern Uganda, 15 May 2007. Girls in northern Uganda are highly vulnerable to human rights abuses, which makes international law protecting them all the more critical.

MANOOCHER DEGhati/IRIN

tices. Some are subjected to proselytizing or forced indoctrination. Internally displaced children report feelings of shame and humiliation due to verbal abuse at school by classmates and teachers for being “different” due to ethnicity or religion.

Internally displaced children have the right to freely participate in religious and cultural activities and to be shielded from persecution and discrimination on the basis of religion, language or culture. Children also have the right to political beliefs. Unaccompanied and separated children especially need to feel a part of the community, and should be cared for by people who share or have a deep understanding of their culture.

Relevant Legal Principles

The loss of or damage to cultural treasures can cause despair within the affected population, increasing the chance of retaliation and making rehabilitation of communities much more difficult.¹⁸³ The protection of places of worship and cultural importance in armed conflict is required under the Geneva Convention and its Protocols, by the Hague Convention of 1954.¹⁸⁴

States are under a particular obligation to protect against the displacement of indige-

nous peoples, minorities, peasants, pastoralists and others with a special dependency on and attachment to their lands.¹⁸⁵ Cultural observances such as planting or harvest rituals or celebrations as well as access to ancestral burial lands are extremely important to these groups, and children often have a special role to play in related customs and rituals.

Internally displaced persons, whether living in camps or elsewhere, must not be discriminated against in their enjoyment of the rights to thought, conscience, religion or belief, opinion and expression, to freedom of association and equal participation in community affairs and to communicate in a language they understand.¹⁸⁶ Education should respect the cultural identity, language and religion of IDPs.¹⁸⁷

The Convention on the Rights of the Child, “taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child”, obliges States to “recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts”, to “respect and promote the right of the child to participate fully in cultural and



A group of young boys drumming for dancers at Namokora IDP camp, Kitgum District, northern Uganda, 15 May 2007. The war has subsided and internally displaced people find time to play their traditional instruments. MANOOCHER DEGHATI/IRIN

The **Guiding Principles on Internal Displacement** strongly emphasize the issue of non-discrimination against displaced persons on any basis, including “race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth or on any other similar criteria” (see chapter on Non-Discrimination).

artistic life” and to “encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity”.¹⁸⁸ Further, States must: provide special protection for a child deprived of the family environment, paying due regard to the child’s cultural background;¹⁸⁹ meet the cultural and spiritual needs of children with disabilities;¹⁹⁰ ensure that education fosters respect for the child’s parents, his or her own cultural identity, language and values, and for the cultural background and values of others¹⁹¹ and see that children from minority and indigenous populations have the right to enjoy their own culture and to practise their own religion and language.¹⁹²

Under the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, States are obliged to “Prevent political, social, cultural and economic exclusion and marginalisation that are likely to cause displacement of populations or persons by virtue of their social identity, religion or political opinion”.¹⁹³

Key Advocacy Points

- ▶ National and local authorities should **incorporate traditional and cultural practices** into psychosocial programmes and carry out cultural and intercultural activities in camps to promote peace and understanding. Every effort should be made to ensure the provision of foods and other items needed for cultural and religious observances.
- ▶ National and local authorities should **conduct training with teachers and IDP leaders** to ensure that children are protected from discrimination due to their religious or other beliefs.
- ▶ National authorities should take action to **ensure that internally displaced children are not subjected to proselytizing**, pressure to convert or to adopt religious practices. Faith-based organizations offering humanitarian assistance should not exploit the needs of IDPs to pressure them to adopt beliefs or religious practices.
- ▶ Local authorities should facilitate internally displaced communities, in places where historical and cultural material has been destroyed by war, to **retain valuable cultural knowledge and to promote healing** by encouraging the preservation of language and music, the retelling of legends, by engaging in traditional healing ceremonies, etc.¹⁹⁴
- ▶ Local authorities should support IDPs in the development of traditional and cultural activities for children in camps and other IDP settings, including urban areas. **Religious leaders, performers and artists, elders and other members of civil society** can be actively engaged in the creation of special programmes for children.

The right to freedom of movement, including from and within camps

“The army tried to make us turn around because it was apparently very late and people weren’t allowed to pass through at that hour. [...] How were we supposed to just turn around and go back? We said that we were just kids, that something could happen to us on the road that late. Finally, as if by miracle, they let us pass”.

ERNESTO, 11, COLOMBIA¹⁹⁵



Aerial View of IDP camps Mugunga and Bulengo in North Kivu, DRC, 4 April 2008.

UN PHOTO/MARIE FRECHON

FREEDOM of movement is “an indispensable condition for the free development of a person”.¹⁹⁶ In situations of internal displacement it is all the more critical: for protection against arbitrary displacement; for individuals’ ability to flee danger; for ensuring that internally displaced persons can access protection and assistance while displaced; and for securing safe and durable solutions to displacement. It also is essential to internally displaced persons’ enjoyment of many other rights critical to their safety, survival and well-being.

For children, it entails the right to move freely with their family (see chapter on family unity). Children’s ability to attend school, to access medical care, to assist their parents by cultivating fields or collecting water or firewood without fear of rape or abduction, and even to exercise their right to play safely, for instance, is contingent upon their ability to move freely. Moreover, to be confined to a camp or settlement means that internally displaced persons may not be able to escape to safety if it is attacked in the course of military hostilities or is infiltrated by armed

elements whose presence invariably heightens internally displaced children's exposure to risks and abuse.

In Uganda, for example, internally displaced persons in overcrowded, congested and unsanitary camps were subjected to curfews and restrictions on movement that were found to often put them at greater risk in a range of ways, including children's abduction, military recruitment, high malnutrition and mortality rates and lack of access to education. Further, unable to leave the camp to cultivate their fields, many internally displaced persons, including many young girls and boys, "have been forced by hunger to turn to survival mechanisms that are not only dangerous, but also humiliating and degrading, such as survival sex".¹⁹⁷

Obstacles to freedom of movement frequently come in the form of checkpoints, where civilians—including children on the way to school—are at high risk of harassment and abuse, including theft, arbitrary arrest, military recruitment, sexual exploitation and rape. The lack of documentation often serves as a pretext for harassment and abuse. Internally displaced persons also often are at risk of forced return or resettlement, even to areas where conditions are not safe.

Relevant Legal Principles

International human rights law affirms "[e]veryone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence".¹⁹⁸ This right may be subject to restrictions only under certain specific circumstances, namely, when such restrictions "are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedom of others, and are consistent with all other rights recognized" in the ICCPR.¹⁹⁹ Any restrictions which, for instance, violate the principle of non-discrimination are manifestly illegal. International human rights law and international humanitarian law in fact contain an array of additional provisions relevant to the freedom of movement.²⁰⁰

Reflecting these well-established standards of international law, the Guiding Principles also contain a number of provisions relevant to freedom of movement, in the different phases of displacement.

(a) Prevention of Arbitrary Displacement:

Every human being has the right to be protected against being arbitrarily displaced.²⁰¹ "Arbitrary" displacement includes forced movements that are: based on policies of apartheid or "ethnic cleansing"; occur in armed conflict, unless required for the security of those involved or imperative military reasons; or used as collective punishment. To be lawful, any decision requiring the displacement of persons must satisfy certain conditions and guarantees, including that all feasible alternatives were explored to avoid displacement altogether, all measures are taken to minimize displacement and its adverse effects, that any such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that family members are not separated.²⁰² States have a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on or attachment to their lands.²⁰³

In some cases, however, the best protection for civilians at risk may be to flee. The right to freedom of movement is critical to enabling people at risk to flee danger.

(b) During Displacement

The Guiding Principles affirm that IDPs, like all persons in a country, have the right to liberty of movement and freedom to choose his or her residence, and specify that for internally displaced persons this includes the right to move freely in and out of camps or other settlements.²⁰⁴

IDPs also have the right: to seek safety in another part of the country; to leave their country; to seek asylum in another country; and to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.²⁰⁵

(c) Durable Solutions to Displacement

Because freedom of movement encompasses the right to choice of residence, it also is critically important to enabling IDPs to secure their right to a durable solution to displacement, whether through volun-

tary return, local integration or resettlement in safety and dignity²⁰⁶ (see also chapter on Durable Solutions) and to be protected against forced return or resettlement in any place where their life, safety, liberty or health would be at risk.²⁰⁷

In Bosnia-Herzegovina and Kosovo, a network of free bus lines established by UNHCR enabled internally displaced persons to travel back across former frontlines of conflict on “go and see” visits to their areas of origin and to access basic services, including medical care and education.²⁰⁸

In Sri Lanka, when fighting in May 2009 led to massive new displacement, hundreds of thousands of IDPs were confined to overcrowded camps, encased in barbed wire. These camps were almost entirely off limits to many humanitarian personnel (local and international), human rights monitors and journalists for several months, while the Government emphasized that doing so was necessary until such time that armed elements in the camps could be identified. Concerted advocacy by the international community proved instrumental in pressing the Government to begin to open up and allow some freedom of movement in and out of the camps by the end of the year.

