



Danish Refugee Council

DRC Position Paper on IDP Protection

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Introduction

DRC sees the increasing number of Internally Displaced Persons¹ (IDPs) as a major problem and challenge. DRC has advocated for and provided assistance and protection to IDPs for a number of years and in the majority of our international programmes, IDPs are the primary target group. To reflect this, DRC in 2004 chose to revise the mandate for its international work taking into account, among other things, an expanded interpretation of DRC's target groups. The mandate now reads:

"..Protection and promotion of durable solutions to refugee and displacement problems on the basis of humanitarian principles and human rights, including to provide refugees, internally displaced and other affected groups in situations of war and conflict with assistance according to their rights..".

The purpose of this position paper is two-fold. One, to present DRC's position on IDP protection thereby putting IDPs, as a group with particular protection needs, on the agenda in the whole organisation. Two, to further raise the awareness about DRC's specific competencies in IDP protection.

DRC Position on IDP Protection

DRC is committed to continuously increasing our efforts in support of protection of IDPs and finding durable solutions to their situation.

DRC is in possession of a unique combination of legal, programmatic and operational expertise and experiences in protection of IDPs. The key principles that guide DRC's interventions for the protection of IDPs are:

- Protection of IDPs should not be seen as a substitute for the right to seek and enjoy asylum, nor should it be seen to offer an internal flight alternative
- DRC is focused on supporting and influencing states in taking up their responsibilities to protect IDPs in conflict or displacement.
- DRC's support must not be seen as a substitute for the state's primary responsibility to protect IDPs.

Background

The number of IDPs is now well over 25 million people across 50 countries. Very often, IDPs are confronted with serious and persistent threats to their rights and welfare. Large proportions of the world's IDPs have been displaced for protracted periods and do not have an early prospect of finding a solution to their plight.

In many ways the situation of IDPs resembles that of refugees. Refugees and IDPs alike need protection since both groups experience serious violations of their rights and often live

¹ Persons who have been forced or obliged to flee or leave their homes, who have not crossed an internationally recognised State border

under poor and insecure conditions. However, IDPs have historically been a neglected group compared to refugees.

The international community's response to the challenges of internal displacement has generally been inadequate and patchy, depriving many IDPs as well as affected local communities and countries of the support they need. However, the international awareness of the situation of IDPs has grown significantly in recent years. In 2005, the UN system initiated a Humanitarian Reform Process, based on a recognition that the international response to complex emergencies and disasters often failed to meet the needs of affected populations in a timely and consistent manner. In this process, the protection of IDPs was identified as a major gap. A number of measures have been introduced to address this gap, including an agreed division of labour – the so-called “Cluster Approach”. UNHCR, one of DRC's most important international partners, has been designated and has agreed to play a leading role in the efforts to ensure the protection of conflict-affected IDPs, by being cluster lead for IDP protection.

Special Protection Needs of IDPs

Protection of IDPs as Compared to Refugees

The term “refugee” is a legal categorisation denoting a legal status attained by fulfilling certain internationally accepted criteria which can be found in the 1951 Convention relating to the status of Refugees and its 1967 Protocol. No such status exists at the international level for IDPs.

In accordance with international human rights law, states have the obligation to respect, protect and fulfil the human rights of their citizens and other persons on their territory or under their jurisdiction. Furthermore, in situations of armed conflict, international humanitarian law applies.

While The Guiding Principles on Internal Displacement issued in 1998 do not constitute an independent legal source, they reflect and are consistent with international human rights and humanitarian law and analogous with refugee law. The Guiding Principles are thus an important tool and authoritative framework for the identification of the rights, guarantees, and standards relevant to the protection of individuals in situations of internal displacement.

Unlike refugees who cross an international border, those who stay within their own country must rely upon their own governments to uphold their rights. Paradoxically, it is often the same government that has caused the displacement in the first place and in addition often prevent international organisations access to their citizens.

Furthermore, as IDPs remain within their country, they are frequently to be found in close proximity to areas of armed conflict and ongoing violence. For that reason, combatants and political actors are often hostile to the presence of international organisations. If the state concerned chooses not to invite external assistance, the international community has limited options to protect the people who are internally displaced.

