EXAMINING THE INNOVATIVE FRAMEWORK OF THE UNITED NATIONS PROVISION ON PROTECTION AND ASSISTANCE TO INTERNALLY DISPLACED PERSONS (IDPS).

BY

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This Thesis is submitted to the School of Humanities and Social Sciences at the United States International University-Africa in Partial Fulfillment of the Requirement for the Award of Degree of Masters of Arts in International Relations

UNITED STATES INTERNATIONAL UNIVERSITY- AFRICA (USIU-AFRICA)

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DECLARATION

I, undersigned, declare that this is my original work and has not been submitted to any other college, or university other than the United States International University- Africa for academic credit. No part of this research may be reproduced without the prior permission of the author and/or USIU.

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Signed: _________________________________ Date: ____________________

Ambassador Prof. Ruthie C. Rono
Deputy Vice Chancellor, Academic and Student Affairs.
DEDICATION

I dedicate this work to MR. Maurice Wilson. Muganda. He is the perfect definition of trust and love. I owe him every stride in my life.
ACKNOWLEDGEMENTS

First and foremost, I would like to commence by thanking God for his grace that is sufficient and for giving me knowledge and strength to undertake this research and complete it satisfactorily.

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Ultimately, I am indebted to my loving parents and son Benjamin for their unflinching support and understanding. To my colleagues, I convey sincere thanks for your support and solidarity.
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<tr>
<td>AU</td>
<td>African Union</td>
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<tr>
<td>ASEAN</td>
<td>Association of South East Asian Nations</td>
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<td>CAR</td>
<td>Central African Republic</td>
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<tr>
<td>CCCM</td>
<td>Camp Coordination Camp Management Cluster</td>
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<td>DRC</td>
<td>Democratic Republic of Congo</td>
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<td>EU</td>
<td>European Union</td>
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<td>GPC</td>
<td>Global Protection Cluster</td>
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<td>IASC</td>
<td>Inter-Agency Standing Committee</td>
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<td>ICISS</td>
<td>International Commission on Intervention and State Sovereignty</td>
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<td>ICRC</td>
<td>International Committee of the Red Cross</td>
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<td>IDMC</td>
<td>Internal Displacement Monitoring Center</td>
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<td>IDPS</td>
<td>Internally Displaced Persons</td>
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<td>IDRC</td>
<td>International Development Research Centre</td>
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<td>IHL</td>
<td>International Humanitarian Law</td>
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<td>IOs</td>
<td>International Organizations</td>
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<td>IOM</td>
<td>International Organization of Migration</td>
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<td>MONUC</td>
<td>United Nations Mission in the Democratic Republic of Congo</td>
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<td>NATO</td>
<td>North Atlantic Treaty Organization</td>
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<td>NGO</td>
<td>Non-Governmental Organization</td>
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<td>Acronym</td>
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<tr>
<td>OCHA</td>
<td>Office of Co-ordination and Humanitarian Affairs</td>
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<td>OHCHR</td>
<td>Office of the High Commissioner for Human Rights</td>
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<td>R2P</td>
<td>Responsibility to Protect</td>
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<td>UN</td>
<td>United Nations</td>
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<td>UDHR</td>
<td>Universal Declaration of Human Rights</td>
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<td>UK</td>
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<td>USA</td>
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<td>UNSC</td>
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<td>UNSG</td>
<td>United Nations Secretary General</td>
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<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>UNICEF</td>
<td>United Nations International Children’s Emergency Fund</td>
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<td>UNITA</td>
<td>National Union for the Independence of Angola</td>
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<td>UNAIDS</td>
<td>United Nations Programme on HIV/AIDS</td>
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<td>UNRRA</td>
<td>United Nations Relief and Reconstruction Agency</td>
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<td>UNOCHA</td>
<td>United Nations Office of Co-ordination and Humanitarian Affairs</td>
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<td>USAID</td>
<td>United States Agency for International Development</td>
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<td>USD</td>
<td>United States Dollar</td>
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<td>USSR</td>
<td>Union of Soviet Socialist Republics</td>
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<td>Abbreviation</td>
<td>Full Form</td>
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<tr>
<td>RSG</td>
<td>Representative of Secretary General</td>
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<td>SGBV</td>
<td>Sexual Gender Based Violence</td>
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<td>SDGS</td>
<td>Sustainable Development Goals</td>
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<td>WB</td>
<td>World Bank</td>
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<td>WHO</td>
<td>World Health Organization</td>
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ABSTRACT

One of the most distressing phenomena in the Post-Cold War era is the substantial growth of people displaced within their homelands, otherwise known as Internally Displaced Persons / People (IDPs). The increase in the number of IDPs shows that many conflicts occurred even after the two greatest rivals, the United States of America (USA) and the Union of Soviet Socialist Republics (USSR) stopped their confrontation in the end of the 1990’s. While the landscape presents both challenges to and opportunities for addressing internal displacement, the persistence of the phenomenon points to the limitations of current approaches. More importantly, the need to design a more predictable and effective international system for Internally Displaced Persons is critical because the overall international humanitarian response system is a thoroughly inequitable one. Albeit, the fastest growing category of war victims has no institutional sponsor or agreed international legal framework. Even more, the absence of United Nations agency that can be counted upon to respond automatically when there is a crisis involving internal displacement. Be as it may, specifically, this study was anchored on the regime theory. Acknowledging that, the main actors in the regime are states, who are the key players in the international system, and largely responsible for implementing its rules and procedures. Granted, in accordance with established principles of International laws, it’s first and foremost the responsibility of the governments concerned to meet the assistance and protection needs of their displaced population. In like manner, the Guiding Principles as well underscores that national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction. Thus, this research solely embraced qualitative research approach and desktop method which is descriptive in nature. In essence, the study recommends that internal displacement must be integrated into existing development mechanisms, particularly national development plans and poverty reduction strategies. Reason being, failure to address long-term displacement has the potential to undermine the 2030 Agenda for Sustainable Development Goals (SDGS).
CHAPTER 1: GENERAL INTRODUCTION

1.0 INTRODUCTION

Internal Displacement remains one of the most significant challenges facing the humanitarian community. For instance, Kofi Annan notes that, “Internal displacement has emerged as one of the great human tragedies of our time. It has also created an unprecedented challenge for the international community: to find ways to respond to what is essentially an internal crisis…protection should be central to the international response and [with] assistance should be provided in a comprehensive way that brings together the humanitarian, human rights, and development components of the United Nations” (Annan, 1998:3).

Protection is defined as all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law, namely Human Rights Law, International Humanitarian Law and Refugee Law. Hence, protection can also be perceived as, an objective, a legal responsibility and an activity (ICRC, 2001).

Therefore this research concentrates on the concept of protection as a legal responsibility, principally of the State and its agents. In situations of armed conflict, that responsibility extends to all parties to the conflict under International Humanitarian Law, including armed opposition groups. Humanitarian and Human Rights actors play an important role as well, in particular when States and other authorities are unable or unwilling to fulfill their protection obligations to all persons, including those who are internally displaced, are equally entitled to protection (IASC, 2000).

Furthermore, there is no legal definition of who constitutes an “internally displaced person” in International Law. However, the notion of IDPs set out in the introduction to the Guiding Principles is meant to be descriptive rather than normative, drawing attention to the characteristics of IDPs that make them inherently vulnerable. This notion has gained authority and is commonly used at the international level (ICRC, 2001).

For the purposes of these Principles, Internally Displaced Persons (IDPS) 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 generalized violence, violations of human rights, or natural or human-made disasters and who have not crossed an internationally recognized State border (UNOCHA, 2008). Note that two elements are decisive in identifying who is an IDP: firstly, the coercive or otherwise involuntary character of movement that is, movement caused by
armed conflict, violence, disasters, and the like; and secondly, the fact that such movement takes place within national borders (Mooney, 2003b).

The first element distinguishes IDPs from individuals who left their homes out of choice and could have otherwise safely remained where they lived. The second element explains why IDPs are not refugees. Refugees, by definition, are outside their country of nationality or habitual residence. In other respects, however, both categories of displaced persons often face similar risks and deprivations (UNHCR, 2006). Unlike refugees, IDPs remain citizens or habitual residents of their country and are entitled to protection and assistance on that basis alone (UNHCR, 2006).

Uniquely, a fundamental requirement for a more predictable, consistent and systematic approach to the protection of internally displaced persons is the commitment of the UN’s leadership and member states to the principles on which the UN is founded and which have been elaborated in the Universal Declaration of Human Rights and other international human rights and humanitarian law instruments (UNOCHA, 2004). Just as the International Committee of the Red Cross (ICRC) is viewed as the “guardian of International Humanitarian Law”, so should the United Nations see itself as the “guardian of the Universal Declaration of Human Rights” Thus, there is a need for the UN to adopt a more principled approach to protection, characterized by a more consistent, assertive, sustained and vocal approach to advocacy (Bagshaw and Paul, 2004:5).

Likewise, the former UN Secretary- General Kofi Annan drew attention to "the growing problem of internally displaced persons" (IDPs) in his 2005 report on UN reform, In Larger Freedom. Unlike refugees, IDPs do not cross international borders and thus have no well-established system of international assistance or protection. IDP’s, Annan argued, "often fall into the cracks between different humanitarian bodies. Hence, UN reform must encourage greater national and international involvement with IDPs by promoting the Guiding Principles on Internal Displacement, giving the UN High Commissioner for Refugees (UNHCR) a broader role with IDPs, and strengthening institutional and military arrangements to defend their physical safety (Cohen, 2006).

Comparatively, in accordance with established principles of International Law, it is first and foremost the responsibility of the governments concerned to meet the assistance and protection needs of their displaced populations. The Guiding Principles underscore this “national authorities that have the primary duty and responsibility to provide protection and
humanitarian assistance to internally displaced persons within their jurisdiction. “The UN Inter-Agency Standing Committee (IASC) policy paper also affirms that the protection role of international agencies and NGOs should involve “reinforcing national responsibility and supporting, not substituting for, the protection responsibilities of competent authorities (Bagshaw and Paul, 2004:29).

Moreover, this policy paper continues that all agencies providing humanitarian assistance to internally displaced persons have a responsibility to consider how the design and implementation of their assistance activities might best contribute to promoting protection of the internally displaced”. This responsibility was endorsed by the former UN Secretary-General Kofi Annan in his 1997 Program for Reform, which recognized that human rights protection is a concern that cuts across the entire UN system, entailing responsibilities for its various organs and agencies. Thus, although some UN agencies and offices, such as UNHCR, UNICEF and OHCHR have specific mandates and expertise in human rights protection, “it remains incumbent upon all agencies to incorporate human rights concerns into their work (Bagshaw and Paul, 2004:30).

Over the past years, providing protection and assistance to internally displaced persons (IDPs) has become a major concern for states, international organizations, and non-governmental organizations. Refugees, outside of their own state and unable to count on its protection, are provided protection through an international refugee regime based in law particularly the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol and organizations particularly the UN High Commissioner for Refugees (UNHCR) (UNHCR, 1951). By contrast, IDPs, though displaced for similar reasons, do not have the same protections since they remain within their own state. Primary responsibility for their protection continues to rest with the territorial state (Cohen and Deng, 1998).

Barutski (1998) reinforces this idea within a legal perspective. He suggests that refugee protection involves issues that are quite distinct from those of IDPs. According to Barutski (1998), the notion that IDPs should be incorporated into the 1951 Geneva Convention for refugees misunderstands its purpose. Those who have fled one’s own country are in a different situation under the international legal order and need specific rights to enable them to survive and receive protection in countries where they do not have citizenship rights (Barutski,1998). The 1951 Refugee Convention does not protect against the human rights abuses which initially led to displacement (UNHCR, 2005c:156)
Equally important, the need to design a more predictable and effective international system for “Internal refugees” IDPs is critical because the overall international humanitarian response system is a thoroughly inequitable one. UN High Commissioner for Refugees (UNHCR) attends to the needs of the world's 22.5 million refugees, and a dedicated international treaty, the 1951 Convention Relating to the Status of Refugees, sets forth their rights. In contrast, no organization has a global mandate to protect and assist the much larger number of IDPs of 65.6 million, who are in far more desperate straits, when their own governments fail to do so (UNHCR, 2017). IDPs may be uprooted for the same reasons as refugees, but they receive markedly less international protection or assistance in most emergencies and, in some cases, they receive no help at all. The UN Refugee Agency noted that, the pace at which people are becoming displaced remains very high, on an average, approximately 20 people were driven from their homes every minute (Grandi, 2016).

Correspondingly, in his report on UN reform, Annan (2005) aptly affirmed that the responsibility to protect must shift to the international community when national authorities fail to provide for the welfare and security of their citizens. Sovereignty, he argued, cannot be allowed to serve as a barrier when the lives of millions of men, women, and children are at risk (Annan, 2005).

Currently, there is no UN agency which has the sole mandate for the protection and assistance to IDPs despite the existence of the Guiding Principles (Cohen et al, 1998a). Nor is there any international accountability when an agency denies such coverage. Nevertheless, there has been significant institutional movement on the issue: the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) has been now mandated to coordinate humanitarian and protection efforts on behalf of internally displaced persons and in 1992 it established a separate Internal Displacement Unit (Newland et al, 2003).

Moreover whilst the mandate of the UNHCR has been primarily for refugees, they are increasingly taking a lead agency role for IDPs. Whether the Guiding Principles improve the actual realities of the IDPs is questionable. UNHCR (2005c) acknowledges that no comprehensive study to date has evaluated their effectiveness. Consequently, this could render principles purely rhetorical, with implementation being rudimentary if not non-existent. The Guiding Principles are a form of soft law, a non-binding normative framework and so its adoption by states is voluntary (UNHCR, 2005c).
Nonetheless, their legal significance must not be underestimated as they represent a measuring standard by which to measure the actions of certain actors’ vis-à-vis IDPs groups in relation to human rights (UNHCR, 2005c). However, the Guiding Principles do not fill any legal gap for IDPs but simply reiterate existing international humanitarian norms (Barutski, 1998). Nevertheless, they provide a consolidated legal framework and a set of authoritative international standards for IDPs (and also raise awareness regarding their plight). Barutski (1998) suggests that if action does not follow through on these norms, this reinforces external asylum as a better option for those who are displaced. Thus, perhaps it is in states’ interest to push for a formalized normative structure to protect and assist IDPs. Towards a Positive Interpretation of State Sovereignty since IDPs reside within the borders of their own countries, the responsibility for protection and assistance rests under the jurisdiction of the government (Hickel, 2001).

Therefore, this study illuminates on how the UN has been innovative in dealing with IDP’s protection and assistance. It explicitly describe the growing and massive number of IDPs along with the changing nature of warfare suggesting that what formerly had been a blemish on the international humanitarian system is now a major structural flaw. Ironically, the fastest growing category of war victims has no institutional sponsor or agreed international legal framework. The glaring lacuna in the international response system for IDP’s is lack of predictable response. As mentioned above, there is no UN agency that can be counted upon to respond automatically when there is a crisis involving internal displacement. With this in mind, the study examines the innovative framework of the UN intervention in dealing with IDP’s. It further examines how states sovereignty is a barrier as well as a responsibility on matters of humanitarian intervention, and further analyzes how the UN guiding principles connection with R2P contribute, conceptually and concretely, to the protection of IDPs.

1.1 Statement of the research problem

Though displacement has many causes, it is those uprooted by conflict and human rights violations that generally arouse the most concern. The overwhelming need of these people for protection from their own governments draws international attention to their plight. Like refugees, they cannot obtain the security and well-being they need in their own countries, and therefore turn to the international community. However, there is no institutional sponsor or agreed international legal framework, whereas refugees whose
numbers are diminishing, benefit from well-developed institutional and legal efforts through the United Nations High Commissioner for Refugees.

Essentially, the Post-Cold War situation of IDPs has been internationalized as part of a broader shift in how states understand sovereignty and the state's relationship with its own citizens. The clearest marker of this change has been the creation of a legally non-binding set of guiding principles on internal displacement to provide a degree of international protection to IDPs by restating their rights which are embodied in existing international humanitarian, human rights and analogous refugee law. In fact, this year, 2018 marks the 20th anniversary of the ‘Guiding Principles on Internal Displacement’. A set of standards that outline the rights and guarantees relevant to the protection of IDPs from forced displacement to their protection and assistance during displacement, and up to the achievement of durable solutions. The principles have gained considerable authority since their adoption by the United Nations (UN) in 1998. The European Union (EU) and African Union (AU) strongly support the Guiding Principles on Internal Displacement, and systematically promote their inclusion into international and national law.

Furthermore, hostility to refugees and asylum seekers has grown, with many countries seeing it as too costly or destabilizing to admit them. In several recent emergencies, especially the case of Syria, refugees can only move so far. The country’s international borders were effectively closed in 2015-2016, leaving hundreds of thousands internally displaced near crossing points into neighboring countries. States have closed their borders to refugees or adopted restrictive admission policies. As a result, there is an inverse relationship between the rising number of internally displaced persons and the declining figure for refugees. The plight of refugees returning elsewhere, as in Afghanistan and Somalia, is also a cause for concern. The risk that unprepared, involuntary or premature returnees will cause more internal displacement in the future cannot be underestimated.

Hence, this research focuses on the gap created by the absence of the United Nations Agency mandated to respond to internally displaced persons. Equally important, the research is a clear shift from the normal assistance of IDPs. It is in pursuit of a paradigm shift of perceiving displacement as a development concern by recognizing that displacement is not only a humanitarian concern, but is also a political matter, a security challenge, and a development issue. While there is a growing recognition among humanitarian and development agencies of their responsibilities in the area of protection, including that of
internally displaced persons, however, there remains a need to give practical meaning to such commitment.

