

Who is an Internally Displaced Person?

The definition of an internally displaced person

Internally displaced persons are "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border." (Guiding Principles, Introduction, para. 2)

Components of the IDP definition

The definition proposed by the SG Representative highlights two elements:

- 1) The coercive or otherwise involuntary character of movement
- 2) The fact that such movement takes place within national borders.

Persons or groups of persons: Internal displacement can affect persons in particular or an entire group.

Forced or obliged: Covers a range of possibilities of being expelled by force, or intimidated to leave by threat or necessity. The most important fact is that displacement is coerced or involuntary.

To flee or to leave: Displacement does not only include movements of people running away from an immediate danger but can also take the form of more prepared and organised departures in anticipation of dangers, evictions, etc.

As a result of or in order to avoid the effects: The definition is flexible in terms of proximity to the causes of displacement (conflicts, disasters) or whether they have taken place or not. The phrase "as a result of" implies effects that have already taken place while "in order to avoid" implies fear that these effects are expected to take place.

Their homes or places of habitual residence: Habitual residence is not necessarily a house or a building, but can be land on which groups traditionally live, as in the case of pastoralists (see Guiding Principle 9 on pastoralists and other groups with a special dependency on their land).

Causes of displacement mentioned in the definition:

Armed conflicts: International armed conflicts (fighting between the armed forces of at least two states) – it should be noted that wars of national liberation have been classified as international armed conflicts – ; non-international conflicts (fighting on the territory of a state between the regular armed forces and identifiable armed groups, or between armed groups fighting one another).

Situations of violence, falling short of armed conflicts: Many IDPs live in situations of internal tensions or disturbances. The terms "internal tensions and disturbances" refer to situations which fall short of armed conflict, but involve the use of force and other repressive measures by

government agents to maintain or restore public order. Examples of tensions and disturbances include riots, such as demonstrations without a concerted plan from the outset, isolated sporadic acts of violence, as opposed to military operations carried out by armed forces or armed groups, and violent ethnic conflicts not amounting to full armed conflict. A situation of serious internal tension characteristically involves specific types of human rights violations such as large-scale arrests, and other large-scale measures restricting personal freedom, administrative detention and assigned residence, a large number of political prisoners, and the probable existence of ill-treatment or inhuman conditions of detention.

Violations of human rights: They include government transgressions of the rights guaranteed by national, regional and international human rights law, and acts and omissions directly attributable to the state involving the failure to implement legal obligations from human rights standards. One could argue that the concept of “persecution”, usually used in the context of refugee movements, coincides at least partly with situations of human rights violations: threat to life or freedom on account of race, religion, nationality, political opinion or membership of a particular social group. Other serious human rights violations, for the same reasons, would also constitute persecution (discrimination with consequences of a substantially prejudicial nature).

Disasters: These have natural or human-made origins. Examples include droughts, floods, earthquakes or typhoons, nuclear disasters or famine. Victims of disasters are covered by the definition, as they too might become victims of discrimination and other human rights violations as a consequence of their displacement (because they have to move to an area where they constitute an ethnic minority). Natural or man-made disasters are also included because in some disasters governments respond by discriminating against or neglecting certain groups of victims on political or ethnic grounds or by violating their rights in other ways.

“In particular”: Indicates that the list is not exhaustive. Other possible causes of internal displacement can for instance include large-scale development projects such as dams built without any government attempt to resettle or compensate those displaced. Large-scale development projects are mentioned in Guiding Principle 6 (cases of arbitrary displacement).

The definition does not encompass persons who migrate for economic reasons. However, persons forced to flee from their homes because of economic injustice and marginalisation tantamount to systematic violations of economic rights would come under the definition. Behind economic measures affecting a person’s livelihood there may be racial, religious or political aims or intentions directed against a particular group.

The status of the IDP "definition"

"It is important to stress that paragraph 2 is not a legal definition of internally displaced persons. Becoming displaced within one’s own country of origin or country of habitual residence does not confer special legal status in the same sense as, say, becoming a refugee does.