In Burundi, the UN launched an advocacy campaign in 1999-2000 protesting the authorities’ policy of “regroupement”, by which civilians from the Hutu ethnic group were herded into camps and were unable to leave. They were prevented from cultivating their nearby fields in order to secure food for their families, leading to visibly high rates of malnutrition among children. These efforts succeeded in securing a relaxation of these restrictions and ultimately the closure of the camps.²⁰⁹

Key Advocacy Points

- ▶ National authorities and all parties to a conflict have an obligation under international law to protect populations against any arbitrary displacements.
- ▶ National authorities and all parties to a conflict have an obligation to respect and ensure respect for IDPs’ right to freedom of movement, including their **right to move freely in and out of IDP camps and settlements**.
- ▶ Governments of other countries outside of the country where internal displacement is occurring must safeguard the **right of IDPs to seek asylum**.
- ▶ National authorities should **facilitate IDPs’ freedom of movement**, for instance through transportation assistance enabling IDPs to undertake “go and see” visits to their home areas, to return when they so choose, and to access education and other basic public services if these are not available locally.

The right to durable solutions

"I was hardly 2 years old when we became displaced. Now I am 11. [...] Since that dreary day I have been bearing one desire in me and I will not wish anything else until that wish comes true: Give me back my town, sea, native home even if it's burnt, my childhood, and my grandmother's grave, but not through a war, blood, tears, but though a peaceful way, through reconciliation".

ANA, 11, GEORGIA²¹⁰

SOMETHING that distinguishes IDPs from other civilians at risk in armed conflict is IDPs' need to find a durable solution to their displacement. Displacement should be a temporary condition. Considering the numerous particular risks and vulnerabilities that displacement can entail, and the disproportionate impact on the lives of children, the search for solutions never can begin too soon and should begin as soon as conditions permit.

Securing a durable solution to displacement is a multifaceted, gradual and often long-term process. A durable solution means achieving a situation where people who were internally displaced no longer have any specific protection and assistance needs linked to their displacement and can enjoy their human rights without discrimination.

States have the primary responsibility to create the conditions and provide the means enabling IDPs to voluntarily return, integrate locally, or settle elsewhere in the country in safety and dignity, and to achieve sustainable reintegration or integration in the local community.²¹¹

Relevant Legal Principles

The Guiding Principles affirm, "Displacement shall last no longer than required by the circumstances".²¹² Principles 28-30 spell out the legal principles relevant to IDPs securing durable solutions to displacement.

More specifically, a durable solution to displacement can be achieved through any one of three ways:

1. **Return to and reintegration** in the place of origin;
2. **Local integration** in the localities where IDPs have taken refuge while displaced; or
3. **(Re) settlement and integration in another part of the country.**

There is no inherent hierarchy among these solutions. IDPs have the right to make an informed and voluntary choice as to the solution they wish to pursue. Whichever of the three solutions IDPs opt for, it must meet conditions of safety and dignity.

"Safety" in the context of solutions to displacement comprises three main elements:

1. **Legal safety:** including non-discrimination, freedom from fear of persecution or punishment;
2. **Physical security:** at all stages during and after their return or resettlement, including en route, at transit reception points, and at the destination, including protection from armed attacks and mine-free routes, or at least demarcated settlement sites;
3. **Material security:** including access to land or means of livelihood.

"Dignity" is less well-defined. UNHCR, in keeping with the dictionary definition of "dignity" that contains elements of "serious, composed, worthy of honour and respect", points out that in the context of solutions to displacement it means that refugees and internally displaced persons: are not "man-handled", i.e. roughly treated; can return or

resettle unconditionally and that if they are doing so spontaneously, that they can do so at their own pace; that families can remain together; and that they are treated with respect and full acceptance by the national (and local) authorities, including the full restoration of their rights.²¹³

Whether IDPs choose to return, to locally integrate, or to resettle in another part of the country, they are entitled to receive reintegration assistance supporting them to re-establish themselves and to rebuild their lives.

More specifically, a number of criteria as to what constitutes a durable solution for internally displaced persons have been identified and elaborated in the Framework on Durable Solutions for Internally Displaced Persons adopted by the Inter-Agency Standing Committee.²¹⁴ Internally displaced persons who have achieved a durable solution will enjoy without discrimination:

- ▶ Long-term safety, security and freedom of movement;
- ▶ An adequate standard of living, including at a minimum access to adequate food, water, housing, health care and basic education;
- ▶ Access to employment and livelihoods;
- ▶ Access to effective mechanisms that restore their housing land and property or provide them with compensation;
- ▶ Access to personal and other documentation (e.g. birth certificates, property deeds, children's school records);
- ▶ Family reunification;
- ▶ Participation in public affairs;
- ▶ Access to effective remedies and justice.

Certainly, for children, this would also include the right to education. In Colombia, "mobile training facilities" supported by UNICEF and others helped to fill the gap left by lack of educational facilities in areas of return. Students and faculty from a nearby high school were recruited to travel to outlying returnee communities, to conduct classes and distribute educational material until such time that regular classrooms could be re-established.

The programme also provided a psychological boost to returnee children.²¹⁵

Given the range of needs at issue, international development, political, humanitarian and human rights actors often will need to become involved to provide support and bridge the critical period of transition from relief to development. National and local authorities are expected to grant and facilitate rapid, unimpeded access to internally displaced persons by international humanitarian organizations and other relevant actors in order to permit assistance during return, resettlement and reintegration.²¹⁶

Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration. This necessarily must include the participation of children and youth (see chapter on Participation). It is important to consider



A father and his daughter are looking for information about their hometown prior to the start of the registration of the IDPs in Khartoum, where an estimated two million IDPs have been residing. 21 November 2006.

UN PHOTO/FRED NOY

that when it comes to preferences among durable solutions, the views of youth are not necessarily those of older generations, especially in protracted displacement situations when young people may have little memory, or never even lived at all, in the homeland of

their parents and grandparents. Moreover, when displacement occurs, as it often does, from rural to urban areas, young people often prefer to stay long-term in the cities, on account of better educational and employment opportunities.

Key Advocacy Points

- ▶ National authorities have a responsibility to create the conditions for a durable solution to displacement, namely through voluntary return, integration or resettlement. Internally displaced persons have the right to choose among the possible solutions and must be protected against any forced return, resettlement or relocation;
- ▶ National authorities should ensure internally displaced persons' access to information about the conditions in the places where they are considering pursuing a durable solution;
- ▶ National authorities should ensure that any organized process of internally displaced persons' return or resettlement takes place, to the extent possible, during periods least disruptive to children's education, ideally after the school year ends, and take all necessary measures to ensure that children will have access to quality education in the destination of their preferred solution;
- ▶ National authorities must take special efforts to ensure the safety of internally displaced children in areas of return or resettlement, including ensuring that internally displaced persons and all other children in these areas receive awareness-training about the risks of landmines and unexploded ordnances;
- ▶ National authorities should provide legal support to orphaned internally displaced persons in claiming their rights to inherit family land and property;
- ▶ National authorities should continue to monitor and report on the conditions of internally displaced persons in their areas of return or settlement, so as to ensure that any ongoing needs for protection and assistance are known and addressed and the sustainability of solutions is supported;
- ▶ National authorities should support reconciliation efforts between groups in conflict and carry out sensitization campaigns of communities where internally displaced persons plan to return, integrate or resettle.

Conclusion

"Therefore my challenge to each of you ... is that you ask yourself what you can do to make a difference. And then take that action, no matter how large or how small. For our children have a right to peace.

GRAÇA MACHEL-MANDELA



Former Sudanese IDPs return to their homes in Swilinga village, Darfur. 3 February 2010.