1.2 Objectives of the study

The main objective of this study is to examine how the United Nations has been innovative in strengthening the protection of internally displaced persons. The following are the specific objectives of this research.

i. To contextualize internally Displaced Persons (IDPs) and establish how state sovereignty is a barrier as well as responsibility to protection and assistance.

ii. To identify the United Nations guiding principles connection with the Responsibility to Protect (R2P), conceptually and concretely to the protection of Internally Displaced Persons.

iii. To examine the United Nation’s guiding principles and UNHCR’s innovative framework on internally displaced persons.

1.3 Research Questions

The research will be guided by the following questions:

i. How is state sovereignty perceived as a barrier as well as a responsibility when dealing with the Internally Displaced Persons?

ii. What has the UN guiding principles in connection with Responsibility to Protect (R2P) contributed, conceptually and concretely to the protection of Internally Displaced Persons?

iii. How has the UN guiding principles and UNHCR innovated its framework to deal with internally displaced persons?

1.4 Significance of the study

The importance of this study is to situate the Guiding principles within the broader legal framework in order for them to be fully understood. The Principles have proven to be an effective means for aiding IDPs. Over the past years, they have gained substantial standing and authority. Resolutions of both the Commission on Human Rights and the General Assembly refer to them as "an important tool" and a "standard" for dealing with situations of internal displacement.

In the same vein, the findings of this research shall enable all international organizations in the future to step up and be able to maintain a core mission and identity in
the face of rapid changes in International Relations. UNHCR shall continue to be faced with increasing opportunities and pressures to become engaged with in-country protection and assistance programs involving developmental and peace-building objectives that could risk compromising the office’s core refugee protection mandate. While the UNHCR must uphold core principles and instruments, the office must, at the same time, be innovative and imaginative in order to be effective in responding to a rapidly changing international environment. Therefore, this study shall be an asset to UNHCR by contributing to the organization’s policy making strategies.

Equally important, in relation to states sovereignty, the research shall contribute to the academic and policy debates on sovereignty and therefore, states shall no longer expect to hide behind sovereignty when dealing with the internally displaced. Rather, international recognition of the rights of the internally displaced has and shall continue to alter state behavior. Sovereignty shall no longer be a cloak for a state's unwillingness or inability to protect its own population.

1.5 Theoretical Framework

The theoretical framework is the structure that can hold or support a theory of a research study. Essentially, it introduces and describes the theory that explains why the research problem under study exists. This study therefore, adopts two theories which are the Regime theory and the theory of Forced Migration.

1.5.1 Regime Theory

The concept of regime was first applied to International Relations in the 1970s by its key proponents, Ernst Haas and Stephen Krasner. Generally speaking, it refers to the principles for organizing institutions or to the laws that govern their activities. Krasner’s (1983) definition remains the most commonly accepted, he defines a regime as 'a set of implicit and explicit principles, norms, rules and decision-making processes that meet the expectations of the actors in a given area of International Relations. However, Stein (1995) further suggests that three features are essential to create a regime: 'convergent expectations among its members, interdependence among participants and across policy issues, and procedures for multilateral decision-making to effect collective choice.

Equally, regime theory makes it possible to explain the dynamics of internal displacement because it assumes that states behave rationally and have mutual interests which induce them to co-ordinate their policies. To some extent, the theory of regimes subsumes
individual paradigms, particularly political realism and the sociological paradigm, by including elements of both approaches. However, the heuristic promise of regime theory lies in its ability to shed light on the evolution of the system, to reveal, in a dynamic way, the properties that give structure to an organization on the level of variables and interdependent elements in particular areas. Furthermore, Stein has found regime theory particularly useful for analyzing international dispute management because it includes the informal mechanisms that help to determine the actors' behavior (Fortmman, 1992).

As a matter of fact, the evolution of the United Nations tends to confirm this thesis. In the history of the United Nations, as Adam Roberts has noted, much more has been achieved by changes in practice, rather than Charter revision (Roberts, 1995). According to Krasner (1983) the main actors in the regime are states, the key players in the international system because of the joint desire of the key players that it should do so, and they are largely responsible for implementing its rules and procedures. It is still true that the effectiveness of the international organizations depends on the goodwill of individual member countries (Legault, 1995).

In view of that, in January 2000, the UN Security Council expressed grave concern that alarmingly high numbers of internally displaced persons do not receive sufficient protection and assistance and gave particular emphasis to the fact that there is no comprehensive protection regime for the internally displaced (UNSC, 2000). An international regime for protecting internally displaced persons worldwide is urgently required. Concretely, this would need to consist of international standards, institutional apparatus, and operational strategies integrated into a coherent and cohesive system of response.

With this in mind, protection is fundamentally a legal concept, defined by the rights and entitlements of individuals as provided for by law. For internally displaced persons, unlike for refugees, there does not exist an international convention specific to their plight. However, this is not to say, as sometimes is suggested, that internally displaced persons are not the concern of international law (Economist, 2001).

To begin with, as human beings, internally displaced persons are automatically entitled to the protection provided for under human rights law, which recognizes and protects the attributes of human dignity inherent to all individuals. States, in turn, are obliged to ensure respect for those universally recognized human rights essential to ensure the survival, wellbeing, and dignity of all persons subject to their territorial jurisdiction.
In addition, the Universal Declaration of Human Rights (1948) provides an authoritative statement of the basic tenets of human rights, most of which subsequently have been elaborated and the obligations they entail spelled out in a panoply of international and regional human rights instruments. With human rights concerns cutting across all phases of internal displacement from its cause, to the conditions of displacement, to the search for solutions, the comprehensive coverage of human rights law is of tremendous importance to the internally displaced (UNCHR, 1996).

Furthermore, the Guiding Principles (1998) bring together in one concise document the many norms of special importance to the internally displaced that previously were diffused in an array of different instruments and, consequently, were not easily accessible or sufficiently understood. The 30 principles spell out what protection should mean for internally displaced persons in all phases of internal displacement: providing protection from arbitrary displacement and protection and assistance during displacement and during return or resettlement and reintegration. Although not a binding document like a treaty, the Guiding Principles reflect and are consistent with international human rights law and international humanitarian law, which is binding. In many instances, the Principles cite verbatim the text of the provisions of human rights and humanitarian law on which they are based (Kaalin, 2000).

This is especially clear in the cases where the Principles restate a general norm before elaborating what it means to give effect to this right for internally displaced persons. For example, Principle 14 reaffirms the right of every human being to liberty of movement and freedom to choose his or her residence and then specifies that for internally displaced persons this includes a right to move freely in and out of camps and settlements (UNOCHA, 1998). Similarly, Principle 20 begins by stating the right of every human being to recognition before the law and then proceeds to specify that for internally displaced persons this requires that the authorities facilitate the replacement of documents lost in the course of displacement, without imposing unreasonable conditions such as requiring return to one’s area of habitual residence (UNOCHA, 2004).

While reinforcing existing human rights and humanitarian law, the Principles are intended to provide an authoritative statement of how the law should be applied to address the particular needs of internally displaced persons. The Principles underscore that responsibility for ensuring protection and assistance for the internally displaced rests first and foremost with the national authorities. As a general principle, Principle 3 states that national
authorities have the primary duty and responsibility to provide Protection and assistance to internally displaced persons within their jurisdiction. The use of the term “competent authorities” reflects the broad coverage of the Principles, which intend to provide guidance not only to states but also to insurgent forces, along with “all other authorities, groups and persons in their relations with internally displaced persons” (UNOCHA, 2004).

However, in recognition of the reality that states may lack the ability or even willingness to fulfill their responsibilities towards internally displaced populations, the Principles also are intended to assist international agencies and NGOs working with the internally displaced. Principles 24 to 26 reinforce the right of international organizations to provide humanitarian assistance and to have safe access to populations in need (UNOCHA, 2004). At the same time, mindful of the problem of inadequate attention paid to protection needs, Principle 27 points out that international humanitarian organizations and other actors providing assistance should give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard (UNOCHA, 2004). The Principles thus seek to address not only gaps in the law but also serious shortcomings in programmatic approaches and actual responses on the ground.

Although protection is based in law, it also requires institutional mechanisms and actors to give it practical effect. For internally displaced persons, unlike refugees, there is no single international organization with a specific mandate and responsibility for ensuring their protection and assistance worldwide. An array of UN humanitarian, human rights, and development agencies and international NGOs are certainly involved in providing assistance, protection, and development aid in situations of internal displacement. None of these organizations, however, has a global mandate to protect and assist internally displaced persons. Moreover, their involvement with the internally displaced occurs on a case-by-case basis, determined by issues of mandate, access, and the availability of resources. Even when these criteria are met, the decision to become involved is discretionary. As a result, international action on behalf of the displaced is highly unpredictable, in terms of not only whether it occurs but also what international actors are involved and what specific role they play.

Institutional arrangements for responding to the global crisis of internal displacement need to be comprehensive in another sense. More specifically, efforts to improve institutional arrangements should not be limited to the humanitarian, human rights, and development communities alone. The conflict situations to which peace-keeping and peace enforcement
operations are deployed invariably involve situations of actual or potential internal displacement; their personnel should, as a matter of fact, be assigned protection responsibilities for the internally displaced and receive training on the Guiding Principles. The role of international financial institutions also must be taken into account.

Moreover, collaborative relationships regarding internal displacement need to be fostered with regional and sub-regional organizations, which are becoming increasingly engaged in the issue and have a valuable role to play. Civil society, which is at the forefront of efforts to protect and assist internally displaced persons, must be more actively engaged, especially at the local level.

Furthermore, as the Network’s missions and many other analyses of situations of internal displacement worldwide have found, addressing the protection needs of internally displaced persons traditionally has not been a priority of the international response. Relief and development agencies have not considered the protection of human rights to be among their responsibilities. Moreover, they have been reluctant to take up protection issues, out of concern that doing so risks jeopardizing their relationship with the authorities and, as a consequence, perhaps also their safe access to populations in need. And yet, as an official of the International Committee of the Red Cross (ICRC) once asserted, and as has repeatedly been found, protection is a prerequisite for the efficacy of assistance (Blondel, 1987).

Simply providing aid to persons whose physical security is under threat not only neglects their protection needs but can actually exacerbate and perpetuate their plight, for instance by providing a false sense of security, shoring up repressive regimes, fostering long-term dependency, and even resulting in so-called “well-fed dead” (UNHCR, 1994). Persons at risk of internal displacement and worse have argued this point powerfully.

An individual under threat of “ethnic cleansing” in Bosnia once urged that:

“We do not need food; we are not starving to death. We are being persecuted and we prefer to be hungry for a week than not to sleep every night, in fear of being beaten, raped, or killed” (UNHCR, 1994:11).

Not to mention, one analyst has likened the required response to internal displacement to a tripod, with relief, development, and protection each forming a leg; whereas the relief and development legs are more less at full length, the protection leg is severely stunted and as a result the whole apparatus is unstable (Cuenod, 1996). The global crisis of internal displacement means that efforts to address it effectively will depend on the collective efforts
of the various relevant actors within and across the international, regional, national, and local institutional frameworks for response.

Similarly, a normative framework has been developed with the formulation of the Guiding Principles on Internal Displacement, which spell out the rights of the internally displaced and the obligations of states, insurgent forces, and international actors towards them. Institutional arrangements, though by no means fully defined or dependable in ensuring international protection and assistance for internally displaced persons worldwide, nonetheless are being strengthened. Therefore, an international protection regime for internally displaced persons has begun to take shape.

Even so, to constitute a comprehensive regime, the three separate components of standards, institutional mechanisms, and strategies of protection, once firmly in place, must collectively amount to a cohesive and consistent system of effective response. The Guiding Principles on Internal Displacement, which not only are the culmination of efforts to develop a normative framework but also have acted as a catalyst in the development of more effective institutional arrangements and the design of protection strategies, are already proving to be an important unifying thread. Beyond simply consolidating and clarifying the norms of special importance to internally displaced persons and thereby laying down the legal foundation of protection, the Principles are serving as a tool for building an entire protection regime for internally displaced persons.

1.6 The Delimitation of the Study

The study has confined itself to specific boundaries according to the variables. It has mainly focused on the United Nations innovative mechanisms in protecting and assisting internally displaced persons as result of armed conflict. Hence, concentrating on reinforcement of international institutional legal protection framework unlike on the humanitarian assistance and prevention measures. Reason being, that International Committee of Red Cross (ICRC) is mandated in dealing with humanitarian assistance of all people including the displaced.

1.7 Literature Review

The forced internal displacement of people has been described as one of the most pressing global crises of the twenty-first century. Throughout the Cold War, internally displaced persons were effectively ignored. Governments were expected to care for their own populations. When they failed to do so or deliberately subject their population to abuses,
governments avoided condemnation by invoking their sovereign rights and arguing for non-interference.

After the end of the Cold War, a drastic increase in ethnic conflict and intra-state wars has led to the massive displacement of people within their countries. Almost all continents are affected: the largest numbers of IDPs are found in Africa, with over 13 million (UNHCR, 2017). This is followed by 3-4 million in Asia, 3-4 million in South America, 3 million in Europe and over 2 million in the Middle East (UNHCR, 2017). Because IDPs flee within their country and do not cross a state border, they are not considered refugees from a legal perspective and hence remain outside of the protection system of the international refugee regime (Orchards, 2010).

While the problem of internal displacement was recognized, the focus was on assistance rather than protection. As early as 1949, the Greek government approached the United Nations General Assembly for assistance to help its own population recovering from civil war. The government argued that people displaced internally by war should, like refugees, have access to international aid even if they did not need or receive international protection. At the same time, India and Pakistan made similar arguments in favor of international assistance for those displaced by the 1947 partition of India. Both governments argued that 'lack of legal protection was less of a problem for their internally displaced people than survival’ (Orchards, 2010).

There is no binding law dedicated to IDPs’ plight since the international state system regards internal displacement as an internal problem of the respective states. The conventional principle of sovereignty assigns responsibility for the protection of IDPs to nation-states, and only with the states’ consent can international organizations intervene with relief efforts (Cohen et al, 1998a). This is highly paradoxical, since it is often the very states themselves which have deliberately caused IDPs to leave their homes. The expectation that states would protect their IDPs and/or effectively cooperate with international organizations to improve the situation of IDPs has so far not been fulfilled (Cohen et al, 1998a).

Rather, the fact that most cases of internal displacement prove to be protracted over many years shows that governments rarely do take up their responsibility towards IDPs. Since many of the post-Cold War internal wars were caused by national identity crises or ethnic conflicts, IDPs are often not seen as victims by the government but as partisans of the conflict (Cohen, 2006). Especially when IDPs belong to a national minority or a marginalized
group peripheral to the dominant identity group, IDPs are often seen as enemies rather than as citizens to be protected (Cohen, 2006).

Trapped in the paradox of sovereignty, IDPs thus become one of the most vulnerable groups in the international state system lacking effective domestic and international protection. The conventional notion of sovereignty has been challenged in academic and policy circles in the aftermath of the end of the Cold War and the subsequent increase in intra-state wars (Deng, 2003).

The harsh reality of today is that despite well-developed frameworks of human rights and humanitarian law, arbitrary displacement continues to occur, bringing immense human suffering in its wake. This is the reality which has prompted the search for new approaches. My views are that there is no reason why the cumulative experience of refugee protection cannot be seen as a valuable resource of principles, concepts and strategies which may, with appropriate adaptation, be applied to shore up the protection of IDPs. The absolute precondition for such borrowing is that the unique character and sanctity of refugee protection should be respected and safeguarded, and that the asylum institution should not be distorted or compromised in the name of protection for those internally displaced. In summary, it can be acknowledged that our fine points of scholarly polemics should not be ends in themselves. The most urgent need is to concentrate on the translation of protection standards into protection for IDPs. This will remain the real challenge for many years to come.

1.7.1 State Sovereignty: Barrier or Responsibility

Primary responsibility for protecting IDPs and all persons within their own country rests with the national authorities of the country. Because internally displaced persons reside within the borders of their own countries and in most cases under the jurisdiction of their own governments. National responsibility is a core concept of any response to internal displacement. It is a fundamental operating principle of the international community and is routinely emphasized by governments themselves, as a function of their sovereignty (Cohen and Deng, 2003).

As Cohen and Deng (2003) point out in their study, Masses in Flight that is ‘Since there is no adequate replacement in sight for the system of state sovereignty, primary responsibility for promoting the security, welfare, and liberty of populations must remain with the state. When asked why the United Nations had not been able to do more for
internally displaced persons, former High Commissioner for Refugees Sadako Ogata replied: ‘The problem is sovereignty’ (Korn, 1999).

The challenge that the normative principle of sovereignty as responsibility poses for the international community is that it implies accountability. Obviously, the internally displaced themselves marginalized, excluded, and often persecuted have limited or no capacity to hold their national authorities accountable. Only the international community has the leverage and clout to persuade governments and other concerned actors to discharge their responsibility or otherwise fill the vacuum of irresponsible sovereignty (Cohen and Deng, 2003).

Sometimes governments categorize internally displaced persons as ‘migrants’ or ‘terrorists’ to avoid responsibility for them, or they fail to develop policies and laws to help the displaced (Cohen, 2003). Getting states to assume their responsibilities can be a challenge for the international community. This is particularly so in civil wars, where governments fear that aid to the displaced could strengthen insurgent groups. International efforts to negotiate with insurgents are often obstructed by national governments fearful that such engagement could legitimize the rebels. During the Angolan civil war, the government objected to UN agencies negotiating with the rebel The National Union for Total Independence of Angola (UNITA) group. As a result the United Nations had no access to large numbers of displaced persons in insurgent areas. Only in 2002, with a ceasefire, did the widespread starvation and disease plaguing these people come to light (Brookings–Bern, 2005).