This is because the rights and guarantees to which internally displaced persons are entitled stem from the fact that they are human beings and citizens or habitual residents of a particular state. Those rights and guarantees emanate from the peculiar vulnerability and special needs that flow from the fact of being displaced.

By locating the description of “internally displaced persons” in their introductory section rather than in their main body, the Guiding Principles seek to highlight the descriptive and non-legal nature of the term “internally displaced persons.” Internally displaced persons need not and cannot be granted a special legal status comparable to refugee status. Rather, as human beings who are in a situation of vulnerability they are entitled to the enjoyment of all relevant guarantees

of human rights and humanitarian law, including those that are of special importance to them. This does not rule out the possibility of administrative measures such as registration on the domestic level to identify those who are displaced and need special assistance. However, lack of such registration would not deprive internally displaced persons of their entitlements under human rights and humanitarian law."

(Guiding Principles on Internal Displacement, Annotations, Walter Kälin, http://www.asil.org/pdfs/study_32.pdf)

Why are IDPs particularly vulnerable?

Although all persons affected by conflict and/or human rights violations suffer, displacement from one's place of residence may make the internally displaced particularly vulnerable. Following are some of the factors that are likely to increase the need for protection:

- Internally displaced persons may be in transit from one place to another, may be in hiding, may be forced toward unhealthy or inhospitable environments, or face other circumstances that make them especially vulnerable.
- The social organisation of displaced communities may have been destroyed or damaged by the act of physical displacement; family groups may be separated or disrupted; women may be forced to assume non-traditional roles or face particular vulnerabilities.
- Internally displaced populations, and especially groups like children, the elderly, or pregnant women, may experience profound psychosocial distress related to displacement.
- Removal from sources of income and livelihood may add to physical and psychosocial vulnerability for displaced people.
- Schooling for children and adolescents may be disrupted.
- Internal displacement to areas where local inhabitants are of different groups or inhospitable may increase risk to internally displaced communities; internally displaced persons may face language barriers during displacement.
- The condition of internal displacement may raise the suspicions of or lead to abuse by armed combatants, or other parties to conflict.
- Internally displaced persons may lack identity documents essential to receiving benefits or legal recognition; in some cases, fearing persecution, displaced persons have sometimes got rid of such documents.

A comparison of the IDP and refugee definitions

A refugee is a person who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country". (1951 Convention, art. 1A(2), 1967 Protocol)

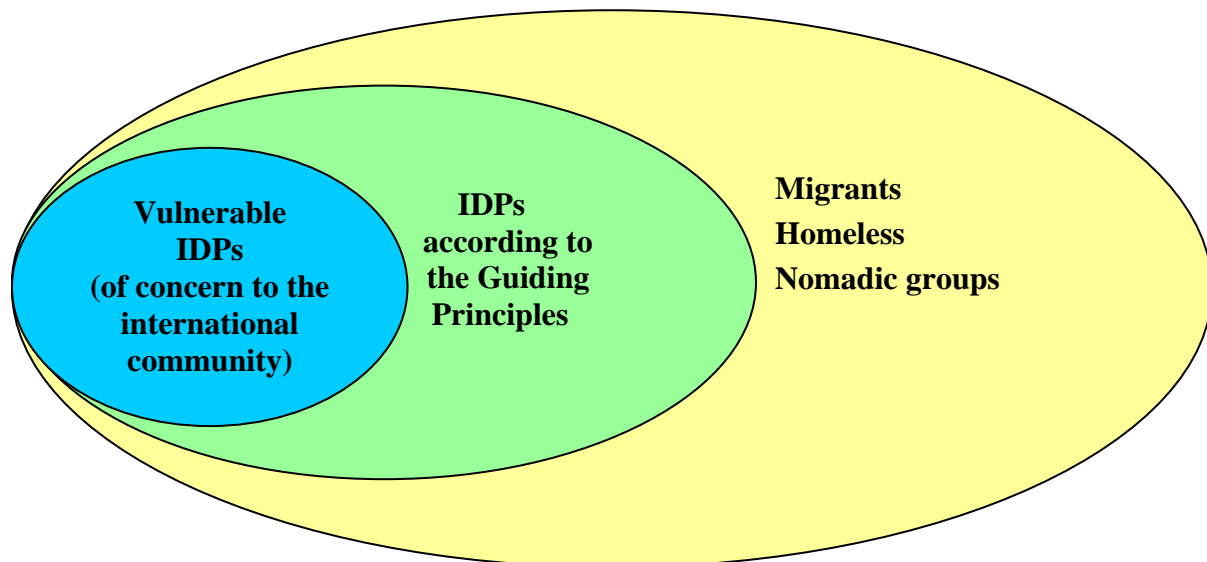
- The requirements to become a refugee according to the 1951 convention are precise and limited – there has to be a “well-founded fear of persecution” and this fear must be linked to one of the enumerated grounds. The IDP definition is much broader, and includes natural and human-made disasters.
- A person becomes a refugee only when he or she crosses an international border, whereas an internally displaced person remains within his or her country.