UN PHOTO/ALBERT GONZALEZ FARRAN

MILLIONS of internally displaced children around the world do not enjoy their rights and are in conditions of grave risk and extreme vulnerability, deprived of such fundamental elements as safety, access to the basic necessities of life, and to education. Most worryingly, situations of displacement persist, on average for 20 years, thereby robbing countless children of any semblance of a normal childhood.

National authorities have the primary responsibility to protect, assist and find durable solutions for internally displaced persons. Yet, all parties to a conflict, State and non-state actors alike, are obligated to protect children from the harmful effects of armed conflict. This responsibility includes the obligation to

prevent arbitrary displacement, to protect and assist internally displaced persons and to facilitate safe, voluntary and durable solutions to displacement, paying special attention at all times to the particular vulnerabilities and risks faced by internally displaced children. These obligations are built upon a strong foundation: principles of international law that are overwhelmingly considered customary, non-derogable and binding upon all parties.

This Working Paper has outlined a set of rights and guarantees of internally displaced children, summarized the underpinning legal principles, and offered key advocacy points, particularly relevant for Governments and other authorities, towards transforming these rights and guarantees into reality.

Overall, for any and all of the **rights and guarantees outlined in this Working Paper**, what is needed is to:

- ▶ **Raise awareness** among Governments and other authorities of their legal obligations to prevent arbitrary displacement, protect and assist internally displaced children;
- ▶ **Strengthen the capacity** of Governments and other authorities to fulfil their responsibilities towards internally displaced children, through training—including of military and police—designating and adequately equipping institutional focal points;
- ▶ **Monitor more systematically** the situation of internally displaced children worldwide, ensuring consultation with internally displaced children and the disaggregation of data;
- ▶ **Hold responsible all parties to armed conflict, State and non-state actors alike**, to meet their protection obligations and to address without delay identified gaps in protecting the rights and guarantees of internally displaced children.

As a priority, among the more overarching, but concrete and significant, **steps that national authorities can—and are expected to—take to enhance the protection of internally displaced children** are to:

- ▶ **Provide internally displaced children with identity documentation**, thereby arming them with legal proof of their existence, a passport to access many of their rights, and a critically important protection tool;
- ▶ **Provide internally displaced children with, and ensure their safe access to, the basic necessities for their survival**: physical safety, food and potable water, shelter, clothing and essential medical services and sanitation, and education;
- ▶ **Review and revise all relevant national legislation and policies to identify and address any legal, administrative and institutional obstacles that internally children face in accessing their rights.**
- ▶ **Address impunity of individuals or parties who commit violations against internally displaced children.**

Ensuring protection, assistance and solutions for internally displaced children is a priority goal for the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, of the Child Protection Advisers (CPAs) associated with the OSRSG, and of the entire United Nations system. The United Nations is committed to ensuring compliance with relevant international law, as summarized in the Guiding Principles on Internal Displacement, in particular the special protections for children, and stands ready to assist Governments and other authorities to fulfil their responsibilities in this regard. In-

deed, meeting this goal requires collective, concerted and more concentrated efforts by Governments, other authorities, international organizations and NGOs. It is to be hoped that this Working Paper helps to catalyze and contribute to such efforts.

Children are the most precious resource but also the most vulnerable segment of society. This is no less true of internally displaced children in armed conflict, who face specific needs and vulnerabilities as a result of their displacement, and who urgently require our attention and protection.

Resources (available online)

Protection of Internally Displaced Persons: Overall Resources

The Guiding Principles on Internal Displacement (United Nations, 2008). Available in more than 45 languages, http://www.brookings.edu/projects/idp/gp_page.aspx

The Guiding Principles on Internal Displacement: Annotations, by Walter Kälin, 2nd Edition (Brookings-Bern Project on Internal Displacement and American Society of International Law, 2008), <http://www.asil.org/pdfs/stlp.pdf>

Handbook for Applying the Guiding Principles on Internal Displacement (UN OCHA and Brookings Project on Internal Displacement, 1999), <http://www.reliefweb.int/rw/lib.nsf/db900SID/LGEL-5RMG68?OpenDocument>

Handbook for the Protection of Internally Displaced Persons, Provisional Release (Global Protection Cluster Working Group, 2007; revised final edition forthcoming spring 2010). Also in French, <http://ocha.unog.ch/humanitarianreform/Default.aspx?tabid=294>

Incorporating the Guiding Principles on Internal Displacement into Domestic Law: Issues and Challenges, Studies in Transnational Legal Policy No. 41, Walter Kälin et al. (eds.), (American Society of International Law and Brookings Institution-Bern Project on Internal Displacement, 2009), www.brookings.edu/~media/Files/rc/papers/2010/0119_internal_displacement

Internal Displacement Monitoring Centre (IDMC) Website Contains country reports, statistics, training material and thematic research on internal displacement, <http://www.internal-displacement.org/>

Manual on Field Practice in Internal Displacement: Examples from UN Agencies and Partner Organisations of Field-Based Initiatives Supporting Internally Displaced Persons (IASC, 1999), <http://www.reliefweb.int/rw/lib.nsf/AllDocsByUNID/8a2e9808aeab5756c1256c21005a00d5>

Profiling Internally Displaced Persons: Guidance (Norwegian Refugee Centre, Internal Displacement Monitoring Centre and UN OCHA, 2008), [http://www.internaldisplacement.org/8025708F004BE3B1/\(httpInfoFiles\)/7620BC6F3CED0587C125739B00383CE0/\\$file/IDP_Profiling_Guidance_2008.pdf](http://www.internaldisplacement.org/8025708F004BE3B1/(httpInfoFiles)/7620BC6F3CED0587C125739B00383CE0/$file/IDP_Profiling_Guidance_2008.pdf)

Protecting the Internally Displaced: A Manual for Law and Policymakers (Brookings-Bern Project on Internal Displacement, 2008), http://www.brookings.edu/papers/2008/1016_internal_displacement.aspx

Protection of Conflict-Induced IDPs: Assessment for Action (IASC, Provisional Release 2008), <http://www.humanitarianreform.org/Default.aspx?tabid=555>

Not specific to IDPs but highly relevant:

Camp Management Toolkit (NRC, 2009). Available in Arabic, English, French and Spanish, <http://www.nrc.no/?aid=9380323>

Growing the Sheltering Tree: Promoting and Protecting Rights through Humanitarian Action (IASC, 2002), <http://www.reliefweb.int/rw/lib.nsf/db900SID/LGEL-5F7H77?OpenDocument>

Protection of Children in Armed Conflict

Checklist to Identify the Special Needs and Vulnerabilities of Displaced Children (Watchlist on Children in Armed Conflict, 2009), <http://www.watchlist.org/docs/checklist.pdf>

The Impact of Armed Conflict on Children, Report by Graça Machel (United Nations, A/51/306, 1996), <http://www.un.org/children/conflict/english/machelreports.html>

The Impact of War on Children, by Graça Machel, A Review of Progress since the 1996 United Nations Report on the Impact of Armed Conflict on Children (UNICEF, 2001), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N96/219/55/PDF/N9621955.pdf?OpenElement>

The Six Grave Violations Against Children During Armed Conflict: The Legal Foundation, Working Paper No. 1, (UN Office of the Special Representative of the Secretary-General on Children and Armed Conflict, October 2009), http://www.un.org/children/conflict/_documents/SixGraveViolationspaper.pdf

"Will You Listen?" Voices of Children from Conflict Zones (OSRSG, UNICEF, Global Youth Action Network, UNFPA and Women's Commission for Refugee Women and Children, 2007), http://www.unfpa.org/upload/lib_pub_file/720_filename_will_you_listen_090607.pdf

Machel Study 10-Year Strategic Review: Children and Conflict in a Changing World (UNICEF and the Office of the Special Representative for Children and Armed Conflict, 2009). <http://www.un.org/children/conflict/english/machelreports.html>

Specific Issues (Rights and Guarantees covered in this Working Paper)

Adequate Standard of Living

See chapters on Food Aid and Nutrition, Water and Sanitation, Humanitarian Assistance, Shelter, Health, HIV/AIDS in the Handbook for the Protection of Internally Displaced Persons [see above, Section A].

See also relevant chapters in Protecting the Internally Displaced: A Manual and Incorporating the Guiding Principles [see above, Section A].