 Nonetheless, over the past two decades a perceptible shift has occurred in international thinking about the internally displaced. It is now widely recognized that people in need of aid and protection in their own countries have claims on the international community when their governments do not fulfill their responsibilities, or where there is a disintegration of the nation-state. While reaffirming respect for sovereignty, United Nations resolutions have authorized the establishment of relief corridors and cross-border operations to reach people in need (Brookings–Bern, 2005). UN Security Council resolutions have demanded access for the delivery of relief in Bosnia and Herzegovina, Darfur (Sudan), northern Iraq, Mozambique and Somalia among other places. In exceptional cases the United Nations has authorized the use of force to ensure the delivery of relief and to provide protection (UNSC, 2005).
Today, many governments allow some form of access to their displaced populations. The Government of Sri Lanka has set up welfare centers to provide material assistance to displaced populations in both government and rebel held areas. It has also accepted UNHCR’s establishment of relief centers on government territory that are open to all groups. Many other governments have also welcomed international aid for the internally displaced, among them Colombia, Democratic Republic of Congo (DRC) and Uganda. In response to international pressure, the Khartoum government agreed to Operation Lifeline Sudan to allow international aid to reach displaced people under insurgent control in the south (UNGS, 2005).

The former Representative of the Secretary-General on Internally Displaced Persons, Francis Deng, believes that while governments have the primary responsibility to care for their displaced populations, when they are unable to do so they must request and accept outside help. If they refuse, or deliberately obstruct access to the displaced, the international community has a right, even a responsibility, to become involved. International engagement could range from diplomatic dialogue and negotiation of access for relief supplies to political pressure. In exceptional cases, it could lead to sanctions or military action (Deng, 1999).

While no government has explicitly challenged this concept, states such as China, Egypt, India and Sudan have expressed fears that international humanitarian action could be a pretext for interference by powerful states in the affairs of weaker ones. Nonetheless, the concept of ‘a collective responsibility to protect’ the displaced when their national authorities are unable or unwilling to do so has gained ground (Brookings–Bern, 2005).

1.7.2 The Case Study of Darfur, Sudan

The Darfur emergency has been called the world’s ‘worst humanitarian disaster’ by UN Under-Secretary-General for Humanitarian Affairs, Jan Egeland. It is a case study of how difficult it is to protect internally displaced persons when their own government has caused the displacement and fails to comply with UN resolutions to provide security (Brookings–Bern, 2005).

As in Bosnia and Herzegovina a decade earlier the international response in Darfur largely focused on providing emergency relief. There are more than 11,000 humanitarian workers on the ground in Darfur, but fewer than 100 staff with protection responsibilities, and only a few thousand lightly armed African Union troops with a weak mandate for protection (Brookings–Bern, 2005). Recalling how in Bosnia and Herzegovina civilians watched the aid
trucks roll in while their neighbors were gunned down, Secretary-General Annan in April 2005 asked: ‘Are we now going to stand by and watch a replay in Darfur?’ (Annan, 2005).

The main international achievement to date has been to assure the delivery of humanitarian relief. In July 2004, the UN Security Council demanded an end to the government’s obstruction of humanitarian organizations (Brookings–Bern, 2005). In an unprecedented move, the UN Secretary-General and other international leaders travelled to the area to reinforce the point (UNSC, 2004). As a result the government lifted most of its restrictions on humanitarian organizations and signed an agreement with the United Nations (UNSC, 2004).

Far less progress has been made in the area of protection. When the government refused to comply with Security Council requests to stop attacks on the civilian population, little or no effort was made to enforce the resolutions (UNHCR, 2005). The government failed to disarm the Janja weed, cease helicopter assaults on villages or end the forcible returns of internally displaced persons to their home areas. In addition, some armed groups have been actively seeking to hinder relief and monitoring activities (UNHCR, 2005).

Yet, the Security Council failed to agree on sanctions other than symbolic ones such as travel bans and asset freezes (UNSC, 2004). A no-fly zone was not introduced, nor was a UN protection force created. Arab and Islamic governments opposed pressure on the Sudanese government, while China, the main foreign investor in Sudan’s oil industry, threatened to use its veto. Russia, a key supplier of arms, also opposed strong action. Even the United States and European Union did not wish to press the Sudanese government too far, fearing that doing so could jeopardize the signing and implementation of the peace agreement between north and south ending two decades of civil war (Brookings–Bern, 2005).

Since no UN agency had a protection responsibility for internally displaced persons, none came forward to take the overall lead in the area of protection in all three provinces in Darfur (UNSC, 2004). When the United Kingdom’s Secretary of State for International Development, Hilary Benn, visited the area in June 2004, he found ‘confusion and poor delivery’ and observed that, internally displaced persons are not being protected adequately. Similarly, UN evaluations acknowledged the failure of the collaborative approach to bring protection to internally displaced persons in Darfur. One notorious example was the management of the camps of displaced persons (UNSC, 2004). The Office for the Coordination for Humanitarian Affairs (OCHA) was unable to find any agency ready to
manage the camps in Darfur. OCHA therefore had to turn the responsibility over to NGOs with little prior experience in camp management or protection and insufficient staff (UNOCHA, 2005).

The Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin, wrote in the Forced Migration Review of May 2005 that ‘it is obvious that UNHCR is the organization with the most experience and capacity to protect and assist persons displaced by armed conflict who are in camps or to organize IDP returns (UNHCR, 2005). Indeed, it is difficult to understand why there should not be at least a presumption that the High Commissioner for Refugees should assume responsibility in such situations (IOM, 2005). Today, UNHCR is the lead agency for the protection and return of some 700,000 internally displaced persons in West Darfur, while IOM was given responsibility for North and South Darfur. But IOM’s lack of a protection mandate and experience has led some to suggest that UNHCR should assume the entire responsibility (Kälin, 2005).

1.7.3 The United Nations Innovative Framework for Collaborative Approach on Protection and Assistance of Internally Displaced Persons

The “scale and the multi-faceted nature” of displacement crises have led the Inter-Agency Standing Committee (IASC) to recognize that an effective and comprehensive response to the protection and assistance needs of displaced persons necessitates “a collaborative approach”(UNHCR, 2007). Providing assistance and protection in situations of internal displacement will not therefore involve one agency, but a range of actors for example, government officials, UN agencies, international organizations, and international and local NGOs (Bagshaw and Paul, 2004).

This approach implies a significant coordination role for the Emergency Relief Coordinator, the UN system’s focal point for ensuring that the protection and assistance needs of the displaced are met. Under the current system, many different UN agencies on the ground are supposed to share the responsibility for protecting IDPs. UNHCR, the UN Children's Fund (UNICEF), the World Food Program (WFP) the World Health Organization (WHO), the UN Development Programme (UNDP), the Office of the High Commissioner for Human Rights (OHCHR), the International Organization for Migration (IOM) and a myriad of NGOs are expected to work together to meet the assistance, protection, reintegration, and
development needs of the internally displaced. Nearly every UN and independent evaluation has found the collaborative approach deficient when it comes to IDPs (Deng, 2004).

To begin with, there is no real locus of responsibility in the field for assisting and protecting IDPs. As former U.S. Ambassador to the UN Richard Holbrooke aptly quipped, "Co-heads are no heads" (Holbrooke, 2000). There is also no predictability of action, as the different agencies are free to pick and choose the situations in which they wish to become involved on the basis of their respective mandates, resources, and interests. In every new emergency, no one knows for sure which agency or combination thereof will become involved. Nor does the Emergency Relief coordinator have the authority to tell the powerful, billion-dollar operational organizations what to do (UNHCR, 2005).

In Darfur, UNHCR declined to take on the management of IDPs camps, while in Uganda, despite the coordinator's pleas, UNICEF took until 2005 to deploy a mere three additional child protection officers (UNHCR, 2005). The agencies support coordination in theory, but no one likes to be "coordinated" in practice. In response to these widely publicized deficiencies, the Emergency Relief Coordinator's office in mid-2005 came up with a "sectorial" approach, under which the different agencies would be expected to carve out areas of responsibility based on their expertise and carry them out on a regular basis in emergencies (UNHCR, 2005).

In the same vein, under IASC approach, the UNHCR agreed to assume the lead role for the protection of IDPs, the management of IDP camps, and emergency shelter for IDPs, a substantial enlargement of its role and mandate, and more encompassing than that of other agencies assigned to water and sanitation, nutrition, and early recovery (UNHCR, 2005). Unfortunately, it appears that UNHCR will have to assume its new role with clipped wings. Annan's reform report makes abundantly clear that the collaborative system will not be replaced; rather the onus of responsibility for IDPs will remain "under the global leadership of my Emergency Relief Coordinator (UN, 2005:88).

According to a UN Office for the Coordination of Humanitarian Affairs/Brookings study, the "majority" of coordinators in the field are reluctant to support protection activities or "to advocate for the rights of the displaced in an effective and assertive manner (Bagshaw and Paul, 2004a). Many of them view protection as "political" and likely to undermine the provision of humanitarian relief or even lead to their expulsion from the country.
However, it remains to be seen whether other agencies will actually cede to UNHCR leadership role that the IASC has given it. In the case of refugees, where UNHCR is the undisputed agency, the WFP, UNDP, and NGO "implementing partners" regularly assist it. But when it comes to IDPs, the collaborative approach is still the overarching framework, which means that other agencies will need to recognize UNHCR’s lead and reinforce it with their support (Cohen, 1996).

As Kälin (2005) has observed that, “close cooperation between the different agencies and actors will be necessary” to ensure full protection of IDPs. But UNHCR will also have to assert its leadership role with the other agencies; otherwise, overemphasis on collaboration will lead to delayed and weak decision making thus, undermining protection.

1.7.4 The United Nations High Commissioner for Refugees (UNHCR) Expansion of Mandate

The UNHCR was established in 1950 with a mandate to provide international Protection to refugees as defined in its Statute and to seek permanent solutions for them by providing assistance to governments. On its face, the statutory mandate is as limited as Article 1A.2 of the 1951 Convention. But almost from the outset, the High Commissioner has been asked to extend her or his good offices to persons of concern who do not necessarily fall within the definition of the Statute or Convention. In times of mass influx, it is often the UNHCR that provides direct assistance and protection to the displaced (UNHCR, 2000).

Therefore, the UNHCR has been responding to the needs of Internally Displaced Persons (IDPs) for many decades. In doing so and deriving from its mandate for refugees and stateless persons, it has drawn from an intimate knowledge of forced displacement, its root causes, the protection risks that arise from it and the requirements for sustainable solutions. Alongside other UN agencies and International organizations, UNHCR engagement with IDP situation has been more robust in recent years, in particular as a result of the United Nations Humanitarian reform (2005) and Inter–Agency Standing Committee (IASC) Transformative Agenda (2011). In 2007, UNHCR developed a comprehensive IDP policy, which was later strengthened in 2016 with the issuance of operational guidelines and an internal Note on Protection Leadership in Complex Emergencies.

Equally important, are UNHCR’s Strategic Directions for 2017-2021, which amplify the fundamental purpose of protection in the office’s pursuit and make IDPs an integral part of UNHCR’s overall response to forced displacement. UNHCR is also an active partner on
internal displacement in IASC, where it leads the Global Protection Cluster (GPC) and co-leads the Global Shelter Cluster and the Global Camp Coordination Management Cluster (GCCM).

Nevertheless, as conflict around the globe multiply, the magnitude of Internal displacement is such that UNHCR, like other agencies, must continually assess the impact and effectiveness of its work, as well as its institutional capacity and readiness to respond efficiently and appropriately to ongoing and new IDP situations. Despite the progress achieved since the Humanitarian Reform, concerns remain that IDPs still do not receive adequate attention from the international community. Yet, IDPs continue to face serious and persistent threats to their wellbeing and as the phenomenon of protracted displacement grows, have limited opportunities to find solutions (UNHCR, 2017).

The determination to reinforce protection by UNHCR is clearly affirmed in its 2017-2021 strategic plan which state that the UNHCR will “Strengthen protection across the whole spectrum of forced displacement, ensuring that a protection perspective is central in all aspects, from asylum seekers, refugees, internally displaced or stateless people. And guides broader humanitarian action and engagement with others” (UNHCR, 2017:8).

UNHCR has been committed to providing protection expertise and analysis of protection risks and needs affecting the entire crisis-affected population and the driving and supporting the development of related protection and solutions strategies.

1.7.5 The Link between the United Nations (UN) Guiding Principles with Responsibility to Protect (R2P)

The Responsibility to Protect (R2P) asserts that sovereign states have a responsibility to protect their populations from genocide and other mass atrocities but that when they are unable or unwilling to do so, a responsibility of the broader community of states also comes into play. Coined in 2001, the concept of R2P emerged from the International Commission on Intervention and State Sovereignty (ICISS) (ICISS, 2001). This was convened to forge international consensus on humanitarian intervention after the experience of the 1990s, when intervention had proven intensely controversial, both when it has happened as in Somalia, Bosnia and Kosovo and when it has failed to happen, as in Rwanda (IDRC, 2001).

The duty to prevent and respond to genocide, war crimes and crimes against humanity of course predates R2P by more than half a century. Even so, R2P represents a breakthrough in that it breathes new life into these long-standing commitments, in particular by buttressing
accountability among states and the international community to fulfill these protection obligations in practice (FRM, 2008). The link between R2P and IDPs, however, extends beyond causal factors. In fact, the intellectual roots of R2P run deep, extending to and very much inspired by international approaches to IDPs protection introduced a decade earlier. In particular, the concept of ‘sovereignty as responsibility’, which is at the core of R2P, has a pedigree traceable to the earliest days of IDPs protection advocacy (Gareth, 2008).

As a matter of fact, the UN Secretary-General on Internally Displaced Persons, Francis Deng continued in this vein, asserting in his first report: “No Government can legitimately invoke sovereignty for the deliberate purpose of starving its population to death or otherwise denying them access to protection and resources vital to their survival and well-being (UN, 1993). If a Government is incapable of providing protection and assistance then the international community should act, either on the invitation of the host country or with international consensus, to fill the vacuum. Coining the phrase ‘sovereignty as responsibility’, Deng (1996) then made this concept his signature calling card in carrying out all aspects of his mandate. He used it to particular advantage in opening channels for constructive dialogue with governments the world over on what fundamentally is an internal, and therefore politically highly sensitive, matter. Much more than a diplomatic nuance and tactic, sovereignty as responsibility also simply made sense. For IDPs and other people still within their own country, protection ultimately entails securing access to effective national protection (Deng et al, 1996).

The concept of sovereignty as responsibility at the core of R2P also informed and underpins the Principles. As a general principle, “national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction” (Principle 3) (OCHA, 2010). The Principles then proceed to spell out what this responsibility requires in all phases of displacement: from prevention to protecting populations against atrocities and abuse of rights, to ensuring durable solutions. A comprehensive approach which calls to mind and could help guide implementation of R2P’s three-fold responsibility to prevent, to react and to rebuild (OCHA, 2010).

At the same time the Principles make it clear that protecting IDPs is the responsibility not only of authorities’ in-country but also of the international community, especially when national authorities are unable or unwilling to fulfill their role (UNOCHA, 2010). The Principles reaffirm that “all authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian
law” (Principle 5) (UNOCHA, 2010). It is incumbent upon states to accept international assistance if they are unable or unwilling to provide the assistance that IDPs require (Principle 25) (UNOCHA, 2010).

Furthermore, international humanitarian organizations and other appropriate actors providing assistance are to “give due regard to the protection needs and human rights of IDPs and take appropriate measures in this regard” (Principle 27) (UNOCHA, 2010). Genocide, ethnic cleansing and acts constituting war crimes and crimes against humanity, the four trigger scenarios for R2P are all expressly prohibited in the Principles, based on obligations under international law.

However, unlike R2P as endorsed by the World Summit, the protection prescribed by the Principles is by no means limited to these same circumstances. The Principles unequivocally recognize that people become IDPs due to a range of causes including armed conflict, generalized violence, violations of human rights, natural or human-made disasters, and large-scale development projects. With R2P, as the experience in the aftermath of Burma’s Cyclone Nargis made evident, there is no consensus even among the chief architects of R2P as to whether it can be applied in the case of overwhelming natural or environmental catastrophes, where the state concerned is either unwilling or unable to cope, or call for assistance, and there is or might be significant loss of life (ICISS, 2008:33).

A further key difference lies in their fundamental purpose. The Principles were drafted in response to a request from states, voiced in resolutions adopted by the UN General Assembly and Commission on Human Rights, for a normative framework for the protection of IDPs. Their expressed purpose is to provide guidance on the rights of IDPs and the responsibilities of states and other authorities towards them (Luck, 2008). Recognized by the 2005 World Summit as the authoritative statement on the rights of IDPs, the Principles have been incorporated into national laws and policies in numerous countries (Mooney, 2006).

Uniquely, anchored in the same bodies of international humanitarian law as the Principles, R2P was developed for a different purpose: to break through a political impasse, specifically on the basic questions of principle and process as to when, how and under whose authority international intervention should occur (FMR, 2008:13). That R2P has gained international acceptance and traction is a testament to its contribution towards reopening dialogue and re-affirming commitments on this critical issue.
Even so, the practical implications of R2P have yet to be developed and remain controversial. The Secretary-General’s Special Adviser on R2P points out that UN member states are united in their support for the goals of R2P but less so on how to achieve them. The UN former Secretary-General Ban Ki-Moon, an active advocate of R2P, acknowledges that it is a concept, not yet a policy; an aspiration, not yet a reality. There is no blueprint for getting the job done (UN, 2008).

In the absence of such a blueprint, misconceptions abound; most significantly, the mistaken impression of R2P as nothing more than military intervention cloaked in political rhetoric remains a road block for many (Barbour and Gorlick, 2008). As a result, a number of governments, fearing international intrusion, remain prickly about the concept. Under these circumstances, explicitly linking R2P to internal displacement and the Principles could risk confounding the latter with intervention in internal affairs and undermine the wide acceptance of the Principles that has been so carefully cultivated over the past decade.