Concerns and Challenges to the Future of IDP Protection Work

Protection of IDPs Does Not Substitute the Right to Seek Asylum

Experience has clearly demonstrated the importance for IDPs to have their safety, freedom, dignity and humanitarian needs addressed within an international protection framework. However, activities on behalf of IDPs must not be used by countries of asylum to limit their protection obligations toward refugees, including undermining the institution of asylum. Thus, involvement by the international community, including DRC, in providing protection and assistance to IDPs should not be utilised as a justification for setting up national or regional

measures to keep internally displaced persons from crossing an international border and thus denying them the possibility to seek asylum in another country. Likewise, an international presence and protection response in the country of origin does not constitute an “internal flight alternative” as it in no way can guarantee safety from persecution.

The challenge in the future will be to uphold the internationally established right to seek and enjoy asylum while expanding the international community’s commitment towards IDPs. Hence, the refugee and IDP protection regimes should not be viewed as contradictory of each other.

Every DRC decision regarding potential involvement in an IDP situation will give priority consideration to the above risks.

Staying Impartial

Engagement in IDP situations will more typically than in refugee operations involve working in tenuous environments, including conflict affected areas among parties to the conflict. Because of this, DRC is more at risk of being perceived as favouring one party or the other by providing protection and assistance to IDPs who might not be considered as “civilian”. DRC is very much aware of the risks and serious consequences it might have if the impartiality of DRC operations is questioned. Access to IDP populations may become restricted and staff security can be compromised. To address this challenge, DRC applies a comprehensive regional approach which aims at ensuring that both analysis and actions addresses root causes and perspectives from all sides of a conflict.

Working with the State

It is important to keep in mind that states remain ultimately responsible for the protection of persons within the territory of their jurisdiction. Even so, the international community has taken on a collective and complementary protection responsibility in situations where states are unable or unwilling to safeguard the rights of their citizens. Situations of internal displacement almost always demands a delicate balancing act, encouraging and assisting states to assume responsibility for the protection of their citizens while at the same time holding them to account and substituting for them when they fail to fulfil their fundamental obligation to protect their citizens. To respect the principle of state sovereignty and to avoid state concerns about perceived interference with national sovereignty and unwarranted interventions, DRC engagement with internal displacement situations is therefore undertaken with the consent of the state.

The involvement of DRC in situations of internal displacement should not lead to a delegation from the state to DRC of the state’s primary responsibility to protect IDPs. On the contrary, DRC’s presence should aim at strengthening and supporting national efforts for protecting and assisting the internally displaced through activities (e.g. service delivery, capacity building and advocacy) aimed at making states and individuals take up their responsibilities to protect people in war, conflict or displacement, however filling in for them as much as possible when they do not.

DRC also finds itself in conflict and displacement situations where the state is either absent or very weak and so-called non-state actors (e.g. organised armed groups, groups that occupy a territory etc.) are de facto ruling the country. In such situations, International Humanitarian Law (IHL) is likely to apply and will be an important tool to be used to hold these actors to account for the protection of civilians, including IDPs. DRC should make use IHL as an authoritative instrument to hold non-state actors to account and facilitate that these actors do fulfil their obligations to protect IDPs.

Next Steps

In light of the increasing number of IDPs and the continued inadequate response to their problems, DRC is very much aware of the need to further develop appropriate responses to the plight of IDPs.

DRC is well positioned to do this. DRC has operations in 27 countries, the majority of which are humanitarian programmes targeting IDPs, and has many years of experience working with legal aspects and protection of the rights of refugees and IDPs. Moreover, DRC applies a long-term, regional and rights-based approach to protection and assistance in order to facilitate a coherent and effective response to the challenges faced by IDPs in present day conflicts. It is on this basis that DRC will continue to prioritise the following:

- To enter into constructive dialogue with states concerned in order to gain access to IDP populations, keeping in mind that this must always be in respect of the state,
- In provision of protection and assistance to IDPs, DRC will continue to build upon our legal and operational comparative advantages, and specifically focus on further development of our key competencies in IDP protection, including
 - IDP profiling and registration
 - Capacity building and training of authorities facilitating their ability to uphold their responsibilities to protect IDPs,
- To continue using our strong voice in Denmark and in countries of operation as well as our active membership in central international fora to advocate for the protection of IDPs.