Best Interests of the Child

UNHCR Guidelines on Determining the Best Interests of the Child (2008), <http://www.crin.org/bcn/details.asp?id=17700&themeID=1005&topicID=1033>

Documentation

Birth Registration and Armed Conflict, Innocenti Insight Paper (UNICEF, 2007), <http://www.unicef-irc.org/publications/pdf/insight-br-eng.pdf>

Count Every Child: the Right to Birth Registration by C. Cody (Plan Ltd., 2009), <http://plan-international.org/about-plan/resources/publications/campaigns/count-every-child>

Chapters on Documentation in:

Handbook for the Protection of Internally Displaced Persons [see above, Section A];

Protecting the Internally Displaced: A Manual

Incorporating the Guiding Principles [see all above, Section A].

Durable Solutions

Framework on Durable Solutions for Internally Displaced Persons, A/HRC/13/21/Add.4, 29 December 2009, <http://www.ohchr.org>

When Does displacement End?, Forced Migration Review, Issue 17 (2003). Also available in Arabic, French and Spanish, <http://www.fmreview.org>

UNHCR, Voluntary Repatriation: International Protection Handbook (UNHCR, 1996), <http://www.unhcr.org/publ/PUBL/3bfe68d32.pdf>

Education

Barriers and Bridges: Access to Education for Internally Displaced Children, Erin Mooney and Colleen French (Brookings Institution – University of Bern Project on Internal Displacement, 2005), <http://www.brook.edu/fp/projects/idp/idp.htm>

“Education for IDPs: Poor Marks”, by Erin Mooney and Colleen French, Forced Migration Review, Issue 22 (200*). Also in Arabic, French and

Spanish, <http://www.fmreview.org/FMRpdfs/FMR22/FMR22brookings.pdf>

Right to Education During Displacement: A Resource for Organizations Working with Refugees and Internally Displaced Persons (Women’s Commission for Refugee Women and Children, 2006), http://www.womensrefugeecommission.org/docs/right_to_ed.pdf

“The Right to Education in Situations of Internal Displacement”, by Erin Mooney and Jessica Wyndham, in Incorporating the Guiding Principles on Internal Displacement into Domestic Law: Issues and Challenges [see above, section A], pp. 247-290. www.brookings.edu/~media/Files/rc/papers/2010/0119_internal_displacement/0119_internal_displacement_Ch7.pdf

Your Right to Education: A Handbook for Refugees and Displaced Communities (Women’s Commission for Refugee Women and Children. 20**). Also available in Arabic, French and Arabic, http://www.womensrefugeecommission.org/docs/right_to_ed_handbook.pdf

Education Under Attack: 2010 (UNESCO, 2010), <http://unesdoc.unesco.org/images/0018/001868/186809e.pdf>

Global Survey on Education in Emergencies, Women’s Commission, 2002, http://www.womensrefugeecommission.org/docs/ed_emerg.pdf

Minimum Standards for Education in Emergencies (Inter-Agency Network for Education in Emergencies, 2004), http://www.ineesite.org/index.php/post/inee_minimum_standards_overview/

Family Unity

Inter-agency Guiding Principles on Unaccompanied and Separated Children (International Committee of the Red Cross, 2004), [http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/p1101/\\$File/ICRC_002_1011.PDF](http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/p1101/$File/ICRC_002_1011.PDF)

International Committee of the Red Cross (ICRC), Restoring Family Links website: http://www.icrc.org/Web/Eng/siteeng0.nsf/html/family_links

Freedom of Movement

“Movement-Related Rights in the Context of Internal Displacement” by Joe Olaka-Onyango, in Incorporating the Guiding Principles on Internal Displacement into Domestic Law (see above, Section A). www.brookings.edu/~media/Files/rc/papers/2010/0119_internal_displacement/0119_internal_displacement_Ch7.pdf

See also chapter on Freedom of Movement in Protecting Internally Displaced Persons: A Manual for Law and Policy Makers [see above, Section A].

Life and Dignity (Right to)

See, in particular, chapter on Right to Life and Dignity in Handbook for the Protection of Internally Displaced Persons [see above, Section A].

Participation

Children and Youth Participation Guide (UNICEF, 2006), <http://www.unicef.org/adolescence/cypguide/resourceguide.html>

Physical Security and Safe Places

Technical Notes: Special Considerations for Programming in Unstable Situations, p. 510-511 (UNICEF, 2003), <http://www.helid.desastres.net/?e=d-0who--00-1-0--010---4---0--0-10l--1en-5000---50-about-0---01131-0011%2F%40XPrLu642f94149000000004ba5291d-0utfZz-8-0-0&a=d&c=who&cl=CL1.1&d=Junicefdisk>

Child Friendly Spaces in Emergencies: A Handbook for Save the Children Staff (Save the Children, 2008), <http://www.savethechildren.org/publications/emergencies/Child-Friendly-Space-Handbook-Final-version-7-Oct-08.pdf>

Preventive Measures to Protect IDP Children from Trafficking, Forced Labour, Enforced Prostitution, Sexual exploitation, Forced Early Marriage, and Illegal Adoption

Caution: Children at Work: Galvanizing Communities to End Child Labour (CARE, 2007), http://www.care.org/newsroom/articles/2007/06/childlabor_execsummary.pdf

Secretary-General's Bulletin, Special measures for protection from sexual exploitation and sexual abuse, ST/SGB/2003/13 of 9 October 2003, http://minustah.org/pdfs/SGB/SGB2003_English.pdf

UNHCR Handbook for the Protection of Women and Girls (2008), chapter 5.2.2 Marriage, civil status and family relations, p. 191-192, <http://www.unhcr.org/protect/PROTECTION/47cfae612.html>

Adopting: The Rights of the Child, A Study on Intercountry Adoption and its Influence on Child Protection: A study on intercountry adoption and its influence on child protection in Nepal (Terre des Hommes and UNICEF, 2008), http://www.childtrafficking.com/Docs/adopting_rights_child_unicef29_08.pdf

Psychosocial and Overall Well-Being

IASC Guidelines on Mental Health and Psychosocial support in Emergency settings (IASC, 2007), http://www.who.int/mental_health/emergencies/guidelines_iasc_mental_health_psychosocial_june_2007.pdf

Recruitment and the Use of Children in Hostilities

Coalition to Stop the Use of Child Soldiers (for publications and resources on child soldiers, <http://www.child-soldiers.org/home>

Bibliography on approaching armed groups (2006). Coalition to Stop the Use of Child Soldiers, http://www.child-soldiers.org/library/themed-reports?root_id=158&directory_id=206

International Standards protecting children from recruitment and use in armed conflict (2009), Coalition to Stop the Use of Child Soldiers, <http://www.child-soldiers.org/chidsoldiers/international-standards>

Religious and Cultural Life

Child Care in Islam can be found at <http://www.icva.ch/doc00000799.html>

Sexual and Gender-Based Violence (Prevention of and Protection from)

Generally, see Global Protection Cluster Working Group GBV pages, <http://oneresponse.info/GlobalClusters/Protection/GBV/Pages/Gender-Based%20Violence.aspx>

Beyond Firewood: Fuel Alternatives and Protection Strategies for Displaced Women and Girls (Women's Commission for Refugee Women and Girls, 2006), <http://www.womensrefugeecommission.org/docs/fuel.pdf>

Guidelines for Gender-Based Violence Interventions in Humanitarian Settings: Focusing on Prevention of and Response to Sexual Violence in Emergencies (Inter-Agency Standing Committee, 2005). (Arabic/Bahasa/English/French/Spanish), <http://reliefweb.int/rw/lib.nsf/db900SID/EVOD-6HADRS?OpenDocument>

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Secretary-General's Bulletin on Special Measures for Protection from Sexual Exploitation and Abuse, ST/SGB/2003/13 of 9 October 2003, http://minustah.org/pdfs/SGB/SGB2003_English.pdf

UNHCR Handbook for the Protection of Women and Girls (2008), <http://www.unhcr.org/4ad33d5a6.html>

Women, Girls, Boys and Men: Different Needs, Equal Opportunities: IASC Gender Handbook in Humanitarian Action (Inter-Agency Standing Committee, 2007), <http://reliefweb.int/rw/lib.nsf/db900SID/JFRN-6Z4MRT?OpenDocument>

Endnotes

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9 Report of the Special Representative of the Secretary-General for Children and Armed Conflict, UN General Assembly, A/65/4/254, 6 August 2009, Annex I.