1.8 Research Methodology

The research uses solely qualitative research approach; comparatively, it is the most common research design and information gathering method used in Social Science. In any research process to be successful, there is need for an appropriate and credible methodology to be selected and critically analyzed and tools for data collection and analysis to be properly identified and applied. Qualitative research design is grounded in a philosophical position which is broadly ‘interpretivist’ in the sense that it is concerned with how the social world is interpreted, understood, experienced, produced or constituted (Mason, 2002).

Bearing in mind that the methods in qualitative research are generally open-ended, in-depth, and naturalistic, they are fundamental in elaborating the objectives of this study. Qualitative research aims to produce rounded and contextual understandings on the basis of rich, nuanced and detailed data.

By the same token, this study embraces a desktop research method and descriptive in nature. Thus, it principally utilizes secondary data collection methods, which is carefully sourced based on the objectives of the research. The data is acquired from the university library, and the United Nations library, e-journals, academic journals and other online sources, including published reports and published theses. Equally important, above sources have in-depth and broad examination of a specific topic. Furthermore, several reputable institutions have written widely on the IDPs for example, International Organization for
1.9 Structure of the Thesis

This study is structured into five chapters. Chapter I serves as the general introduction, it encompasses, statement problem, objectives, theoretical framework, delimitation of the study, literature review and methodology. Chapter II contextualizes IDPs and establishes how state sovereignty is a barrier as well responsibility to protection and assistance. Chapter III identifies the United Nations guiding principles connection with R2P, conceptually and concretely to the protection of IDPs. The fundamental reason of this chapter apart from establishing the link, it delves further to reconcile the state sovereignty and United Nations guiding principles in relation to IDPs protection. Chapter IV provides a thorough account by examining the United Nations guiding Principles and UNHCR innovative framework on protection and assistance to internally displaced persons (IDPs). Chapter V gives the general conclusion and identifies the future research areas.
CHAPTER II: CONTEXTUALIZING INTERNALLY DISPLACED PERSONS (IDPs) AND ESTABLISHING HOW STATE SOVEREIGNITY IS A BARRIER AS WELL AS RESPONSIBILITY TO PROTECTION AND ASSISTANCE

2.0 INTRODUCTION

Internally displaced persons are the victims of armed conflict, discrimination or persecution. There are many who opine that they are refugees in all but name. From a legal point of view, however, the fact that these victims have not crossed an international border is extremely significant. In fact, they do not enjoy the same rights as refugees, since the 1951 Convention on the status of refugees specifically defines refugees as “being outside their country of nationality (...) or of habitual residence.” crossing an international border (UNOCHA, 1998).

For instance, Andrew Shacknove argues that:

“... Alienage is an unnecessary condition for establishing refugee status. It... is a sub-set of a broader category: the physical access of the international community to the unprotected person. The refugees need not necessarily to cross an international frontier to gain such access. Thus, I shall argue that refugees are, in essence, persons whose basic needs are unprotected by their country of origin, who have no remaining recourse than to seek international restitution of their needs, and who are so situated that their international assistance is possible”(Shacknove, 1985:5).

It is often impossible and nearly always counter-productive and nearsighted to care only for the refugees, while ignoring their nearby compatriots who were internally displaced for many of the same reasons. A comprehensive approach to the global refugee problem must, for both pragmatic and ethical reasons, also address the situation of internally displaced people.

As a matter of fact, many of the worlds internally displaced have been forced to abandon their homes for precisely the same reasons as refugees. External and internal population displacements often take place within and from the same country at the same time. And in some situations, they involve the same people. While remarkably little is known about the dynamics of forced migration, it is clear that many people whose lives and liberty are at risk initially seek sanctuary within their own country, and only go into exile as a last resort. In other situations, moreover, internally displaced populations include sizeable numbers of former refugees who have been uprooted for a second time after returning to their homeland.
2.1 Internally Displaced Persons (IDPS): A Global Perspective

On 1 January 2017, more than 1,000 people trying to enter Europe from northern Africa made headline news (Dearden, 2017). They tried to avoid the increasingly dangerous route across the Mediterranean by scaling a barbed wire border fence in the Spanish enclave of Ceuta in Morocco. They followed hundreds of others who had successfully stormed the same border the previous month. The reasons behind their desperate and ultimately unsuccessful attempt were as diverse as their countries of origin, but they had at least one thing in common. Coming from as far as Afghanistan, Nigeria, Senegal and Syria, they had undertaken long and arduous journeys to reach the border fence (IDMC, 2018).

In the same fashion, those who do so, however, are just a fraction of the people who flee instability, violence and poverty worldwide. The overwhelming majority remain within the borders of their own countries. That same New Year’s Day, fighting broke out in Wadi Barada on the outskirts of Damascus, displacing more than 1,000 people in the course of a day. They were the first of 2.9 million new displacements in Syria in 2017 (ECHO, 2017).

Moreover, severe flooding on the east coast of Malaysia displaced 15,000 people in the first three days of the New Year (ECHO, 2017). Floods and mudslides would trigger more than 80,000 new displacements in the country, but these represented less than one per cent of the 8.6 million people displaced by sudden-onset disasters in the East Asia and Pacific region during the year (ECHO, 2017).

Comparatively, more than 13,000 people fled fighting in the Iraqi city of Mosul in the first week of 2017, with around 4,000 people displaced on 2 January alone (GRID, 2018). These were just a precursor to 1.3 million new displacements associated with conflict in Iraq during the year. By the end of 2017, 30.6 million people had been displaced in conflict and disasters worldwide, and at least 40 million people were living in displacement as of the end of the year (UN, 2017).

Internal displacement is a global phenomenon and a political, economic, humanitarian and development challenge. First and foremost, however, it is a personal experience, shaped by the conditions in which displacement takes place: whether it is driven by a disaster, war or other form of violent disruption; how long it lasts; and whether governments and host communities are willing or able to support those displaced (GRID, 2018).

Alternatively, 2018 is an important year for displaced people worldwide. UN member states seeks to finalize global compacts on refugees and migration, and the international
community also marks the 20th Anniversary of the Guiding Principles on Internal Displacement, a set of global principles that serve as customary or soft law for the protection of internally displaced people (IDPs). There is, however, little to celebrate. More than 30.6 million new displacements associated with conflict and disasters in a single year is not a sign of success by any measure; nor is the persistence of new displacements in the last decade (GRID, 2018). Progress in the development of normative frameworks and policies has not been matched by implementation and adequate investment in preventing and ending displacement (GRID, 2018).

The international humanitarian system has evolved its capacity to support people in need considerably over the last 20 years. Since the publication of the Guiding Principles in 1998, a range of UN agencies have developed programmes to protect and assist IDPs, and there have been repeated efforts to improve coordination within the UN system. Particularly since the introduction of the cluster system in 2004 and its subsequent revisions, humanitarian responses to internal displacement have been more structured and strategic, and better coordinated, targeted and funded (Ferris, 2014).

At the national level, countries have worked to improve their response capacities and their collaboration with international organizations and agencies to facilitate the delivery of humanitarian assistance. Plenty of obstacles and lessons to be learned remain, but the growing importance that internal displacement has assumed within the international humanitarian community should be recognized.

However, progress has not been sufficient to cope with, and much less reduce the growing number of new displacements or the cumulative number of IDPs over time. The figures illustrate a failure to achieve durable solutions for those already displaced and to reduce the risk of future displacement. The implication is that beyond the ongoing efforts to improve humanitarian responses, more needs to be done to tackle the drivers of risk that lead ever increasing numbers of people to flee their homes (IDMC, 2018).
2.1.1 New Displacement by Conflict and Disasters

Thirty-nine per cent of all new displacement in 2017 was triggered by conflict and violence, and sixty-one per cent by disasters (GRID, 2018). The number associated with conflict almost doubled, from 6.9 million in 2016 to 11.8 million. Syria, DRC and Iraq accounted for more than half of the figure (GRID, 2018). All three countries are experiencing major humanitarian crises, and at the end of the year they were categorized as level three emergencies, the highest alert status within the UN system. While new waves of violence brought the Central African Republic (CAR), El Salvador and Somalia among the ten worst-affected countries, Yemen dropped off this list because of insufficient data, despite remaining one of the world’s largest and most severe humanitarian crises (GRID, 2018).
2.1.2 Displacements in Complex Emergencies

Complex emergencies are crises caused by extensive internal or external conflict and are often characterized by a complete or partial breakdown of authority, displacement of
populations and widespread damage to societies and economies which necessitate large-scale, multi-faceted humanitarian assistance (IFRR, 2018). Moreover, these contexts often pose significant security threats to relief workers, further amplifying the already high needs. In 2017, the situation in some countries plumbed new depths, especially in DRC, Yemen, Somalia and South Sudan.

As a matter of fact on 20 October, 2017 the UN declared the crisis in DRC a level-three emergency (L3), the highest alert level in the international humanitarian system, and called on the humanitarian community to scale up its response (NRC, 2017). The number of new displacements recorded for DRC in 2017 reached an all-time high for the country and represents more than twice that reported for 2016. The increase was driven by the outbreak of fighting in the Kasai region and Tanganyika province in addition to protracted conflict in North and South Kivu provinces (ICRC, 2017).

Notably, DRC’s crisis involves political gridlock, violence between militias and government forces, inter-communal clashes, cholera outbreaks, chronic food insecurity, low levels of school enrolment and severely restricted humanitarian access (GRID, 2018). Despite the UN’s level-three declaration and the fact that the country had the second-highest number of new displacements worldwide in 2017, the crisis was one of the world’s most underfunded (NRC, 2017).

Alternatively, a level-three emergency was also declared in Yemen as far back as 2015, and the situation has deteriorated significantly since (OCHA, 2018). UNHCR described the situation in 2017 as the world’s largest humanitarian crisis, with 21 million people affected, about 76 per cent of the total population (UNHCR, 2017). The number of new displacements recorded in Yemen in 2017 is not as high as that recorded in other countries suffering from conflict and violence. However, lack of access, the invisibility of IDPs moving to urban areas, the no-camp policy and prevalent dynamics of families fleeing and returning once violence subsides means this number does not paint the full picture (UNHCR, 2017).

What is more, Saudi-led blockades on air and sea ports deprived the population of much needed medical supplies, food, fuel and aid throughout the year, leaving two-thirds of Yemenis, about 17 million people, severely food insecure and 8.4 million of these on the verge of famine (FAO, 2017). The shortage of medicines and widespread lack of access to safe water has also been blamed for the rapid spread of cholera, an otherwise preventable disease (ReliefWeb, 2016).
Not to mention, there was also a sharp increase in the number of IDPs in Somalia, more than three times the figure for 2016 (ReliefWeb, 2016). This has put additional strain on camp infrastructure, and restricted humanitarian access in the southern and central parts of the country led to a further deterioration of conditions for vulnerable populations (OCHA, 2018). Drought and consequent loss of livelihoods was a major driver of displacement and exacerbated ongoing conflict in the country. Levels of acute malnutrition have spiked across the country and the threat of famine is expected to increase.

Indeed, conflict also continued to drive extreme food insecurity throughout South Sudan, causing significant new displacements in 2017. It also prevented people from pursuing their agricultural livelihoods (FEWSN, 2018). Famine conditions in the first half of the year and the dire food security situation more broadly have also been blamed for the high prevalence of gender-based violence (PCSS, 2017).

Besides, the country also experienced its most protracted and widespread cholera outbreak in recent history, a cause for particular concern in densely populated areas such as displacement camps, where the transmission rate was high (UNCEF, 2017). Humanitarians providing life-saving aid to IDPs and host communities were attacked, their convoys looted and their access denied by both authorities and non-state groups (USAID, 2017).

At the moment, displacement in Sub-Saharan Africa is not only a growing humanitarian crisis, but also an obstacle to the region’s development. The continent as a whole is in a unique position, however, because in 2009 it adopted a legally binding regional instrument, the Kampala Convention, which aims to reduce the number of people displaced by conflict and disasters and guarantees their protection Article 10 also highlights the need to address displacement associated with development projects (AU, 2009).

Thereupon, states have taken a range of measures to implement the convention and its provisions, which entered into force in 2012, including the development of national laws and policies on internal displacement and the establishment of structures for the coordination and monitoring of responses. Forty countries have signed the convention, and 27 have ratified it (AU, 2009). Some, such as Sudan and Kenya, have not signed, but have developed their own national laws and policies independently. This reveals a widespread recognition of internal displacement as a problem, and the need to address it and reduce future risk.

Progress in domesticating and implementing the convention’s provisions, however, has been modest. The reasons vary from country to country, but can be summarized as lack of
capacity, failure to make the issue a political and economic priority, and unclear budget allocations at the national level. Additionally, domestic courts have not made specific provisions to prosecute state or non-state perpetrators of crimes under the convention (OCHA, 2018). This major gap raises the issue of accountability and responsibility for the protection of people displaced by conflict. The situation in terms of displacement associated with disasters and development projects is even more complex, given the role of the private sector and multinational investors, and the fact that measures to mitigate growing risk have not been laid out in clear legal frameworks.

As with the Kampala Convention, however, the growing gap between words and action is concerning, and the displacement figures presented in this study show that the adoption of policies does not necessarily translate into change on the ground. The region should do more to implement existing laws and policies, and in doing so, realize its potential as a leader in addressing the impacts of internal displacement (IDMC, 2018).

2.1.3 No Solution in Sight

Tackling protracted displacement should be a core priority if countries are to achieve sustainable socioeconomic growth, and, for those emerging from conflict, sustained peace. The phenomenon, however, is becoming the norm (Zetter, 2016). Furthermore, a number of factors feed such chronic situations, including governments’ inability or unwillingness to address underlying fragility, cycles of violence in the absence of lasting political solutions, poverty and the disruption of livelihoods caused by sudden-onset disasters and slow-onset phenomena such as drought, land degradation, desertification and coastal erosion (IDMC, 2018).

In theory IDPs should be able to achieve durable solutions via return, local integration or resettlement elsewhere, but in reality, the first option is often impossible and third only available in relatively few cases. Part of the problem lies with the international community’s limited engagement beyond providing humanitarian assistance and governments’ failure to undertake structured development planning that helps IDPs bring their displacement to a sustainable end (Kälin and Chapuisat, 2017).

Indeed, Haiti provides a clear example of how the unaddressed consequences of a disaster such as the 2010 earthquake have fuelled subsequent displacement associated with natural hazards. The phenomenon was highlighted in 2012, showing how its cumulative impacts increase the vulnerability of IDPs and host communities alike and fuel further cycles.
of displacement (IDMC, 2012). Since the 2010 earthquake, Haiti has been hit by at least nine significant floods and eight storms, the most intense being hurricane Sandy in 2012, hurricane Matthew in 2016 and hurricanes Maria and Irma in 2017 (GRID, 2018).

More importantly, limited information about people who remain displaced long after initial humanitarian responses have ended makes it difficult to paint a comprehensive picture of protracted displacement in Haiti, but according to the UN around 2.2 million vulnerable people, or about 20 per cent of the country’s population, are still in need of humanitarian assistance (OCHA, 2018). Help is needed to reduce food insecurity, rein in a cholera epidemic that has claimed more than 9,700 lives, support IDPs still living in camps and people affected by recent disasters in urban areas, and improve disaster preparedness (OCHA, 2017).

Besides, the situation in Palestine highlights how the failure of the parties to a conflict and the international community to resolve an entrenched political problem can drive protracted displacement. This has the world’s oldest caseload of IDPs, dating back to the 1967 war (IDMC, 2018). The conflict has also produced the world’s oldest stock of refugees, dating back to 1948, some of whom still live in camps inside the occupied territories (IDMC, 2018).

Despite the signing of a peace deal for Darfur in July 2011, millions of IDPs are still living in camps in Sudan (GRID, 2018). The government has tried to close displacement camps over the years, claiming they are breeding grounds for further rebellions and asking IDPs to choose between returning to their homes or resettling in urban areas (GRID, 2018). The drivers of insecurity and conflict have not, however been addressed, making sustainable returns impossible and leading to protracted displacement.

Be that as it may, the government announced in February 2018 that it plans to turn some displacement camps in Darfur into permanent settlements, giving IDPs the option of a residential plot or returning to their homes. It remains to be seen whether the new plans are implemented, and if so whether they help Darfur’s IDPs achieve durable solutions (GRID, 2018).

These are but a few examples of long-running and unresolved internal displacement crises, which in turn have created extremely vulnerable populations. Ignoring them poses a real risk to long-term stability and development in the countries concerned.
2.2 Sovereignty as Constraint in Protecting Internally Displaced Persons

In the light of the U.N. Charter Art. 1, Para. 3, one of the fundamental purposes of the United Nations is to promote and encourage "respect for human rights and fundamental freedoms," yet at the same time, its Charter prohibits it from "intervening in matters which are essentially within the domestic jurisdiction of any State" (UN, 2000). International human rights law exists in tension between the opposing tendencies of "State-centered" guarantees of sovereign equality and non-intervention, and the "individual-centered" commitment to human rights. By their own acceptance of international conventions guaranteeing human rights, many States have consented to international scrutiny of some aspects of their treatment of their own citizens within their own borders. A more difficult theoretical and practical problem arises, however, when States violate these binding norms. How then can the U.N. reconcile its mission of promoting human rights with its commitment to state sovereignty? (Brown, 1992).

Likewise, in 1991, former Secretary-General Perez de Cuellar warned against any explicit efforts to resolve this tension arguing that, "We need not impale ourselves on the horns of a dilemma between respect for sovereignty and the protection of human rights. The last thing the United Nations needs is a new ideological controversy" (UNHCR, 1991).