- The legal status of refugee is set by an international legal document. No similar binding document defines internally displaced persons.
- The status of refugee entitles the individual to certain rights. Being internally displaced does not entitle one to any additional rights – internally displaced persons have the same rights as other citizens of the country.

Categories of persons who have left their homes

As highlighted above, displacement exposes its victims to serious risks of discrimination, abuse and neglect. Displacement should therefore be used as an indicator of potential vulnerability of civilian population. IDPs are often a neglected group, and their needs should be assessed on a regular basis, at all phases of displacement (emergency, post-emergency, return or resettlement).

However, the IDP definition should not be used as a means to define target groups for assistance or protection programmes, as IDPs are not a homogenous group. Based on assessments, it is recommended to target those IDPs who have a special vulnerability, because of their ethnic origin, their access to assistance and services, their social-economic status, etc (see graph below). Also, the needs of host populations in areas of displacement, return or resettlement should be given attention, as the resources of these communities are often shared with IDPs, or can also be affected by the conflict or the disaster.



Other types of internal population movements

Migrants:

The term migrant is usually understood to cover all cases where the decision to migrate is taken freely by the individual concerned for reasons of “personal convenience” and without intervention of an external compelling factor. This term therefore applies to persons, and family members, moving to another area, country or region to better their material or social conditions and improve

the prospect for themselves or their family. (Adapted from International Organisation for Migration, Glossary on Migration, 2004)

Nomadic groups:

Indigenous and traditional peoples whose livelihoods depend on extensive common property use of natural resources over an area, who use mobility as a management strategy for dealing with sustainable use and conservation, and who possess a distinctive cultural identity and natural resource management system. (Definition for mobile people, Dana Declaration on mobile people and conservation, June 2002)

Homeless:

A person lacking permanent housing. (Centre on Housing Rights and Evictions)

National IDP status

Several countries have adopted legislation providing for the creation of a national status for IDPs or selected groups of IDPs (those displaced by a particular conflict, for instance). Such statuses have, for example, been created by law in Azerbaijan, Bosnia and Herzegovina, Colombia, Croatia, Georgia and the Russian Federation. Though not required under international law, such a status usually provides for the registration of those entitled to the status and provides beneficiaries with social, economic and legal assistance to safeguard rights endangered by displacement and support the implementation of durable solutions. These statuses do not deprive IDPs of their rights under human rights and humanitarian law.

How to use the IDP definition in the Guiding Principles

- Assess the scope of internal displacement in your country, based on the IDP definition, to ensure that no IDP group is overlooked, ignored or marginalised, whatever the patterns, causes and background of their displacement are.
- Ensure that humanitarian assessments include displacement as a potential factor of vulnerability.
- Check whether criteria and definitions used in legislation, policies and programmes benefiting IDPs exclude certain groups of IDPs arbitrarily.

Resources

E. Mooney, "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern", in: Refugee Survey Quarterly, Volume 24, Issue 3, 2005.