10 To guide such efforts, see Addressing Internal Displacement: A Framework for National Responsibility by Erin Mooney (Brookings Institution-Bern Project on Internal Displacement, 2005). The Framework provides an analysis of the concept of national responsibility in the Guiding Principles on

Internal Displacement and identifies twelve benchmarks of measures that Governments should, at a minimum, be expected to take towards fulfilling their responsibilities to address internal displacement. The United Nations Representative of the Secretary-General on the Human Rights of Internally Displaced Persons presented the Framework to the UN Human Rights Council and makes use of it in carrying out his mandate. The Framework has been translated into over a dozen languages.

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12 For a list and the text of all international human rights instruments as well as a listing of States that are signatories to each of these instruments, see: <http://www.ohchr.org>

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18 African Charter on the Rights and Welfare of the Child, 1990, available at: <http://www.africa-union.org>

19 For example, Council of Europe, Committee of Ministers, "Internal displacement in Europe - Parliamentary Assembly Recommendation 1631 (2003)", CM/AS(2004)Rec1631 final 5 July 2004, available at: <https://wcd.coe.int/ViewDoc.jsp?id=758899&Site=COE&BackColorInternet=DBDCF2&BackColorIntranet=FDC864&BackColorLogged=FDC864>

20 See the Global Database on the Guiding Principles, available at: <http://>

www.law.georgetown.edu/idp/english/ld.cfm?action=searchform

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- 22 International refugee law does not to internally displaced persons, as unlike IDPs, a “refugee” is, by definition, outside of her or his country; refugee law nonetheless is relevant, by analogy, to highlighting the risks and concerns, such as forced return, family separation and loss of documentation, that typically arise in all situations of displacement.
- 23 The basis in international law for each Guiding Principle is summarized in: Walter Kälin, *Guiding Principles on Internal Displacement*, Revised Edition (Brookings-Bern Project on Internal Displacement and American Society of International Law, 2008), available at: <http://www.asil.org/pdfs/stlp.pdf>
- 24 UN 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, <http://www.un.org>
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- 26 See *Protecting the Internally Displaced: A Manual for Law and Policymakers* (Brookings-Bern Project on Internal Displacement, 2008), available at: http://www.brookings.edu/papers/2008/1016_internal_displacement.aspx
- 27 *Let it Be Known: Internally Displaced Colombians Speak Out* (IDMC, Fondation dos Mundos, and PANOS, 2007), p. 106.
- 28 CRC, Art. 2.
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- 30 GPIDP, Principle 4.1.
- 31 GPIDP, Principle 22.
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- 33 “Will You Listen? Voices of Children from Conflict Zones”, OSRSG, UNICEF, Global Youth Action Network, UNFPA and Women’s Commission for Refugee Women and Children, 2007, p. 19, http://www.unfpa.org/upload/lib_pub_file/720_filename_will_you_listen_090607.pdf
- 34 This argument was first posited by Dorothy Burlingham, Anna Freud, Joseph Goldstein and Albert J. Solnit first in their book, *Beyond the Best Interests of the Child* (New York: The Free Press). For an explanation of the concept, see www.fosterjustice.com/Beyond%20the%20Best%20Interests.doc
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- 36 Jean Zermatten, “The Best Interests of the Child: Literal Analysis, Function and Implementation: Working Paper 2010”, Institut International des Droits de L’Enfant, 2010, http://www.childsrights.org/html/documents/wr/wr_best_interest_child09.pdf
- 37 UNHCR Executive Committee, *Conclusion on Children at Risk*, No. 107 (LVIII), 5 October 2007, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=471897232>
- 38 Art. 4 African Charter on the Rights and Welfare of the Child, *Best Interests of the Child*, http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/A.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf
- 39 General Comment No. 11 (2009), *Indigenous children and their rights under the Convention* (CRC/C/GC/11), para. 33.
- 40 Humanitarian and Resident Coordinator, United Nations Kenya, “Promoting Sustainable Solutions and Peaceful Communities: An Early Recovery Strategic Framework for Kenya, February 2008 (see ER Strategic Plan for Kenya), <http://onerresponse.info/GlobalClusters/Early%20Recovery/Pages/Tools%20and%20Guidance.aspx>
- 41 IRIN, “Youth in crisis, Coming of age in the 21st century, NORTH UGANDA: Displaced youth: the challenges of displacement, the challenges of return”, February 2007, <http://www.irinnews.org/InDepthMain.aspx?InDepthId=28&ReportId=70040&Country=Yes>
- 42 Ibid.
- 43 See “Adolescent Girls Affected by Armed Conflict: Why Should we Care?” a fact sheet by the Gender and Peace Working Group of the Canadian Peace-building Coordination Unit and the Women’s Commission for Refugee Women and Children, http://www.peacebuild.ca/documents/AdolescentGirls_eng.pdf
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- 45 CRC, Art. 28.
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- 48 CRC, Art. 15.
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- 51 Ibid., p. 77-78.
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- 54 State of Neglect: Displaced Children in the Central African Republic (IDMC, November 2008), p. 17.
- 55 ICRC, "The ICRC and Internally Displaced Persons", *International Review of the Red Cross*, no 305 (1995), pp. 181-191, available at: <http://www.icrc.org/web/eng/siteeng0.nsf/html/57JMEZ>
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- 57 CRC, Preamble
- 58 ICCPR, Art. 6
- 59 American Convention on Human Rights (ACHR), Art. 5(1) and African Charter of Human and Peoples Rights (AfCHPR), Art. 5. Acts violating the "physical, mental and moral integrity of persons" are not specifically mentioned in the international human rights instruments, but are covered by the prohibitions articulated in these instruments, in particular the prohibition of torture or cruel, inhuman or degrading treatment or punishment, articulated in ICCPR, Art. 7. The UN Human Rights Committee, in its General Comment 20, has recognized that the aim of the ICCPR Art. 7 is to "to protect both the dignity and the physical and mental integrity of the individual".
- 60 For a summary of the various relevant legal principles, see Kälin, *Guiding Principles on Internal Displacement: Annotations*, Rev. ed., pp. 45-52 (right to life) and pp. 53-58 (right to dignity and physical, mental and moral integrity). Available at: <http://www.asil.org/pdfs/stlp.pdf>
- 61 GPIDP, Principle 11
- 62 GPIDP, Principle 12
- 63 GPIDP, Principle 6
- 64 GC IV, Art. 49 (relating to occupied territories) and GC AP II, Art. 17 (applicable in non-international armed conflict); both of which provisions have become part of customary international law. For a summary and analysis, see Kälin, *Annotations*, pp. 28-29. Available at: <http://www.asil.org/pdfs/stlp.pdf>
- 65 ICCPR, Art. 12
- 66 GPIDP, Principle 8.
- 67 GPIDP, Principle 10
- 68 GPIDP, Principle 10
- 69 GPIDP, Principle 11
- 70 GPIDP Principle 28
- 71 UNHCR, *Voluntary Repatriation: International Protection Handbook* (UNHCR, 1996), section 2.4.
- 72 GPIDP, Principle 28
- 73 IDMC, *Global Overview of Trends and Developments in 2009*, p. 40.
- 74 *Ibid.* p. 80.
- 75 Peter Salama, Paul Spiegel and Richard Brennan, "No Less Vulnerable: The Internally Displaced in Humanitarian Emergencies", *The Lancet*, 357/9266: 1430-31 (5 May 2001). See also, for example, N. Nathan, M. Tatay, P. Piola, S. Lake and V. Brown, "High Mortality in Displaced Populations of Northern Uganda", *The Lancet*, 363/9418: 1402 (24 April 2004).
- 76 CRC, Art. 27
- 77 CRC, Art. 24
- 78 For a summary and analysis, Kälin, *Guiding Principles on Internal Displacement: Annotations*, Rev. Ed. pp. 82-91, and 111-124. Available at: <http://www.asil.org/pdfs/stlp.pdf>
- 79 GPIDP, Principle 3.
- 80 GPIDP, Principle 4.
- 81 GPIDP, Principle 18
- 82 GPIDP, Principle 20
- 83 GPIDIP Principles 3 and 25
- 84 GPIDP Principles 24-26
- 85 GPIDP Principles 28-30
- 86 GPIDP Principles 18 and 28
- 87 GC IV Art. 50 GC
- 88 Geneva Convention IV, Art. 14 and Annex I. The Protecting Powers and the ICRC may lend their good offices to facilitate the creation and recognition of such zones/localities (GC art. 14). Hospital and safety zones must be marked by red bands on a white ground (or by a red diamond) placed on the buildings and outer precincts. The perfidious use or failure to respect it are grave breaches of the Conventions and are therefore war crimes (PI art. 85). Neutralized zones may be established in zones of conflict and are intended to shelter wounded and sick combatants or non-combatants and civilians taking no part in hostilities. Parties to the conflict, neutral states or humanitarian organizations may take the initiative to create a neutralized zone. The parties to the conflict must conclude and sign a written agreement identifying the beginning and duration of the neutralization of the zone and the details of its geographic location, administration, food supply, and supervision (GC IV art. 15). (From Françoise Bouchet-Saulnier, *The Practical Guide to Humanitarian Law, Médecins sans Frontières* (Rowman and Littlefield: Lanham) 2002), p. 294-5.
- 89 Art. 19 CRC. See Bouchet-Saulnier p. 40.
- 90 Article 3 common to the four Geneva Conventions.
- 91 Geneva Conventions Additional Protocol I Art. 48, 51, 52, 57; art. 13 Additional Protocol II; art. 3 Protocol II.
- 92 Geneva IV Art. 23, 24, 38, 50, 76 and 89; art. 70 and 77 AP I; art. 4 AP II.
- 93 Military objectives are limited to objects that by their nature, location, purpose, or use, make an effective contribution to military