The United Nations High Commissioner for Refugees (UNHCR) has been at the forefront of U.N. efforts on behalf of IDPs (Cuellar, 1991). Although the UNHCR’s mandate expressly furnishes it with authority to provide international assistance to refugees outside their home countries, the UNHCR has acted pursuant to its flexible, extra-statutory “good offices” powers to bring IDPs within its area of concern (UNHCR, 1991). On a more normative and theoretical level, to protect the human rights of refugees because they have crossed an international border, while ignoring the plight of IDPs violates the fundamental principle that human rights are inherent in the individual and should not depend on the accident of location (Lee, 1992).

Thus, the international community’s failure to honor its commitment to share the burdens of caring for refugees has only exacerbated the problem (UNGA, 1992). Refugee-receiving States have therefore greeted the humanitarian concern for IDP protection with enthusiasm. Protecting potential refugees while still within their country of origin is far less permanent and costly than granting them asylum abroad (Fitzpatrick, 1994).
Moreover, provided that the displaced do not cross into any one State, their protection can arguably be described as purely an international obligation. For example, when Turkey refused to admit Kurds fleeing Iraqi repression at the end of the Gulf War, the international community established safe havens within Iraq as a substitute for asylum (Frelick, 1992). Although the UNHCR insists that such preventive protection must not be used to undermine the right to seek refuge abroad (Petrasek, 1995). In practice it has been asserted both as a justification for the Croatian refusal to receive Bosnian refugees and the Thai expulsion of Cambodians.

In reality, sovereignty is a constraint in protecting IDP’s. Member states still invoke Article 2(7) as a defense against United Nations discussion of their human rights record. Further, even if all states accepted the principle that human rights are a fit subject of international concern and therefore not essentially within a state’s domestic jurisdiction, they still would need to answer the question of how the international community can lawfully express that concern. As the International Law Commission has pointed out, the fact of an international obligation is a distinct legal issue from the consequences of its breach. Article 2(7) has been invoked as a barrier to almost any form of UN action in this area (UNGA, 1992).

2.2.1 The Relationship between Internally Displaced Persons and Refugee Protection

In the first place, it is fundamental to the involvement of UNHCR that its protection activities for IDPs are not considered as substituting the right to seek and enjoy asylum across borders. The protection of IDPs is however an imperative in its own right. It is not only an adjunct to refugee protection. In this respect, the experience of UNHCR has clearly demonstrated the importance for persons who are especially vulnerable because of internal displacement to have their safety, freedom, dignity and humanitarian needs addressed under an international protection framework. Although challenging, the involvement makes a real, positive difference in protection terms.

It is important to stress, however that IDPs are often displaced for the same reasons as those who have crossed an international border and they will have endured similar experiences. Their needs will, in their most essential character, also often be kindred: basic survival, physical security, prevention and response to Sexual Gender Based Violence (SGBV) issues and problems deriving from particular vulnerabilities (UNHCR, 2007). While there are key differences between the voluntary repatriation of refugees to their countries and
of IDPs to their homes, much of the complexities of reintegration at the community level between repatriating refugees and returning IDPs are similar (UNHCR, 2007). That, through its more resolute involvement with IDPs, UNHCR gets to recognize and explore all synergies possible, is not only good in strategic terms, but should ultimately work in favor of more space and patronage for asylum itself (UNHCR, 2007).

Clearly, the international normative framework is different. While the term “refugee” is a legal categorization denoting a legal status attained by fulfilling certain internationally accepted criteria, no such status exists at the international level for IDPs. The rights and obligations of refugees are regulated quite specifically by binding, universal and regional instruments. As for UNHCR’s role in this context, its mandate for refugees is conferred upon it by the General Assembly, through a Statute in which the term “refugee” is specifically defined, and the functions of the Office for “refugees falling within the scope of the Statute” stipulated. These functions extend to the Office’s supervisory role for the international treaties relating to refugees, namely, the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (UNHCR, 1951). UNHCR’s mandate for refugees is thus wide in scope and authorizes UNHCR, as the “lead” agency for refugees, a clear degree of independence of action. This is a distinct, mandated responsibility for which the Office has statutory authority. UNHCR will continue to treat that responsibility with the special importance it calls for and deserves (UNHCR, 2007).

By contrast, as seen already, UNHCR’s responsibilities for IDPs are still evolving. Evidently, international human rights and humanitarian law principles provide no less an authoritative underpinning for the protection of IDPs. However, the relationship between States and UNHCR and the other protection agencies in the framework of IDP protection is, on the one hand, less specific and more qualified in scope and, on the other hand, is clearly still developing (UNHCR, 2007). In both respects, they fall principally within the essentially permissive frameworks underpinned, as seen earlier, by General Assembly and ExCom Conclusions, hence the recognition of the importance of dialogue and cooperation in further developing this framework (UNHCR, 2007).

With regard to the durable solution of local integration for refugees, this takes place in a foreign environment with consequently greater complexities in the integration process, entailing significant components of legal and socio-cultural elements. Integration in the case of IDPs takes place inside the individuals’ own country. Questions of legal status, as well as socio-cultural dimensions, should in principle be less complex than those pertaining to
refugees. As for resettlement, entailing permanent departure for another country, there is no established programme for IDPs in the same way as understood for refugees (UNHCR, 2007).

Uniquely, the realization of solutions is also affected by different parameters for when a displacement situation is deemed to cease and when the need for international engagement is at an end. There are clearer indicators for refugee situations than currently exist in the IDP context. While a “refugee” denotes a legal status susceptible to being “ceased” through return and re-establishment in the country of origin, “IDP” as such, is not a legal status and can, therefore, not be “ceased” (UNHCR, 2007). In protection terms, the challenge of “disengagement” is more appropriately linked to the actual ability to access and enjoy full rights of citizens of their country in all the vital sectors.

Equally important, there is a strong correlation between IDP and refugee movements. The countries that produce the most refugees also tend to produce the most IDPs such as Syria, South Sudan, and Afghanistan. Thus, IDP-refugee relationship is dynamic at the individual level, with the decisions forced migrants make, while bound up in macro-level factors, directly influencing their decisions to flee within their own country, to seek asylum in another country, but also the decision whether to return (UNHCR, 2007).

Finally, and as the New York Declaration acknowledged, IDPs can become refugees (GRID, 2018). But returning refugees, too, can easily become IDPs following their return. Globally, however, due to a lack of data there is no clear picture of how often either IDPs become refugees, or returning refugees become IDPs, occurs. As the Internal Displacement Monitoring Centre (IDMC) noted in their annual report that year, there is currently not enough research or data to understand the exact relationship between internal displacements, cross-border movement and return (IDMC, 2017).

It is clear that the risk of returning refugees becoming IDPs significantly increases following unprepared, involuntary, or premature returns. To give one example, of Afghanistan, alongside approximately 372,000 refugees whose returns were supported by UNHCR with a $400 cash grant, a study by Belquis Ahmadi and Sadaf Lakhani for the US Institute of Peace found that there were an additional 682,000 who engaged in spontaneous returns from Pakistan and Iran, driven primarily by increasingly strict restrictions being placed on refugees by Pakistani authorities (UNHCR, 2007). They noted that, returnees are entering a country wracked by violence, economic instability, and lack of basic services in
most part of the country (Ahmadi and Lakhani, 2016). Therefore, all dynamics likely to trigger internal displacement is present.

2.3 Conclusion

The most serious problems of the Internally Displaced Persons result from the inability or refusal of the parties directly concerned to safeguard the security and well-being of the communities and the right of individuals to remain in safety in their homes. More importantly, these problems result from failure to achieve a peaceful resolution of the conflicts that cause displacement. The restoration of peace and the protection of human rights are the best ways to provide truly effective protection to the internally displaced. These are ultimately the responsibility of governments. The forms of protection and humanitarian assistance that can be provided by UNHCR to persons within their own country must serve primarily to promote or reinforce national protection, which itself must be provided by the national authorities. International organizations can play a supportive role, but they cannot substitute the governments in the protection of their own people.

Furthermore, existing displacement and future risk need to be better understood through comprehensive assessments of their scale and nature. Complex and interdependent risk drivers, including poverty and inequality, political instability and state fragility, water stress and food insecurity, climate change and environmental degradation, unsustainable development and poor urban planning combine in different ways in different countries to increase people’s exposure and vulnerability to displacement.

However, national capacity to deal with internal displacement and reduce future risk will need to be systematically built and maintained. This includes policy planning, implementation and follow-up at the highest levels of government, combined with the devolution of resources and decision-making to local authorities to enable them to help IDPs achieve durable solutions.

In the same vein, internal displacement must be integrated into existing development mechanisms, particularly national development plans and poverty reduction strategies. Failure to address long-term displacement has the potential to undermine the 2030 Agenda for Sustainable Development, Goals investment in national and regional efforts to build peace, reduce disaster risk and address the impacts of climate change need also to consider displacement risk.
CHAPTER III: IDENTIFYING THE UNITED NATIONS GUIDING PRINCIPLES CONNECTION TO RESPONSIBILITY TO PROTECT (R2P) AND TO THE PROTECTION OF INTERNALLY DISPLACED PERSONS (IDPS)

3.0 INTRODUCTION

The concept of the Responsibility to Protect (R2P) developed in large measure from efforts to design an international system to protect Internally Displaced Persons (IDPs). The explosion of civil wars emanating from the Cold War brought into view millions of persons inside their own countries who were uprooted from their homes and in need of international protection and assistance. Many had little or no access to food, medicine or shelter and were vulnerable to assault, sexual violence, and all manner of human rights abuse. When first counted in 1982, 1.2 million IDPs could be found in 11 countries; by 1995, the number had surged to 20 to 25 million (Cohen and Deng, 1998). We are now witnessing the highest levels of displacements on record. An unprecedented 65.6 million people around the world have been forcefully displaced (UNHCR, 2017).

However, the international system set up after the Second World War, focused almost exclusively on refugees, persons who fled across borders to escape persecution (UNHCR, 2017). The 1951 Refugee Convention and the UN High Commissioner for Refugees (UNHCR) provided international protection to people who were outside their countries of origin and deprived of the protection of their own governments. As observed by UNICEF, the world has established a minimum safety net for refugees, but ‘this is not yet the case with respect to internally displaced populations’ (Grant, 1993).

Furthermore, in the displaced persons camps set up after the Second World War in Europe, the UN Relief and Rehabilitation Administration, a predecessor of UNHCR, protected both refugees and IDPs (UNHCR, 2017). But during the Cold War, borders became sacrosanct and concepts of non-interference in internal affairs overrode most efforts to protect people inside their countries. During the Biafra civil war in the 1960s, the High Commissioner for Refugees restricted help to IDPs with the explanation that: ‘my Office is not in a position to deal with situations affecting nationals who find themselves within a territory of their country’ (Lichtenheld, 2008).

Eventually, it was not until the 1990s that this gap in treatment was challenged and the international community began in a concerted way to try to assist and protect people
uprooted inside their countries. UN Secretary-General Javier Perez de Cuellar pointed the way in 1991 with these words: ‘We are clearly witnessing what is probably an irresistible shift in public attitudes towards the belief that the defense of the oppressed in the name of morality should prevail over frontiers and legal documents’ (Cuellar, 1991). Therefore, concepts of human security, sovereignty as responsibility and the responsibility to protect developed in large measure in response to the need of IDPs and other affected civilians for protection from the gross violations of human rights perpetrated in civil wars and internal strife.

3.1 Sovereignty as Responsibility and the Guiding Principles on Internal Displacement.

Deng (1993) put forward the concept of sovereignty as responsibility as the most appropriate protection framework for people displaced inside their countries. The concept arose from work he and other scholars had done on Africa at the Brookings Institution (Deng et al, 1993), and also from work done by RSG on the protection of IDPs (Cohen, 1991).

As a matter of fact, the concept posits primary responsibility for the welfare and safety of IDPs with their governments. However, when governments are unable to fulfill their responsibilities, they should request and accept offers of aid from the international community. If they refuse or deliberately obstruct access and put large numbers at risk, the international community has a right and even a responsibility to take a series of calibrated actions. These range from ‘diplomatic demarches to political pressures, sanctions, or, as a last resort, military intervention.’ State failure to provide protection and life-supporting assistance ‘legitimized the involvement of the international community (Cohen and Deng, 1993).

Equally important, the Guiding Principles on Internal Displacement, introduced by Deng into the UN in 1998, are based on the concept of sovereignty as responsibility (UNHCR, 1998). They set forth the rights of IDPs and the responsibilities of governments and international organizations toward these populations. They affirm that primary responsibility for displaced populations rests with their governments (Principles 3, 25); but if governments are unable to provide life-supporting protection and assistance, they are expected to request assistance from the international community (OCHA, 1998). In such cases, offers of aid shall not be regarded ‘as an unfriendly act or an interference in a State’s internal affairs’ (Principle 25); nor shall offers of aid be ‘arbitrarily withheld’ when the authorities concerned are ‘unable or unwilling’ to provide the required assistance (OCHA,
The Principles do not explicitly state that international aid can be provided without the consent of the affected country but according to Deng:

The obligation imposed on states by humanitarian and human rights law to refrain from refusing reasonable offers of international assistance makes it difficult to dispute the existence of a duty to accept such offers (Evans, 2008).

Furthermore, the Principles emphasizes that in providing assistance, international humanitarian organizations should pay attention to the ‘protection needs and human rights’ of IDPs and take ‘measures’ in this regard (Principle 27) (OCHA ,1998). IDPs therefore must have access not only to material assistance from the international community but also to protection from violence and abuse when governments fail to provide these to its citizens (OCHA, 1998).

3.1.1 Implementing the Responsibility to Protect (R2p)

In January 2009, the Secretary-General released a report on implementing the Responsibility to Protect, consisting, of a three-pillar strategy which replaced the earlier International Commission on Intervention and State Sovereignty (ICISS) typology of prevent, react and rebuild (ICISS,2009). This was according to provisions of paragraphs 138 and 139 of the Summit Outcome that suggest that the responsibility to protect rests on the following three pillars; (UNGA, 2005).

The first pillar features protection as the responsibility of the State. Whereby, the State is mandated to protect its populations, whether nationals or not, from genocide, war crimes, ethnic cleansing and crimes against humanity, and from their incitement. The latter, can be underscored, critical to effective and timely prevention strategies. The declaration by the Heads of State and Government in paragraph 138 of the Summit Outcome that “we accept that responsibility and will act in accordance with it” is the bedrock of the responsibility to protect (UNGA, 2005). That responsibility, they affirmed, lies first and foremost with the State. The responsibility derives both from the nature of State sovereignty and from the pre-existing and continuing legal obligations of States, not just from the relatively common enunciation and acceptance of the responsibility to protect (UNGA, 2009).

Similarly, pillar two, centers on the commitment of the international community to assist States in meeting those obligations. It seeks to draw on the cooperation of Member States, regional and sub-regional arrangements, civil society and the private sector, as well as on the institutional strengths and comparative advantages of the United Nations system. Too often ignored by pundits and policymakers alike, pillar two is critical to forging a policy,
procedure and practice that can be consistently applied and widely supported. Thus, prevention, building on pillars one and two, is a key ingredient for a successful strategy for the responsibility to protect (UNGA, 2009).

Lastly, pillar three main concentration is on the responsibility of Member States to respond collectively in a timely and decisive manner when a State is manifestly failing to provide such protection. Though widely discussed, pillar three is generally understood too narrowly. As demonstrated by the successful bilateral, regional and global efforts to avoid further bloodshed in early 2008 following the disputed election in Kenya, if the international community acts early enough, the choice need not be a stark one between doing nothing and using force (UNGA, 2009).

Equally important, the strategy “stresses the value of prevention and, when it fails, of early and flexible response tailored to the specific circumstances of each case” (UNGA, 2009: 2). The Secretary-General canvases a wide array of activity relating to R2P, but notes that R2P requires a 'narrow but deep' response. When a state is bent on committing crimes against its citizens, the Secretary-General recommends moving straight to a ‘timely and tailored response’. In other words, R2P must keep its focus on the prevention of genocide, war crimes, ethnic cleansing and crimes against humanity (UNGA, 2009).

Likewise, if the three supporting pillars were of unequal length, the edifice of the responsibility to protect could become unstable, leaning precariously in one direction or another. Similarly, unless all three pillars are strong, the edifice could implode and collapse. All three must be ready to be utilized at any point, as there is no set sequence for moving from one to another, especially in a strategy of early and flexible response (UNGA, 2009).

Finally, the Secretary-General talks about R2P as a focal point for current efforts of field agencies:

“The United Nations and its range of agencies, funds and programmes have in place critical resources, activities and field operations that are already making important contributions to the elimination of these man-made scourges. They could do that much more effectively if goals relating to the responsibility to protect, including the protection of refugees and the internally displaced, were mainstreamed among their priorities, whether in the areas of human rights, humanitarian affairs, peacekeeping, peace building, political affairs or development”(UNGA, 2009).

Nevertheless, it is evident that IDPs protection is not a clear focus of the implementation phase of the R2P. Humanitarian agencies and civil society groups have walk-
on parts, not leading roles, which are saved for high level diplomats, peace-keepers and technocrats (Orford, 2009).

Concurrently, there is an obvious connection of intellectual heritage between R2P and the protection of IDPs. The concept of ‘sovereignty as responsibility’ was developed by Francis Deng and Roberta Cohen and others (Deng et al, 1996) as the rationale for the Guiding Principles on IDPs (Weiss, 2007: 89-98).

The forced movement of people is often the first indicator to the international community that an armed conflict is developing from a series of incidents or emergencies (OECD, 2009), but can also be epiphenomenal. IDPs then perform the function of ‘barometer’ (Edwards, 2009) or the proverbial ‘canary down the mine’. Similarly, refugees and IDPs are often the best judges of when it is safe to return to their country of origin.