action and whose total or partial destruction capture or neutralization offers a definite military advantage. If there is any doubt as to the nature of an objective normally used for civilian purposes (such as a place of worship, a house or other dwelling, schools, hospitals, etc.) parties to a conflict must presume that its nature is civilian. (API art. 52). See Bouchet-Saulnier, p. 298.

94 ICRC, (Henckaerts, Doswald-Beck, eds., Customary International Humanitarian Law Vol. 1: Rules, Cambridge University Press (2005).

95 UNHCR ExComm Conclusion on Children at Risk, 2007.

96 Vera Achvarina and Simon F. Reich, "No Place to Hide: Refugees, Displaced Persons, and the Recruitment of Child Soldiers", International Security, MIT Press Journals, Summer 2006, Vol. 31, No. 1, Pages 127-164.

97 CRC Art. 3

98 AP I Art. 77 (2) ; AP II Art. 4 (3)

99 CRC OPTIONAL PROTOCOL I, Arts. 6, 7

100 Elizabeth Bennett, Virginia Gamba & Dierdre van der Merwe, eds. ACT against child soldiers in Africa: A reader, Institute for Security Studies, Pretoria, S.A., 2000, p. 48, <http://www.issafrica.org/pgcontent.php?UID=5463>

101 See chapter on Preventing Trafficking, Forced Labour, Enforced Prostitution, Sexual Exploitation, Forced and Early Marriage and Illegal Adoption.

102 Ibid.

103 Alastair Ager, Megan Bremer, Neil Boothby, "Situation Analysis of Child Protection in Darfur: Final Report to UNICEF, March 2008. Program on Forced Migration & Health Mailman School of Public Health Columbia University, p. 4, <http://www.unsudanig.org/workplan/mande/reports/docs/evaluations/Final%20Report%20CP%20Sitan%206%20April%202006.pdf>

104 Watchlist on Children and Armed Conflict, "Liberia dangerous for children months after war ends Watchlist calls for action by UN Security Council", June 2004, <http://www.watchlist.org/news/pressreleases/liberia.pr.php>

105 Diane Paul, "Fulfilling the Forgotten Promise: Protection of IDPS in Northern Uganda", [http://www.internal-displacement.org/8025708F004CE90B/\(httpDocuments\)/5A7E50926A912554C1257109003A5E6B/\\$file/Diane+Paul+report+on+Northern+Uganda.pdf](http://www.internal-displacement.org/8025708F004CE90B/(httpDocuments)/5A7E50926A912554C1257109003A5E6B/$file/Diane+Paul+report+on+Northern+Uganda.pdf)

106 Harvard Humanitarian Initiative and Oxfam International, "Now, the World is Without Me: An Investigation of Sexual Violence in the Eastern Democratic Republic of Congo", A Report by the Harvard Humanitarian Initiative With Support from Oxfam America, April 2010, http://www.oxfam.org.uk/resources/policy/conflict_disasters/downloads/rr_sexual_violence_drc_150410.pdf

107 Barnett and Jeffreys, pgs. 14-15,16, 22.

108 Arts. 34, 35,37,; CRC; Art. 3, CRC Optional Protocol to the Convention on the Rights of the

Child on the sale of children, child prostitution and child pornography (2000).

109 African Charter on the Rights and Welfare of the Child (1990), Art. 27.

110 See, for example, Art. 1 Convention against Torture (1984); art. 1, Convention on the Suppression of Trafficking and Exploitation, (1949) and Part 5, Vienna Declaration of the World Conference on Human Rights (1993).

111 "Rape and other forms of violence" are not specifically listed in the articles of the GC that define grave breaches (GC I, Art. 50; GC II, Art. 51; GC III, Art. 130; GC IV, Art. 147), thus raising questions in the minds of some scholars regarding the commission of these acts as grave breaches, but most scholars and courts agree that such violations constitute "torture or inhuman treatment" or "serious injury to body and health", acts that are grave breaches. Certain acts are prohibited at all times and in all places, whether committed by civilians or the military, and the prohibitions fall under the category of "Fundamental Guarantees" as listed in AP I, Art. 75 (2) (a) "violence to the life, health, or physical or mental well-being of persons, in particular...(ii) torture of all kinds, whether physical or mental" and (b) outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution, and any form of indecent assault", and (e) "threats to commit such acts" and in AP II, Art. 4 (2) (a) "violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment..."; Art. 4 (2) (e) "outrages upon person dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault"; Art. 2 (h) threats to commit any of the foregoing acts". AP I Art. 76—Protection of Women—states in (1) that "women [including girls] shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault". AP I, Art. 77 (1) states that "Children shall be the object of special respect and shall be protected against any form of indecent assault..." AP I Arts. 85, 86 and 87 remind Parties to the conflict (and specifically commanders) that they are responsible for suppressing grave breaches and must cooperate in prosecutions related to acts of both commission and omission (failure to prevent) grave breaches. The Rome Statute of the International Criminal Court defines "Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity" as a "crime against humanity" when committed "as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack" and as a war crime when committed individually during international and non-international armed conflicts". See Statute of the International Criminal Court, Articles 7 (1)(g); 8 (2)(b)(xxii) and 8(2)(b)(vi).