In addition, the second link is that the international norm of granting assistance to IDPs is an important form of protection of civilians during conflict (Barbour and Gorlick, 2008). Since the ICISS report in 2001, the aspect of the R2P doctrine that has had most impact on refugee law and related practice of UNHCR is that of access to humanitarian assistance for IDPs (Loescher et al, 2008: 67; Mooney, 2008).

Yet, the protection of IDPs does not feature at all in the Secretary-General’s 2009 report, with only a token reference to the importance of asylum as a protection measure. Cohen (2009) decries this fact, and draws attention to the lack of evidence of R2P on the ground, citing the case of IDPs in Kenya:

In the case of Kenya, the first and only country to which R2P was applied, some 1,500 people died and some 600,000 were uprooted prior to international involvement. So, R2P was not a preventive measure, but it did succeed in halting the violence and preventing further displacement. But should the story end there or should it extend to ensuring that displaced people are effectively protected in the aftermath of violence? Reports show a lack of security for ethnic groups in areas of return, an absence of planning for those who do not wish to return, inadequate compensation for destroyed homes and property. Moreover, thousands still live in camps and temporary settlements. Yet, we don't hear any more about R2P in Kenya. Nor do we hear about the promotion of compliance with the Guiding Principles on Internal Displacement with regard to rebuilding (Cohen, 2009).

Ordinarily, in these conceptions, IDPs do not meet the threshold of an R2P prevention focus or intervention in their own right; instead, they are characterized as a burden (Chimni, 2000:252). The language of international refugee protection has long been that of ‘burden-sharing’ (Loescher et al, 2008). Even if this was ever a useful description, the
‘burden’ has changed dramatically in the past twenty years. This is because of two reasons: the challenges to IDPs protection have changed dramatically since 2001, and wars themselves have changed in character. The challenges of protection are therefore more complex.

Consequently, it is because of such complex and interrelated changes to the humanitarian and political landscape that ideas such as human security have gained traction (Edwards, 2009). What is needed, therefore, is for the prevention pillar of the R2P to be complex, nuanced and substantial in response to these challenges. The ‘narrow but deep’ approach articulated by the Secretary-General in January is not reassuring in this regard (Edwards, 2009).

3.1.2 The Challenges of Responsibility to Protects (R2p) Application To Internally Displaced Persons (IDPS)

When R2P was adopted by the UN General Assembly in 2005, it was generally expected that the concept would enhance security for IDPs since the concept of sovereignty as responsibility was recognized as its antecedent, and IDPs were so often the victims of R2P related crimes (Evans, 2008).

Like its antecedent, R2P places primary responsibility on the state to protect its population and calls on the international community to support states in discharging that responsibility. But if states fail in that obligation, responsibility shifts to the international community. There is an international responsibility to take ‘collective action’ when people are threatened by genocide, crimes against humanity, war crimes, and ethnic cleansing. Such action can include ‘diplomatic, humanitarian, and other peaceful means,’ to be followed if necessary by the use of force on a case by case basis under Chapter VII of the UN Charter (UNGA, 2005).

R2P’s application to IDPs, however, has proved problematic. The reasons are varied: To begin with, many states are wary of invoking R2P. The result is that the concept has been applied to only one case since its adoption. In early 2008, the former, UN Secretary General Ban Ki-moon characterized the post-election ethnic clashes in Kenya as R2P and took diplomatic and political steps to address the violence. By the time he acted, however, not only had 1,500 people died but up to 600,000 had been forcibly displaced. The application of R2P did not thus succeed as a preventive measure.
Nonetheless, Ban Ki-Moon linkage of R2P to the situation underscored that the violence and displacement were being viewed seriously. The Secretary General warned Kenya’s leaders that they ‘could be held accountable for violations of international law committed at their instigation’ and urged them ‘to call publicly for an end to the violence and to statements inciting violence.’ (UNGA, 2009).

Ban Ki-Moon then sought to implement R2P by supporting Kofi Annan’s political mediation, the involvement of the African Union and the use of political pressure by the US and other Western governments. These collective efforts ultimately led to a halt in the violence and forced displacement. According to Annan, his own success as a peace broker in Kenya ‘owed something to the existence of R2P as a moral instrument (Economist, 2009).

Yet, R2P’s effectiveness in Kenya cannot easily be replicated. For one, the Kenyan authorities accepted, to some extent even welcomed, regional and international involvement so that the objection of intervention in internal affairs hardly arose. Second, R2P’s application did not involve sanctions or military intervention which meant that the Secretary-General could invoke R2P ‘without the explicit authorization of the Security Council.’ This bypassing of the Council ensured that members of the Permanent Five (P5) did not move to obstruct the application of R2P (Rice, 2009).

Conversely, other situations have been more prohibitive. In the case of Burma, for example, in 2007, Western governments drew attention in the Security Council to the massive attacks by the military on civilians in ethnic minority areas in which systematic rape, abuse of prisoners and forced displacement were being carried out. However, both China and Russia made clear that they would oppose any collective action against the junta on the grounds that the situation did not constitute a threat to international peace and security (Haacke, 2009).

In the case of Darfur, China at the behest of Sudan blocked any reference to R2P in the Security Council Resolution authorizing an African Union-UN force to protect IDPs and other civilians (Cohen, 2007). Although several hundred thousand Darfurians had died in 2003-4 and more than two million had been pushed into squalid IDP camps, the umbrella of R2P was denied them (Cohen, 2007).

In his report to the General Assembly in 2009, the former Secretary-General regretted the ‘failure’ of the international community to stem the massive violence and displacements in Darfur, the Democratic Republic of the Congo (DRC) and Somalia, pointing out that this
‘has undermined public confidence in the United Nations and our collective espousal of the principles relating to the responsibility to protect.’ The failure to apply R2P to any situation other than Kenya has meant that IDPs at this point in time cannot readily look to this concept for protection.

Secondly, is the narrowness of the application of R2P. When R2P was applied to the crisis in Kenya, its focus was narrow, responding mainly to the emergency phase of halting mass displacement. Yet, in the aftermath of the violence, displaced people also suffered heavily. By most accounts, the government arbitrarily closed the camps irrespective of whether or not areas of return were sufficiently secure. IDPs were just ‘dumped’, said one leading UN expert, (Cohen, 2009) and even today thousands remain in temporary settlements and transit sites without proper shelter, medicine and food (Cohen, 2009). There also was a lack of planning for those who did not wish to return, and inadequate compensation for destroyed homes and property. Moreover, ‘…the causes of the displacement are yet to be addressed conclusively, and tensions between communities remain high in areas such as the Rift Valley’ (IDMC, 2008:43).

Under R2P, the international community is supposed to help states ‘build capacity to protect their populations.’ The concept includes an international ‘responsibility to rebuild’ (ICISS, 2001). The UN Peace building Commission to its credit did in 2008 fund a small community volunteer program in the Rift Valley to provide food, sanitation and medical essentials to IDPs and help prepare the groundwork for some returns (UNPF, 2009).

But the application of R2P to Kenya did not appear to encompass an overall strategy for protecting IDPs after they were uprooted, so that safety and sustainability could be assured in all areas of return or integration. The Kenya National Commission for Human Rights has charged the government with violating the Guiding Principles on Internal Displacement, and the Commission of Inquiry into Post-Election Violence in Kenya has called for the adoption of a national IDPS policy based on the Guiding Principles (Klopp and Sheekh, 2009).

Thirdly, the sidelining of the Guiding Principles on Internal Displacement. The Secretary-General’s report on implementing R2P makes no mention of the Guiding Principles even though in the one case where R2P was applied, civil society organizations and Kenya’s national human rights commission called for the application of the Principles. The UN legal office reportedly removed the reference from the text on the grounds that the Principles are
not ‘hard law’ (UNGA, 2009). Not only is this shortsighted and a bad precedent for R2P, but it is at variance with the resolutions of the General Assembly, Commission on Human Rights and Human Rights Council. They all call for the promotion and implementation of the Principles and regularly refer to them as an ‘important tool’ and ‘standard’ for the protection of IDPs (UNGA, 2008). Furthermore, the World Summit Outcome document recognizes the Principles as ‘an important international framework for the protection of IDPs’ (UNGA, 2009).

At least 20 states have adopted laws or policies based on the Principles and they should be encouraged to implement their provisions. John Holmes, UN Under-Secretary-General for Humanitarian Affairs, provided just that in calling for the implementation of the Principles and affirming that ‘the Guiding Principles have become the accepted international standard for IDPs’ and ‘a watershed event in protecting IDPs’ (Holmes, 2008). When R2P is applied, the promotion of the Principles must be part and parcel of the protection of IDPs.

Fourthly, the exclusion of Disaster IDPs. In a speech in Berlin in 2008, the UN Secretary-General warned that ‘Extending the principle [of R2P] to cover other calamities, such as HIV/AIDS, climate change, or response to natural disasters, would undermine the 2005 consensus and stretch the concept beyond recognition or operational utility’ (Ki-moon, 2008).

By the stroke of a pen the Secretary-General thus ruled out of R2P’s potential protection of the millions of persons expected to be uprooted by disasters and climate change. The exclusion is said to accord with the World Summit Outcome document which omits natural disasters from the R2P formulation even though the ICISS report upon which R2P was based recommended as a criteria for R2P’s application,

“………..overwhelming natural or environmental catastrophes, where the state concerned is either unwilling or unable to cope, or call for assistance, and significant loss of life is occurring or threatened” (ICISS, 2001).

The Secretary-General’s Special Adviser Edward Luck reinforced this exclusion with the argument that R2P could only be triggered if ‘murder or extermination committed as part of “a widespread or systematic attack” against the civilian population’ were to take place (Luck, 2008). However, if, in the context of a natural disaster, a government were to deliberately cause serious injury to the physical and mental health of massive numbers of the civilian population through blatant neglect, its action (or inaction) could well be said to constitute an attack on that population as postulated by Luck. Indeed, the Burmese
government’s ‘reckless indifference’ toward the victims of Cyclone Nargis in 2008 made it possible to argue that it was intentionally causing suffering on a massive scale and possibly crimes against humanity (Evans, 2008).

Former Canadian Foreign Minister Lloyd Axworthy argued that Burma’s ‘actively impeding the timely arrival of assistance and medications to more than one million people’ should have invoked R2P: ‘What is the moral distinction between closing the door of rescuing people from death by machete and closing the door of life-saving aid?’ (Axworthy and Rock, 2008).

When the definition of IDPs was first debated in the 1990s, similar controversies arose. Those opposed to the inclusion of disaster victims argued that this would broaden the concept and make it less meaningful (Cohen and Deng, 1998). Disaster IDPs were said not to have the same protection needs as those uprooted by conflict. However, the majority pointed out that government sometimes responded to disasters by persecuting or neglecting certain groups on political or ethnic grounds. In Ethiopia, in the mid-1980s, the Derg, under the pretext of responding to a natural disaster, forcibly and brutally relocated hundreds of thousands of highland Tigreans whom it considered political opponents into lowland malaria-infested areas; large numbers died as a result. In Sudan, the government refused to declare a state of emergency or request international aid during drought-related famines until it was forced to by the international community because of the widespread sickness and death (Cohen and Deng, 1998).

A number of scholars, moreover, have pointed out that the mere invoking of R2P can prove valuable to protecting those at risk. It mentioned that the time of Cyclone Nargis reportedly made the Burmese government more responsive to the victims and the international community more actively engaged (Haacke, 2009).

Fifth, the tensions between human rights and humanitarian protection of IDPs. R2P’s emphasis on human rights protection has at times created tensions with humanitarian programs for IDPs. When French Foreign Minister Bernard Kouchner called for R2P’s application during Cyclone Nargis, and French, British and US warships neared Burma’s coast, UN Emergency Relief Coordinator Holmes strongly protested against any form of coercion to protect the IDPs as this could undermine international and regional efforts to bring in humanitarian aid. Military force, he did not believe ‘would be helpful to the people we are actually trying to help’ (WFMIGP, 2009). R2P was even opposed as an umbrella for
the non-military actions taken by the Secretary-General, the UN and the Association of Southeast Asian Nations (ASEAN).

It was argued that negotiation and cooperation with the authorities without reference to R2P was the most effective means of gaining access to affected areas. Similarly, in Darfur, humanitarian aid workers have opposed coercive military action under the R2P label on the grounds that it could lead to the expulsion of their assistance programs for IDPs (Flint, 2006).

Moreover, R2P’s equation with military action is misguided. Although the Secretary-General regularly has repeated that R2P ‘could involve any of the whole range of United Nations tools, whether pacific measures under Chapter VI of the Charter, coercive ones under Chapter VII, and/or collaboration with regional and sub-regional arrangements under Chapter VIII,’ R2P is often equated by governments and the nongovernmental community with military action (Mooney, 2008). This misinterpretation of R2P can affect the protection of IDPs because it reinforces the view that efforts at protection really mean intervention under the cloak of humanitarian assistance. Such confounding of R2P with coercive action can be a setback to what has been achieved thus far for IDPs (Mooney, 2008).

Indeed, it has taken more than a decade for governments and the international community to accept that they have responsibilities for the assistance and protection of IDPs and that national and international involvement does not constitute infringement of their sovereignty. From 1992 to 2004, Deng worked tirelessly to persuade governments that concern for IDPs was not a pretext for international political or military involvement.

Markedly, the concept of ‘sovereignty as responsibility’ was intended to allay governmental fears about international programs for IDPs. Deng’s ‘farewell’ letter to the Secretary-General underscored this:

The main principle that guided me in my work on the mandate has been to balance between allaying the fears of Governments about national sovereignty while impressing upon them the compelling humanitarian and human rights concerns of the international community with the plight of the internally displaced (Deng, 2004).

Walter Kälin, the UN’s current Representative of the Secretary-General on the Human Rights of IDPs, has carefully avoided linking internal displacement to military intervention when setting forth protection strategies for IDPs so as not to compound humanitarian and human rights crises.

Similarly, there is limited confidence in military action. Although R2P may often be equated with military action, the results of such action for IDPs have been limited. Security
Council resolutions have increasingly authorized UN peacekeepers to assume protection responsibilities for IDPs and other affected populations in internal conflict situations. The responsibilities have ranged from ensuring humanitarian access, protecting IDPs in and around camps, deterring sexual violence, ensuring the protection of humanitarian staff, creating conditions for safe and dignified returns or a host of other countries, peacekeepers have been charged with providing protection to displaced persons and in many instances they have enhanced security for them (O'Neill, 2004).

But peacekeeping missions have also proved to be a great disappointment to those in need of protection. Missions have often been thwarted by host country interference with their operations, insufficient numbers of troops and equipment, insufficiently trained forces, and ambiguous mandates that do not fully allow for robust protection. In some cases, peacekeepers even have become involved in abusing IDPs populations, especially women and girls they are expected to protect. As a result, IDPs advocates have become more cautious about looking to peacekeeping missions as a panacea for protection. Even where robust military force has been applied, as in Kosovo when NATO took unilateral action, the intervention was not able to prevent mass killings, rapes and deportations (Korn, 1999). Preoccupation with preventing NATO casualties resulted in no ground troops being introduced and reliance on air strikes from 15,000 feet, which at times hit caravans and trains carrying IDPs. To be sure, all Serb forces were eventually forced to withdraw, but the military strategy failed to prevent many of the immediate atrocities against IDPs and other civilians (Korn, 1999).

In the same vein, international interventions have also been slow in coming. Because the UN has not yet developed the rapid response military capacity needed to protect IDPs and other civilians in unfolding emergencies, it must start from scratch each time. In Darfur, after more than two years the UN had still not been able to deploy 26,000 troops and police while needed equipment like helicopters was still lacking. In the DRC, it took more than a month for the UN to authorize 3,000 additional troops to deal with accelerated violence in North Kivu and many more months to actually deploy the force. The mandate and conduct of the UN Mission in the DRC (MONUC) are also questionable when it comes to IDP protection. MONUC has been authorized to assist the government to create a safe environment, but government troops have been responsible for much of the displacement and sexual violence affecting IDPs and other civilians (Sheridan, 2009).
3.2 Conclusion

Marc Anthony’s famous eulogy in Shakespeare’s Julius Caesar offers a series of inversions, denouncing Caesar’s murderers while seeming to praise them. Evidently, R2P is worth of praise but the doctrine needs more work to become something conceptually sound and useful for IDPs protection. Based on an analysis of the 2009 debates, IDPs protection is peripheral to the R2P doctrine, and may be excluded from activities under the prevention pillar. The R2P doctrine could be more important if it moved beyond the concept of passive protection needs to a focus on the rights of those affected by conflict to design solutions for its resolution. This may be the real test of R2P.

Therefore, the need to maintain a high threshold/hierarchy of crimes such as genocide as a trigger for intervention is logical but flawed when applied to the prevention pillar. This is most obvious when it comes to the treatment of refugees and IDPs by the R2P doctrine. A 'narrow' focus that does not consider structural gender inequality, economic injustice or minority rights is unlikely to prevent genocide and mass atrocity.

Ultimately, the historically close relationship between providing protection to IDPs and the concept of R2P has created the expectation that R2P by definition will prove beneficial to IDPs. However, it cannot be assumed that R2P will automatically provide greater protection for IDPs. There may be situations where R2P’s application compounds their problems, creates more displacement and falls short of helping them. It is therefore essential to continue to explore the link between R2P and IDPs protection and make sure that R2P strategies are carefully designed to fit the needs of IDPs. R2P after all is a concept that needs to be tried out and carefully tailored to IDPs concerns so as to ensure that genuine protection is provided.
CHAPTER IV: EXAMINING THE UNITED NATIONS GUIDING PRINCIPLES AND UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES INNOVATIVE FRAMEWORK ON INTERNALLY DISPLACED PERSONS

4.0 INTRODUCTION

The Guiding Principles on Internal Displacement were created in 1998 in a process led by the then Representative of the Secretary-General on Internally Displaced Persons, Francis Deng. While not legally binding, these principles have created a factual definition of internally displaced persons (IDPs) as: 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 generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border (UNOCHA, 1999:1).