- 112** The ICTR, in the Jean-Paul Akeyesu case, established that acts of sexual violence can be prosecuted as constituent parts of genocide (1998). See also ICTY, Furundzija, Delacic and Celebic cases. (1998), in which the three men were convicted and jailed for rape, torture and enslavement—the first time in history that an international tribunal has convicted individuals solely on charges of; sexual violence against women and girls. European Court of Human Rights (*Aydin vs. Turkey*) and the InterAmerican Commission on Human Rights, Case 10.970 (Peru), (1996).
- 113** GC IV, Art. 27
- 114** Judicial recognition of its customary status came in 1998 in a judgement of the ICTY.
- 115** See *op. cit.* 10. See also Customary Rule in ICRC, (Henckaerts, Doswald-Beckm eds., Customary International Humanitarian Law Volume I, Rules, Cambridge University Press (2005) p.323.
- 116** See, for example, the Rome Statute of the ICC, Arts. 8 (2) (a) (ii), 8 (2) (b) (xxi), 8 (2) (c) (i) and (ii), and 8 (2) (e) (vi) (pertaining to war crimes) and Art. 7 (1) (g) of the ICC Statute. Crimes against humanity are crimes committed as part of a widespread or systematic attack, whether committed in armed conflict or peace.
- 117** Rome Statute Art. 7 (1) (c), 7 (1) (g), 8 (2) (b), 8 (2) (c), , 8 (2) (e) .
- 118** Prosecutor v. Jean-Paul Akeyesu, (Case No. ICTR-96-4-T). Rape, sexual violence or abuse may form constituent parts of genocide if committed with the intent to destroy, in whole or in part, a particular group, as defined in the ICC Statute, Art. 6 (b); ICTR Statute Art. 2; and the Convention on the Prevention and Punishment of the Crime of Genocide, Art. II (b).
- 119** A list of UN Security Council Resolutions relating to children and armed conflict can found at <http://www.un.org/children/conflict/english/resolutions.html>. Seven of these resolutions pertain to violations relating to the sexual assault or abuse/exploitation of children.
- 120** UNSC Resolution 1612 called for the immediate implementation of a Monitoring and Reporting Mechanism in countries where there were parties names in Annex I of the Secretary-General's Report, that is, parties which use or recruit children in situations of armed conflict which are on the Security Council's agenda. This was later expanded to include countries named in Annex II that lists those not on the agenda.
- 121** See *Beyond Firewood: Fuel Alternatives and Protection Strategies for Displaced Women and Girls* (Women's Commission for Refugee Women and Children, 2006).
- 122** Many resources exist for addressing SGBV issues. See, for example, UNHCR Handbook for the Protection of Women and Girls (2008) <http://www.unhcr.org/4ad33d5a6.html>; Women's Commission for Refugee Women and Girls, *Beyond Firewood: Fuel Alternatives and Protection Strategies for Displaced Women and Girls*, 2006, <http://www.womensrefugeecommission.org/docs/fuel.pdf> See also Key Resources.
- 123** These days include World Aids Day on December 1 and end with Human Rights Day on December 10. For information and ideas, see <http://www.unfpa.org/public/News/events/16days>
- 124** Global Protection Cluster Working Group, Handbook for the Protection of Internally Displaced Persons, December 2007, p. 197.
- 125** Secretary-General's Bulletin on Special Measures for Protection from Sexual Exploitation and Abuse (2003) http://minustah.org/pdfs/SGB/SGB2003_English.pdf
- 126** Yvonne E. Keairns, PhD, "The Voices of Girl Child Soldiers: Summary", Quaker United Nations Office and the Coalition to Stop the Use of Child Soldiers, 2002, p. 7, <http://www.quno.org/newyork/Resources/QUUNOchildsoldiers.pdf>
- 127** Internal Displacement Monitoring Centre (IDMC) and Norwegian Refugee Council (NRC), "Nepal: Failed implementation of IDP policy leaves many unassisted", 28 January 2010.
- 128** IDMC and NRC, "Internal Displacement: Global Overview of Trends and Developments in 2009", May 2010, p. 18.
- 129** UNHCR, Handbook for the Protection of Women and Girls (2008), chapter 5.2.2 Marriage, civil status and family relations, p. 191-192, <http://www.unhcr.org/protect/PROTECTION/47cfae612.html>
- 130** "Report of the Working Group on Contemporary Forms of Slavery on its 28th Session, 27 June 2003, E/CN.4/sub.2/2003/31; Report of the Special Rapporteur on the Human Rights Aspects of the Victims of Trafficking in Persons, Especially Women and Children; Sigma Huda, "Implementation of General Assembly Resolution 60/251 of March 2006", A/HRC/4/23, 24 January 2007, para. 21.
- 131** A fistula is a tear between the vagina, bladder or rectum that causes inability to control bodily functions, leading to infection, an inability to keep clean and ostracism. Complications in pregnancy and labour are the leading cause for death for 15-19 year-old girls.
- 132** Articles 32, 33, 34, 35, 36 CRC.
- 133** See Protocol to Prevent, Punish and Suppress Trafficking in Persons Especially Women and Children (2000), which supplements the UN Convention against Transnational Organized Crime (A/RES/55/25, 15 November 2000). See also treaty law relevant to slavery and slave-like practices: Art. 4, Universal Declaration of Human Rights (UDHR) (1948); Art. 8, International Covenant on Civil and Political Rights (ICCPR) (1966); Arts. 10,19,21 and 32 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966); Art. 6 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

(1979). Other older treaty law also prohibits such practices. At the regional level, Arts. 5 and 31 of the African Charter on Human and Peoples' Rights (AfCHR) (1981) and Art. 4 of its Protocol on the Rights of Women in Africa; Art. 6 of the American Convention on Human Rights (ACHR) (1961); Art. 11 (a) of the Cairo Declaration of Human Rights in Islam (1990) and Art. 4 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (1950).

134 Article 21(2), African Charter on the Rights and Welfare of the Child (ACRWC) (1990). The CRC also requires States to protect children from violence, exploitation, abuse, abduction and trafficking (Article 24 (3) and to "take all appropriate measures to promote the physical, psychological, and social reintegration of children who have been victims of any form of neglect, exploitation, or abuse, torture or armed conflicts" (Article 39).

135 Convention Concerning the Prohibition and Immediate Elimination of the Worst Forms of Child Labour [Convention No. 182]. International Labour Organization (1999), <http://www.ilo.org/public/english/standards/relm/ilc/ilc87/com-chic.htm>

136 "Enslavement" is defined as "the exercise of any power attaching to the right of ownership of any person, including the trafficking of persons, in particular women and children" and can include domestic servitude, forced marriage, and forced labour that involves sexual exploitation.

137 See Rules 95, 95, Jean-Marie Henckaerts and Louise Doswald-Beck, Customary International Humanitarian Law, Volume I: Rules, ICRC (2005), pgs. 327-334.

138 Prosecutor vs. Alec Tamba, Brima, Brazzy Camara and Borbor Kanu (Special Court for Sierra Leone, 20 June 2007).

139 See chapter on Right to Education.

140 Understanding Children's Work and UNICEF, "The twin challenges of eliminating child labour and achieving EFA: Evidence and policy options from Mali and Zambia", April 2009, http://www.ucw-project.org/pdf/publications/twin_challenges_CL&EFA_GMR2010.pdf

141 The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography ((OP-CRC-SC) (2002) has been ratified by 117 countries at the time of this publication. States must adopt procedures to avoid acts that could lead to the identification of child witnesses and must protect them from intimidation and retaliation. Children must be informed of their rights, the nature of proceedings and disposition of their cases. The concerns and needs of children must be considered and support services provided to child victims during legal processes. Unnecessary delay in the disposition of cases and the awarding of compensation must be avoided. States must provide legal and psychological training for

those who work with affected children and shield them from retribution. The full text of the Convention can be found at http://www.hcch.net/index_en.php?act=conventions.text&cid=69 Illegal adoption is also addressed by the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993).

142 States should, in addition, engage in research and mass media campaigns to prevent trafficking and to adopt/strengthen legislative, educational and social and cultural measures to address factors that lead to trafficking. (Art. 9). See <http://hei.unige.ch/~clapham/hrdoc/docs/traffickingprotocol.html> for more information and for a definition of trafficking according to the Protocol

143 World Vision MEERS Strategy, <http://meero.worldvision.org/humantrafficking/>

144 C. Cody, Count Every Child: the Right to Birth Registration (Plan Ltd., 2009).

145 UDHR, Art. 6

146 ICCPR, Art. 24(2)

147 CRC, Arts. 7 and 8

148 GC IV, Art. 50

149 GPIDP, Principle 20

150 UNHCR "Mobile registration unit brings documents to Colombia's conflict zones", 28 May 2009. See also "Colombia: Registering Internally Displaced Children", in Birth Registration and Armed Conflict, Innocenti Insight Paper (UNICEF: 2007), p. 15.

151 IRIN, "Kenya: IDP children falling through protection cracks", 29 January 2008.

152 Farzana Shah, "Face of a suicide bomber", Asian Tribune, 10 December 2008, <http://www.asiantribune.com/node/14629>

153 Save the Children, War brought us here: Protecting children displaced within their own countries by conflict, p. 104.

154 GC IV, Art. 26 ; AP I Art. 74 ; AP II Art. 4 (3) b

155 GC IV Art. 24.

156 GC IV Arts. 24, 50.

157 CRC Art. 22,

158 Article 23(2) of the 1999 African Charter on the Rights and Welfare of the Child provides that States undertake to cooperate with international organizations specialized in tracing and reuniting children separated from their families. Article 4(1)(i) of the Great Lakes IDP Protocol provides that Member States undertake to "[f]acilitate family reunification". In Europe, Council of Europe member states "shall, in accordance with Article 8 of the European Convention on Human Rights, take appropriate measures to facilitate the reunification of families which are separated by internal displacement. Such measures may include locating missing family members, notably those that have been taken hostage. Competent authorities should convey to relatives

of an internally displaced person, upon their request, any information they may have on his/her whereabouts" (Council of Ministers Rec (2006)6, para. 6).