While non-binding, the Principles have been widely recognized. Within the United Nations, Secretary-General Kofi Annan argued in 2005 that the guiding principles should be accepted as ‘the basic international norm for protection’ of IDPs (UN, 2005:132). The 2005 World Summit Outcome Document recognized the principles as ‘an important international framework’ for IDPs protection (UNGA, 2005:134). The General Assembly, the Security Council, and the Commission on Human Rights/Human Rights Council have all acknowledged or recognized the principles (Orchard, 2010:294).

Regional and sub-regional organizations have also recognized the guiding principles and have disseminated and made use of them (Mooney, 2005:166). And, in an important boost, the Principles have entered into regional hard law. In 2006, a Protocol on Protection and Assistance to Internally Displaced Persons was adopted by the eleven member States of the African International Conference on the Great Lakes Region which obliges those States to accept the Principles and incorporate them into domestic law (Beyani, 2006:187-97). In October 2009, the African Union Special Summit of Heads of State adopted the Convention for the Protection and Assistance of Office for the Coordination of Humanitarian Affairs, "Guiding Principles on Internal Displacement," Internally Displaced Persons in Africa (the Kampala Convention) which came into force in 2012 (Abebe, 2010:42).
While the Principles are soft law, they use as their foundation existing international human rights law (including the UN Charter, the Universal Declaration of Human Rights and the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights), humanitarian law (including the four Geneva Conventions of 1949, as well as Protocols I and II of 1977) and refugee law (including the Refugee Convention of 1951 and the Refugee Protocol of 1967) to lay out the protections that IDPs are entitled to as citizens of their own State and as human beings. As Kälin has argued:

“It is possible to cite a multitude of legal provisions for almost every principle...Because of that solid foundation, as well as the breadth of rights covered and the wide acceptance the Guiding Principles have found, it can persuasively be argued that they are the minimum international standard for the protection of internally displaced persons” (Kälin, 2005:29-30).

Principle 1 establishes a non-discrimination clause, noting IDPs “shall enjoy, in full equality, the same rights and freedoms under international and domestic law 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.” Principles 10-23 then recognize a range of specific rights that IDPs have. These include rights against arbitrary deprivation of life; to dignity and physical, mental, and moral integrity; to liberty and security of persons; against forced recruitment; to liberty of movement and to seek asylum; to knowing the whereabouts of missing relatives; to family life; to an adequate standard of living; to medical care; to recognition as a person before the law; to not be arbitrarily deprived of property and possessions; to freedom of thought, employment, association, political participation, and communication and to education (OCHA, 2004).

The Guiding Principles also establish a set of responsibilities towards IDPs on the part of the State and other actors. Principle 2 notes that the Principles “shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction (OCHA, 2004). “Principle 5 establishes that national authorities and international actors are expected to respect their obligations under international law to prevent and avoid conditions which might lead to displacement (OCHA, 2004). Principle 7 reiterates this, noting that national authorities should seek to avoid displacement but where no alternatives exist “all measures shall be taken to minimize displacement and its adverse effects.” The authorities are also expected to comply with a series of guarantees in such cases. These include the free and informed consent of those to be displaced, that it shall be done by competent legal authorities following a specific decision by a State authority.
empowered to take such a decision, and finally that the displaced shall have a right to an effective remedy. Principle 3 establishes that the primary duty to provide protection and humanitarian assistance lies with the national authorities. This reflects the “generally recognized principle of sovereignty” (Guiding Principles, 2008:19).

But the Principles modify this provision in two ways. First, Principle 3(2) establishes that IDPs “have the right to request and to receive protection and humanitarian assistance from these authorities (OCHA, 2004). “The second, in Principle 25 is establishing that international humanitarian organizations can offer assistance to the State, and a right for international organizations to offer help: “Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.” Authorities are all expected to “grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced (OCHA, 2004). In turn, however, international humanitarian organizations are also expected to “give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard.”

Principles 28 to 30 relate to return, resettlement, reintegration. Competent authorities have the primary duty to establish conditions which allow IDPs to return home voluntarily or to resettle or reintegrate elsewhere in the country. Here, the Principles mimic the three primary durable solutions for refugees - voluntary return, integration into a host State, or resettlement to a third State. Following this process, IDPs shall not be discriminated against, and the authorities also have the responsibility to assist IDPs in recovering to the extent possible their property and possessions, or otherwise assist them in obtaining compensation or another form of just reparation (OCHA, 2004).

The right to voluntarily return is an area in which the Principles have extended international law. Beyond the above provisions, Principle 15 establishes that internally displaced persons have a) the right to seek safety in another part of the country… and (b) the right to be protected against forcible return to or resettlement in any place where their life, safety, liberty or health would be at risk (OCHA, 2004). Kälin (2005) has argued that this principle is well established in the refugee law principle of non-refoulement, and in major human rights protections relating to torture and the deportation of aliens. While it is novel as applied to IDPs, he argues that States bear responsibility for violations of the non-refoulement principle in refugee law and for forcibly returning aliens to situations of danger.
and that similar reasoning can be applied to IDPs. Therefore, “it is clear that states bear an affirmative duty to ensure internally displaced persons are not compelled to return to or be resettled in places where their lives or liberty are at risk” (Guiding Principles on Internal Displacement, 2000:37-39).

The Guiding Principles, however, do not establish other grounds for when displacement ends. For refugees, the 1951 Refugee Convention includes in Article 1 C a set of cessation clauses. The first four clauses establish that refugee status ceases when the refugee themselves change their situation. This includes the voluntary re-availment of national protection; voluntarily reacquisition of nationality; the acquisition of a new nationality; or their voluntary reestablishment in the country where persecution was feared. The last two clauses reflect changes in the refugee’s country of origin which mean that international protection is no longer justified (UNHCR, 2001:23-4).

These latter clauses require a formal decision by either UNHCR or the country of asylum. It can be done on either an individual or group basis, but the refugee must be able to challenge the decision, and they can continue to claim status if the compelling reasons arising out of previous persecution, such as if they had been subject to atrocious forms of persecution. The burden of proof lies on UNHCR or the State of refuge, rather than the refugee (Jastram and Cavalieri, 2005). One study suggests that cessation clauses had only been invoked by UNHCR some 21 times between 1973 and 1999, and that they are little used by States (Fitzpatrick and Bonoan, 2003).

By contrast, the Guiding Principles are silent on this issue other than noting in Principle 6(3) that “displacement shall last no longer than required by circumstances” (OCHA, 2004). Some commentators have suggested that a cessation clause should be added for situations in which the need for protection and assistance to IDPs has ceased. Geissler (1999) notes, that “resettlement would mean that previously internally displaced persons have permanently and voluntarily resettled in another part of the country and no longer face the persecution or other relevant danger which forced them to leave or flee...” while voluntary return would be the second option leading to cessation (Geissler, 1999:456).

This also introduces a separate issue in terms of counting how many IDPs there are in a given year. While UNHCR has clear criteria for when someone stops being a refugee, “there is no alternative cut off point for IDP status, with the result that IDPs can remain ‘on
the books’ so to speak for many years following initial displacement irrespective of their ongoing situation” (Frater and Orchard, 2017:50).

In an effort to respond to this issue, in 2007 the Brookings-Bern Project on Internal Displacement introduced a framework for durable solutions which followed the Guiding Principles’ formulation of three forms of durable solutions. It notes that “displacement ends when one of these durable solutions occurs and IDPs no longer have needs specifically related to their displacement” (Brookings Institution, 2007:10).

In order to do so, “an analysis of the individual’s access to rights needs to take place for each situation,” an analysis which will include both subjective and objective elements. The study, therefore, proposes a two-step process. The first step sees IDPs provided with information and active participation to enable their voluntary decision which is to return, resettle, or locally integrate. Following this decision, the second step last until IDPs are sure of their safety, of their rights and non-discrimination, and after they have received reintegration support.

4.1 Domestic Laws for Internally Displaced Persons.

While the Guiding Principles are soft law, there has been a long pattern of States with IDPs situations being encouraged to adopt their own domestic legislation and policies. The UN General Assembly has encouraged “States to continue to develop and implement domestic legislation and policies with all stages of displacement (UNGA, 2008). UNHCR (2014) further notes that as part of its specific commitment to IDPs, it supports “States’ efforts to adopt, update, or prepare national policies on IDPs.

However, while some forty States have now passed such laws and policies, there have been significant issues with both their form and how they are implemented. Limited or problematic implementation means that IDPs are not adequately covered and that even when problems are correctly identified, there are no steps taken to fix them, or that good faith efforts to introduce laws and policies are stymied by domestic opposition (UNHCR, 2014). In eleven cases, the laws or policies have never been implemented, either remaining in draft form for years or simply reflecting aspirational claims which the government was unable or unwilling to follow.

There are three explanations as to why implementation may stall out (Betts and Orchards, 2014). The first is that the government does commit to the norms embodied within the guiding principles, but is unable to proceed forward in the implementation process. This
may be due to a lack of State capacity whereby the government lacks the necessary financial, practical and symbolic resources to ensure implementation: “in many cases, governments have been too weak to prevent displacement and mitigate its effects”(Ferris, Mooney and Stark, 2011:25).

This can also happen due to domestic opposition within and outside of the government. Alternatively, the IDPs policy may reflect the government having decided to make a strategic rhetorical commitment to the norms embodied within the guiding principles with no plan to follow through on implementation. Two alternatives exist here. The first reflects the widespread international support for norms around IDPs protection. Due to this, governments which have internally displaced populations may be driven by reputational concerns (Finnemore and Sikkink, 1998:903), to rhetorically support these norms. Therefore, by introducing domestic policies or laws, these States seek to signal their support for the regime at the international level without consummate changes at the domestic level (Hyde, 2011:359).

States may also be responding to advocacy efforts from IOs and NGOs. This may reflect a process of persuasion which shifts the government’s or key decision makers’ views on the issue, leading to a normative commitment. Alternatively, the shift in behavior may reflect these organizations’ influence on governments through conditionality policies which provide international actors direct influence over the internal affairs of developing States on a range of issues (Whitfield and Frase, 2009). For example, UNHCR (2007:110) advocates with governments in favor of the ‘implementation of a national policy and plans of action that would enhance the protection of IDPs’ and also provides government support to do so.

This institutional involvement may cause governments to create policies or laws where they otherwise may not have taken action; absent further pressure, however, there will be little follow-through implementation. In either case, the decision to take rhetorical action by introducing either national legislation or policy around IDPs protection opens up governments to the possibility of rhetorical entrapment. While they may lack incentives to undertake concrete actions, a government’s public stance may open them up to international shaming efforts based on the legitimacy and widespread acceptance of the norms around IDP protection. Such efforts may lead the government to subsequently take actions in order to ameliorate or reduce pressure (Krebs and Jackson, 2007).
4.1.1 The United Nations Guiding Principles and Customary International Law

Notably, continued normative developments at the country level are desirable, not only to reinforce national systems, but also to further recognize the Guiding Principles as part of international customary law. Should such recognition be achieved, all states would be obliged to respect them regardless of whether they have incorporated the Principles into domestic law or ratified regional instruments that might be adopted in the future (Bern, 2013).

Given the growing acceptance and use of the principles among governments, international organizations, UN treaty bodies and courts, some have begun to conclude that they have acquired legal significance (Cohen, 2013). According to Walter Kälin, the former UN Secretary General’s representative on IDPs’ human rights, experience has shown “that some governments and domestic courts are ready to use the Guiding Principles in a legal sense” (Brookings, 2001). The legal use of the Guiding Principles is visible in the adoption of national laws and policies that explicitly refer to them, but also through court rulings such as the Constitutional Court of Colombia’s decision T-025 of 2004, which formally incorporated them into the country’s legal framework (Brooking Institution, 2009).

By the same token, the German government has taken the official position that the Guiding Principles can now be considered to be international customary law (Kälin, 2010), and in its 2008 national policy the Iraqi government stated that they had become part of international law. A treaty on internal displacement is not considered a feasible option in many quarters, and there is a palpable weariness towards advocating for new legally binding instruments (HRC, 2016).

Nonetheless, as more and more states adopt laws and policies, and more regional instruments come into force as stepping stones, an international convention could be considered in the future (Cohen, 2013). Today, UNHCR has assumed responsibility for the protection cluster introduced by the Inter- Agency Standing Committee in 2005 as part of the reform of the UN’s humanitarian sector (UNHCR, 2007). Many other intergovernmental and non-governmental organizations are also mandated to address at least some of the assistance and protection needs of internally displaced persons.
4.1.2 The factors that have lead to the successful implementation of the United Nations guiding principles.

While the overall implementation picture is mixed, a number of States have successfully implemented their own IDPs legislation and policies. Across these cases, three factors are clear. First, successful implementation is linked to strong state capacity. For instance, in Azerbaijan, an initial weak response shifted as the government improved its legislative framework and committed significant resources to its response from its State oil fund. But such efforts do not need significant domestic resources.

Liberia was able to build up its capacity in close cooperation with international aid agencies and support an effective return effort. Sierra Leone similarly led an effective return strategy with the assistance of peacekeepers in the country. In Timor Leste, the government’s own capacity was quite weak, but the government was able to contribute some funds to a return and recovery program which was successful.

Second accountability to other domestic institutions, most notably the courts, is also a critical factor. Colombia not only has created a strong legal framework, but similarly spends large amounts annually to support its IDPs population. But this is in part because the Colombian Constitutional Court can hold the government to account for ineffective implementation. The Georgian Constitutional Court similarly has pushed the government to bring its laws in line with the Guiding Principles.

Third, accountability to the domestic population can also drive the implementation process. In both Georgia and Sri Lanka, implementation efforts significantly improved after changes in government, one through revolution, the other through election. Accountability at the international level can also be a significant factor. In the case of Croatia, pressure from international actors including the EU led to the end of discriminatory practices towards Serbian IDPs.

4.1.3 Policy Progress

The Guiding Principles on Internal Displacement were presented to UN member states in 1998 as an alternative to a formal convention. They included norms that cover prevention, assistance and solutions in principle, but in reality the prevention aspect and to some extent that of solutions receded into the background, leaving the focus to fall on protecting and assisting IDPs.
Conversely, the strong rights-based approach the “right not to be displaced” was important, but it also meant that internal displacement was framed in a way that left concern for national economic and social development aside (ILA, 1996). This affected policymaking and implementation by countries with large populations of IDPs. At the same time, the Guiding Principles have been an effective international soft law mechanism, and the basis for many national, regional and international laws, strategies and policies. Global initiatives based on them, such as IASC’s Framework on Durable Solutions for Internally Displaced Persons, its Operational Guidelines (IDMC, 2018).

Equally, on Human Rights and Natural Disasters and the UN’s Principles on Housing and Property Restitution for Refugees and Displaced Persons, have shaped humanitarian action. The position of the special representative on IDPs, which later became the mandate of the Special Rapporteur on the Human Rights of IDPs, strengthened awareness of the need to establish laws, policies and actions to address and reduce internal displacement (Brookings and Bern, 2011).

In a like manner, two African instruments, the 2006 Great Lakes Pact and the 2009 Kampala Convention, became the first legally binding mechanisms on internal displacement based on the Guiding Principles (IDMC, 2018). Based on their provisions, 14 African countries had a law on internal displacement as of March 2018 and 15 were in the process of developing one. Seventeen had a national policy on IDPs’ protection and assistance, and 41 had other national instruments relevant to internal displacement (IDMC, 2018).

Despite this progress in policy development, however, internal displacement has continued unabated. In other words, international efforts to apply universal human rights and humanitarian principles to IDPs and their situations have only been partially successful (IDMC, 2018). Their persistently high number tells us that the provision of humanitarian assistance and protection is not, and never will be enough to significantly reduce internal displacement in the long-term (IDMC, 2018). A shift toward prevention and risk reduction is needed. In order to increase awareness of internal displacement as an economic, security and political priority, a better grasp of how it comes about and how its impacts generate new risk is needed.
4.2 The United Nations High Commissioner for Refugees Innovative Role on Internally Displaced Persons Protection

UNHCR was conceived in a human rights context. As a subsidiary organ of the United Nations General Assembly, it is bound by Article 1 of the UN Charter to pursue the purposes and principles of the organization; and by Article 55, to promote ‘universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion’ (UNHCR, 1951). Its own Statute identifies some of the ways by which protection may be pursued, while a special role supervising the application of their provisions is confirmed by States party to the 1951 Convention and 1967 Protocol relating to the Status of Refugees (UNHCR, 1951).

Besides, the original idea behind the protection responsibility was to have an international agency to replace what the refugee had lost through flight and the fracturing of the assumed normal relationship between citizen and State (Goodwin-Gill, 2006). Today, taking account of developments at international legal and institutional levels, protection comprises both a legal framework and a solutions framework. Among others, the legal framework encompasses the refugee treaties, such as the 1951 Convention and the 1967 Protocol and their regional counterparts, but also relevant international human rights law; the solutions framework, in turn, covers refuge and asylum, voluntary repatriation, and assistance (UNGA, 2005).

As a matter of fact, the United Nations General Assembly Resolution 428 (V) of 1950 which established the Office of the United Nations High Commissioner for Refugees does not confer a specific mandate for IDPs on the organization (UNGA, 2005). Article 9 of the Statute of the Office, annexed to the Resolution, however authorizes the High Commissioner to “engage in such activities (...) as the General Assembly may determine, within the limits of the resources placed at his disposal.” Consistent with this provision, the General Assembly has, over the years, broadened the competence of the Office to include groups of forcibly displaced persons who do not fall, individually or collectively, within the scope of the refugee definition in the Statute (UNGA, 2005).