159 IDMC, Global Overview, 2008, p. 18, <http://www.internal-displacement.org>

160 See Erin Mooney and Colleen French, Barriers and Bridges: Access to Education for IDPs, research paper (Brookings Institution Project on Internal Displacement, 2005 available at: www.brookings.edu/idp; and Erin Mooney and Colleen French, "Education for IDPs: Poor Marks", Forced Migration Review (2005), available at: www.fmreview.org

161 For a more comprehensive discussion of legal foundations and of relevant legal issues, see Kälin, Guiding Principles on Internal Displacement: Annotations, Rev. ed., pp. 106-10; Erin Mooney and Jessica Wyndham, "The Right to Education in Situations of Internal Displacement", Incorporating the Guiding Principles on Internal Displacement into Domestic Law: Issues and Challenges, Studies in Transnational Legal Policy No. 41, Walter Kälin et al. (eds.), (American Society of International Law and Brookings-Bern Project on Internal Displacement, 2009), pp. 247-290, www.brookings.edu/~media/Files/rc/papers/2010/0119_internal_displacement/0119_internal_displacement_Ch7.pdf

162 UDHR, Art. 26 (1); ICESCR 13(2)(a) and Art. 14 regarding developing countries that have not yet introduced free primary school services; CRC, Art. 28(1)(a); ADHR, Art. XII(4); Convention against Discrimination in Education, Art. 4(a).

163 See in particular CEDAW, Art. 10; Convention against Discrimination in Education, Art. 2(a), CERD, Arts. 5 and 7.

164 Committee on Economic, Social and Cultural Rights, General Comment No. 13, at 6, UN Doc. E/C.12/1999/10 (1999). For a summary of the meaning of these four essential features of education and an analysis of what these mean in situations of internal displacement, see Mooney and Wyndham, "The Right to Education in Situations of Internal Displacement", pp. 251-256.

165 GC IV, Art. 24(1) and Art. 50 (1), GC AP I, Art. 78(2), and GC AP II, Art. 4(3)(a).

166 GC IV, Art. 11 and Art. 18, and GC AP I, Art. 48.

167 Customary Rule 7 in International Committee of the Red Cross, Jean-Marie Henckaerts and Lousie Doswald-Beck (eds.), Customary International Humanitarian Law Vol. I: Rules (Cambridge University Press, 2005).

168 GC IV, Art. 147, GC AP I, Art. 85; Customary Rules 10-13 in ICRC, Customary International Humanitarian Law.

169 Rome Statute, Art. 8(2)(b) and Art. 8(2)(e).

170 The Six Grave Violations Against Children During Armed Conflict, identified by the UN Security Council, are: 1) Killing or maiming of

children; 2) Recruitment or use of child soldiers; 3) Rape and other forms of sexual violence against children; 4) Abduction of children; 5) Attacks against schools or hospitals; and 6) Denial of humanitarian access to children. See The Six Grave Violations Against Children During Armed Conflict, pp. 3, and 13-14, http://www.un.org/children/conflict/_documents/SixGraveViolationspaper.pdf

171 GPIDP, Principle 23.

172 Education Under Attack, 2010 (UNESCO, 2010), p. 122, <http://unesdoc.unesco.org/images/0018/001868/186809e.pdf>

173 Ibid. p.118.

174 Human Rights Watch, "The Scars of Death: Children Abducted by the Lord's Resistance Army", 1997, p. 86.

175 See chapter on Adequate Standard of Living.

176 "Impact of Armed Conflict on Children, Report of the expert of the Secretary-General, Ms. Graça Machel", submitted pursuant to General Assembly resolution 48/157, 1996. ("The Machel Report"), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N96/219/55/PDF/N9621955.pdf?OpenElement>

177 CRC, Art. 39

178 The Optional Protocol to the CRC on the Involvement of Children in Armed Conflict (2000), ART. 6.

179 Let it be Known: Internally Displaced Colombians Speak Out, (Norwegian Refugee Council and the Internal Displacement Monitoring Centre, 200#), p. 45.

180 Bo Viktor Nylund, Jean-Claude Legrand and Peter Holzberg, "The role of art in psychosocial care and protection for displaced children", Forced Migration Review (6), December 1999, p. 16, <http://www.fmreview.org/FMRpdfs/FMR06/fmr605.pdf>

181 "Uganda: Reaching out to rebuild cultural identity", Jesuit Refugee Services, 15 July 2010, http://www.jrs.net/news_detail.cfm?TN=NEWS-20100715083306

182 The Social Welfare Programme was initiated and supported by the International Federation of Red Cross and Red Crescent Societies in cooperation with the Croatian Red Cross.

183 See P. Ishwara Bhat, "Protection Of Cultural Property Under International Humanitarian Law: Some Emerging Trends", citing Etienna Clement, "Cultural Heritage Law: Recent Developments and Current Challenges" in UNESCO Regional Seminar on Implementation of International Law and Cultural Heritage Law, Kathmandu 1997 A Report, Note 6, p.31. ISIL Year Book of International Humanitarian and Refugee Law, 1999, <http://www.worldlii.org/int/journals/ISILYBIHRL/2001/4.html>

184 Bugnion notes that "Article 53 of Protocol I and Article 16 of Protocol II stipulate that they are without prejudice to the provisions

of the Hague Convention of 14 May 1954. The provisions of the Protocols additional to the Geneva Conventions and those of the Hague Convention, far from being mutually exclusive, complement one another”.

185 GPIDP, Principle 9.

186 GPIDP, Principle 22.

187 GPIDP, Principle 23.

188 CRC ,Art.31.

189 CRC ,Art. 20.

190 CRC Art. 23.

191 CRC Art 29.

192 CRC Art. 30.

193 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, Art. 3 (1) (b).

194 UNICEF, Technical Notes: Special Considerations for Programming in Unstable Situations, p. 511, <http://www.helid.desastres.net/?e=d-0who--000--1-0--010---4-----0--0-10l--11en-5000---50-about-0---01131-001-x3pcP0w342f9419900000004b0e0bae-0-0-0&a=d&c=who&cl=CL1.1&d=Junicefdisk.2.4>

195 The boy, now 20, was recounting an incident that occurred when he was 11 years old. See *Let it Be Known: Internally Displaced Colombians Speak Out* (IDMC and Panos, 2008), p. 191.

196 United Nations, Human Rights Committee, General Comment No. 27 (67): Freedom of Movement, CCPR/C/21/Rev.1/Add.9, 2 November 1999, <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/6c76e1b8ee1710e380256824005a10a9>

197 Diane Paul, “Heading home? Protection and return in Northern Uganda”, Humanitarian Exchange (December 2006), <http://www.odihpn.org/report.asp?id=2863>

198 ICCPR, Art. 12(1). Similar provisions also are found, inter alia, in UDHR, Art. 13(1) and in regional human rights instruments.

199 ICCPR, Art. 12(3).

200 For a summary, see Kälin, *The Guiding Principles on Internal Displacement: Annotations*, Rev. Ed., pp. 26-43, 65-70, and 125-131. Available at: <http://www.asil.org/pdfs/stlp.pdf>

201 GPIDP, Principle 6.

202 GPIDP, Principle 7.

203 GPIDP, Principle 9.

204 GPIDP, Principle 14.

205 GPIDP, Principle 15.

206 GPIDP, Principle 28.

207 GPIDP, Principle 15.

208 Organization for Security and Co-operation in Europe, Mission in Kosovo, Monitoring Department, Humanitarian Minority Bus Transportation in Kosovo after Transfer to Kosovo Institutions Monitoring Findings June 2008, Report No. 4. See also Anna Di Lellio, *Freedom of Movement*, (UNDP, 2009), http://www.kosovo.undp.org/repository/docs/Freedom_MovementKOSSAC.pdf

209 See *Profiles in Displacement: Burundi*. Report of the Representative of the Secretary-General on Internally Displaced Persons, Francis M. Deng, UN Commission on Human Rights, E/CN.4/2001/5/Add.1, 6 March 2000, <http://www.unhcr.org/refworld/docid/3ae6b174.html>

210 *Through the Children’s Eyes*, p. 18.

211 GPIDP, Principle 28.

212 GPIDP, Principle 6(3).

213 UNHCR, *Voluntary Repatriation: International Protection Handbook* (UNHCR, 1996), section 2.4.

214 IASC Framework on Durable Solutions for Internally Displaced Persons (IASC and Brookings-Bern Project on Internal Displacement, 2010). Available at: [http://reliefweb.int/rw/lib.nsf/db900sid/DNEO-857JBE/\\$file/IDP_april2010.pdf?openelement](http://reliefweb.int/rw/lib.nsf/db900sid/DNEO-857JBE/$file/IDP_april2010.pdf?openelement)

215 *Growing the Sheltering Tree*, p. 173.

216 GPIDP, Principle 30.



IDP's, seen here inside a UN Refugee Agency (UNHCR) tent, in Timor-Leste, 3 July 2008.

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