Uniquely, the UNHCR, expertise in providing international protection and humanitarian assistance and finding solutions for refugee problems was perceived to be of particular relevance for the situation of the internally displaced. From the very onset, some States were concerned about perceived interference with national sovereignty or unwarranted
interventions. These concerns were addressed through the requirement that UNHCR’s engagement, first, would be at the request of the Secretary-General or the competent principal organs of the United Nations. Second, the consent of the State concerned had to be given. These threshold criteria are reiterated in a number of General Assembly Resolutions, notably 47/105 (1992) and 48/116 (1993) and 49/169 (1994).

However, today the foundation for UNHCR’s engagement with IDPs is widely attributed to United Nations General Assembly Resolution 53/125 (1998), paragraph 16. It reaffirms “support for the role of the Office of the High Commissioner in providing humanitarian assistance and protection to internally displaced persons, on the basis of specific requests from the Secretary-General or the competent organs of the United Nations and with the consent of the State concerned. Hence, taking into account the complementarities of the mandates and expertise of other relevant organizations”, and emphasizes that “activities on behalf of internally displaced persons must not undermine the institution of asylum (UNGA, 1998). It underscores UNHCR’s mandate for refugees and stresses that the institution of asylum should not be undermined through the Office’s work with IDPs. The situations in which UNHCR’s could engage are not circumscribed and the importance of UNHCR working in partnership with other relevant organizations is particularly emphasized (UNHCR, 2007).

Noting this resolution, the Executive Committee reaffirmed its support for UNHCR’s role with internally displaced persons on the basis of the criteria specified by the General Assembly (ExCom, 1999). In 2005, the Committee explicitly supported an expanded role for UNHCR in situations of internal displacement when it welcomed the proposals made by the Secretary-General and United Nations General Assembly to strengthen the United Nations humanitarian system. It took note of deliberations by the Inter-Agency Standing Committee aimed at following up on the outcomes of the response review and to bring about greater consistency in the response to humanitarian emergencies. Therefore, it encouraged UNHCR to continue to explore the feasibility of taking on coordination responsibilities for clusters related to internally displaced persons protection, camp management and shelter in conflict situations as part of a broader United Nations coordination effort in support of the United Nations humanitarian coordinators, with a view towards ensuring a more effective, predictable, and timely response to humanitarian crises, including a system of accountability (ExCom, 2005).
With a view to promoting a coherent and consistent approach to “protection”, the Inter-Agency Standing Committee (IASC) has defined protection as a function that encompasses all activities aimed at obtaining full respect for the rights of the individual, in accordance with the letter and spirit of the relevant bodies of law, including human rights, humanitarian and refugee law, without discrimination of any kind (IASC, 2000).

Equally important, protection activities should first and foremost be designed to protect against threats to life, prevent torture or discrimination, and promote respect for dignity and the preservation of family unity. Protection is also about creating an enabling environment so that these aims have the most reasonable chance, under the circumstances, of being realized (IASC, 2000).

However, UNHCR’s engagement with IDPs within the cluster approach is primarily with those displaced due to armed conflict. In situations where internal displacement is exclusively due to natural or human-made disasters, the IASC arrangements envisage that consultations would be undertaken at the field level among UNHCR, UNICEF and the Office of the High Commissioner for Human Rights (OHCHR), under the overall leadership of the Humanitarian or Resident Coordinator, for agreement on which of the three agencies could best assume the lead role for protection (IASC, 2005).

Equally, states remain ultimately responsible for the protection of persons within their territory or jurisdiction. The involvement of UNHCR and other international actors in situations of internal displacement thus does not lead to a delegation of responsibility from the State to international agencies. Its purpose is “not to substitute but to strengthen national efforts for protecting and assisting the internally displaced (Kälin, 2005).

Therefore, to ‘provide international protection’ thus means, first, to insist on the fulfillment of international obligations. Secondly, it has a practical aspect which means being there and using all available mechanisms to ensure that protection goals are achieved (municipal law, governmental and non-governmental institutions, the impact of information, regional and international supervisory mechanisms; protest). Thirdly, it means maintaining the humanitarian and non-political character of the work. Fourthly, it has a prohibitive dimension, drawn directly from the body of human rights law, which requires disengagement from and non-engagement in activities incompatible with international protection standards (no forced return of refugees, or support for policies and practices that
violate human rights, such as forced labour, indefinite detention, assistance in unlawful situations, or protection of those properly excluded from refugee status.

Moreover, while the responsibility to seek solutions recalls the objective of the international refugee regime, this does not mean that the one goal is automatically subsumed within the other. That is, protection is an end in itself, so far as it serves to ensure the fundamental human rights of the individual. Neither the objective of solutions nor the imperatives of assistance, therefore, can displace UNHCR’s autonomous protection responsibility (Good-win, 2006).

Time and again the UN General Assembly to which the High Commissioner reports and is presently imperfectly accountable has stressed both the fundamental nature of the international protection function, and the fundamental rights of those of concern to UNHCR (UNHCR, 2006). UNHCR is thus an agency with very specific responsibilities in the human rights field, to provide international protection, not merely by respecting the rights of refugees in a passive sense, but also actively taking the fact of their being refugees as necessary and sufficient reasons for action and intervention (UNHCR, 2006).

In addition to addressing the most urgent humanitarian needs, UNHCR’s activities are aimed at capacitating States and affected societies to effectively address displacement challenges. Relying strongly on partnership with the government concerned, national NGOs and other relevant civil society actors and, of course, IDPs communities themselves, the Office also works closely with sister agencies of the United Nations system, as well as with intergovernmental and international NGOs within comprehensive multi-sectorial programmes. On the basis of an existing Memorandum of Understanding, UNHCR also engages in and will further develop its strategic partnership with the United Nations Representative of the Secretary-General on the Human Rights of Internally Displaced Persons. This will be with a view to promoting protection of the internally displaced at the global and national levels, as well as advocacy and the mobilization of human and financial resources (UNHCR, 2006).

Not to mention, UNHCR’s protection and assistance programmes for IDPs have traditionally covered a wide range of situations and activities. Since armed conflict and human rights deficiencies or abuses are major causes of displacement, UNHCR’s activities have entailed presence in areas affected by serious disturbance or conflict, where physical safety and security are key concerns (UNHCR, 2007). These activities focus on monitoring
and direct intervention to protect the vulnerable, particularly women and children whose exposure to Sexual and Gender-Based Violence (SGBV) is seriously heightened in conflict situations.

Moreover, UNHCR has also been called upon to organize evacuation of civilians in life threatening situations; negotiate safe passage for relief supplies; intervene with local entities to prevent the involuntary return of the internally displaced to areas of danger; facilitate freedom of movement, including the possibility for persons in danger to seek asylum; and advocate with parties to the conflict, working closely with partners such as the ICRC. Working with UNICEF, advocacy has been directed particularly against child recruitment by armed groups. In some situations, UNHCR has been called upon by the government concerned to monitor or intervene on the treatment of threatened minority groups in order to mobilize preventive action. In 2005, UNHCR was designated as the lead agency for HIV/AIDS for displaced persons, IDPs included, in the UNAIDS division of labour (UNHCR, 2007).

In like manner, enhanced legal protection for IDPs has been pursued through assisting the authorities to develop national legislation and appropriate administrative support arrangements, so as to strengthen the framework for identifying IDPs, promote their non-discriminatory treatment and protect their rights. UNHCR has also aided national authorities and other actors to extend essential services to IDPs, particularly in rural areas, including the delivery of non-food relief items, establishing basic health care facilities, and providing shelter. Capitalizing on UNHCR’s experience gained in assisting refugees and returnees, another critical area of support to national authorities has been the strengthening civil registration services by supporting mobile civil registration systems and facilitating access to justice for IDPs through mobile courts.

Furthermore, UNHCR explores durable solutions in consultation with IDPs and the concerned government, as well as with the communities hosting IDPs or to which they will be re-located. Solutions are first and foremost about the restoration of rights. This may be achieved in the context of returning home in safety and dignity or integrating in another place in the country. In this regard, UNHCR has advocated with concerned governments to allow the return of IDPs to their homes, grant land in safe areas for them to settle on, or otherwise facilitate their right to integrate elsewhere. UNHCR has also undertaken substantial activities in regard to restoration of property to IDPs returnees, including through facilitating mechanisms to settle competing claims. UNHCR’s activities aimed at peace building and
reconciliation in the context of returnees will also be of significance to its activities on behalf of IDPs.

At the global level, UNHCR is responsible for leading the development of standards and policies for IDPs protection, helping to build capacities among participating agencies, and coordinating operational support for new and ongoing emergencies. The Office ensures that all activities performed within the framework of the cluster approach, going beyond those in the protection cluster, are carried out with a “protection lens”. There is thus *a droit de regard* over other clusters, to ensure that strategies and activities they promote will not have a negative impact on protection. UNHCR is currently engaged with a number of focal point agencies to foster better understanding of protection responsibilities through tools development. The drafting of a manual for IDPs protection is being coordinated by UNHCR as a collaborative effort (UNHCR, 2007).

As protection cluster lead agency at the country level, UNHCR is both the overall coordinator and the specific focal point for three areas, namely: protection of persons with specific protection needs; prevention and response to threats to physical safety and security and other human rights violations (with OHCHR); and logistics and information management support. UNHCR’s responsibilities include ensuring that cluster members and other operational partners engage in a specific IDPs situation in a strategic coordinated fashion, bringing their respective expertise to play in a complementary way to address identified priorities (UNHCR, 2007).

In the same vein, the coordination function also entails support to and partnership with national authorities and participating agencies to undertake needs assessments, employing a community and participatory approach that incorporates age, gender and diversity considerations. As cluster lead agency, UNHCR is also responsible for ensuring that response strategies maximize capacities and resources among the various actors. After consultation with cluster members and the Humanitarian Coordinator, UNHCR may have to be a “provider of last resort” where critical protection gaps remain and designated partners are unable to act (UNHCR, 2007).

### 4.2.1. The Challenges Experienced by the United Nations High Commissioner for Refugees.

It has earlier been pointed out that the protection cluster foresees engagement with three specific categories of “non-displaced” persons termed as “affected populations”. These
are communities hosting IDPs; those to which IDPs have returned; and others “at risk of displacement”. The question highlighted already as to the strategic and operational nature and scope of the protection responses for potential displacement situations continues to attract attention and touches on an important aspect of UNHCR’s role as lead agency for this cluster (UNHCR, 2007). Evidently, for an organization for which displacement is a vital ground for its involvement, this particular situation calls to attention questions of both legal and institutional competence.

Again, as the protection cluster lead agency, UNHCR carries a particular responsibility to ensure that activities both within this cluster and across others are carried out within a protection framework and are consistent with international standards. On the one hand, working in a framework of several partnering agencies, with perhaps uneven protection expertise, capacities and outlooks, creates a special challenge for coherence and consistency in protection strategies, delivery and accountability (UNOCHA, 2009). On the other hand, this multiplicity of mandates offers a unique strength, in that the comparative advantages of each of the designated agencies can be brought to bear on what is a huge and complex problem. Protection cannot be projected as only a specific and unique sector. It will have to be driven forward as the overarching rationale and objective of all the activities carried out on behalf of the beneficiary IDPs populations (UNHCR, 2007).

The vision as outlined in the policy document is to make UNHCR, a predictable and fully engaged partner in the new approach to situations of internal displacement (UNHCR, 2007). It is however also acknowledged that IDPs responsibilities thus far have not attracted mainstream resources. In the particular case of protection, the concern is that funding and resource limitations should not limit the scope of activities to be implemented, creating a situation in which even baseline standards may not be met. The solution for this problem is the same one that the policy paper has projected for the resource question as a whole for IDPs: namely, a proactive resource mobilization strategy which, in particular takes “advantage of the funding opportunities associated with the process of humanitarian reform”. Obviously, in this context, protection needs will have to be assigned special priority.

Likewise, the cluster approach has attracted criticism in some quarters as being overly bureaucratic. UNHCR’s objective is that, especially in the field of protection, structures, processes and modalities should be kept as simple, flexible and responsive as possible. Evidently, a system which has so many players and operates at a global and a national level will, especially in the initial phases, require to be devoted to assessments,
meetings and consultations to devise a well-coordinated strategy. In the field of protection however, this foundation work must be balanced carefully with and will eventually be justified by the ability to actually ensure implementation of activities that have a tangible impact on the plight of the IDPs (UNHCR, 2007).

Notwithstanding, the “provider of last resort” device has been attached to the cluster approach as a pivotal element of accountability. Within the protection cluster, the challenge of ensuring that concerned partner agencies concretely translate their pre-disposition at the global level to act as predictable partners in the protection response at the field level has already made itself felt (UNGA, 1992). The Office considers it particularly crucial that all the partner agencies should be able to pursue their operational responsibilities as a matter of course, so that any operational engagement by UNHCR in respect of the areas of responsibilities in the protection cluster is as a “last resort”. In order to maximize capacities and avoid duplication, criteria will need to be developed to guide the “triggering” of the “last resort” role (UNHCR, 2007).

Conversely, disengagement from IDPs operations has often been linked to the more legal question relating to the “ending” of displacement. UNHCR’s outlook has already been indicated in this study, namely that durable solutions in the IDPs context are first and foremost about restoration of and the actual ability to exercise rights in a fulsome manner (UNHCR, 2007). Of course, in both these and other cases portending “disengagement”, such as where it is judged that there are no significant protection dividends for IDPs from UNHCR’s involvement; collaboration and consultations with the Emergency Relief Coordinator and other partners will be necessary, in itself making disengagement as such a much more complex question than if an agency was acting alone (UNHCR, 2007).

4.3 Conclusion

While UNHCR’s Statute makes no reference to internally displaced persons, it recognizes in Article 9 that the High Commissioner may, in addition to the work with refugees, “engage in such activities… as the General Assembly may determine, within the limits of the resources placed at (her) disposal.” Based on this Article and over a period of several decades, a series of UN General Assembly resolutions have acknowledged UNHCR’s particular humanitarian expertise and encouraged its involvement in situations of internal displacement. In particular, UN General Assembly resolution 48/116 (1993) set out important criteria to guide UNHCR’s decision on when to intervene on behalf of internally
displaced persons. These resolutions, together with Article 9 of the Statute, provide the legal basis for UNHCR’s interest in and action for internally displaced persons.

Notwithstanding the willingness to do more, political and operational constraints frequently limit international humanitarian action. The international community must continue to press those who have the authority and influence to overcome the obstacles, in particular the national authorities which bear the primary duty and responsibility to protect and assist internally displaced persons. UNHCR is ready to work, under the leadership of the UN Secretary General and in close co-operation with other relevant agencies, to mobilize support for operations where denial of access, insecurity, inadequate resources and other constraints hamper humanitarian action on behalf of the internally displaced. Even where UNHCR is unable to become involved itself, the Office can play a useful role in supporting and ensuring that others are able to provide assistance and protection to those in need.

However, whatever the nature and degree of UNHCR’s involvement, the fundamental objective must always be to improve the protection of the internally displaced and promote solutions to their plight. The Guiding Principles on Internal Displacement, which UNHCR has disseminated widely within and outside the organization, provide a useful set of standards against which to measure the protection objectives and promote dialogue with state and non-state actors of violence.

Equally, the Guiding Principles must be institutionalized within nations to ensure policies and laws that aid IDPs and intensive monitoring to ensure their implementation. As an international body, UNHCR must be given the authority and means to expand its role with IDPs, and international police and military capacity must be strengthened to defend their physical safety. A more reliable and predictable system for those trapped inside borders will require stronger legal, institutional, and protection measures from the international community.

Several United Nations resolutions recognize and call for UNHCR’s role in support of internally displaced persons. The Office welcomes endeavors to consolidate its overall role with these populations. UNHCR believes that it is possible to achieve this in a constructive manner, satisfying the concerns of governments, respecting and building upon the ongoing coordination efforts being implemented by the humanitarian community and, most importantly, offering a coherent vision that addresses the very real needs of the concerned populations.
CHAPTER V: GENERAL CONCLUSION

5.0 CONCLUSION

One of the more daunting challenges of the 21st century is to provide protection to people uprooted within their own countries and at risk of starvation, physical violence, genocidal acts or other serious abuse of their human rights. Whether in Darfur in the Sudan, the Democratic Republic of the Congo or Somalia. Although primary responsibility for the protection of the internally displaced rests first and foremost with their governments, national authorities tragically often lack the will or the capacity to provide for their uprooted populations and in failed states there may be no government at all. It is therefore a defining feature of human rights and humanitarian emergencies that governments turn to the international community for help. Displaced people in particular regularly appeal to the United Nations to provide them with material assistance and also to protect them from egregious human rights violations in their own countries.

Despite progress in implementing the Guiding Principles over the last 20 years, internal displacement is still not a key component of national and global development agendas. Efforts to address the phenomenon are not yet seen as investments in risk governance and sustainable development. To reduce displacement risk, protect and assist those already displaced and help them to achieve durable solutions, countries have to be in the driving seat. Investments in equitable development, peace building and disaster risk reduction will have to go hand in hand with coordinated humanitarian action. A first step would be to develop a country-led framework for reducing internal displacement to facilitate planning, target setting and monitoring.

Granted, some progress has been made in mainstreaming internal displacement into domestic policy. Greater leadership is particularly visible when it comes to displacement associated with disasters, which more countries than ever recognize as a development concern. They also increasingly embrace the positive impacts of a strengthened global disaster risk reduction agenda. These developments should be supported, continued and reinforced, but there are two caveats: first, policy instruments do not necessarily lead to successful implementation; and second, the pace of implementation may be outstripped by the generation of displacement risk, which then materializes.
Therefore, this study establishes that human and state security, economic growth and social stability are impossible to achieve in countries that have large numbers of people living in protracted displacement, or face recurrent new displacement and high levels of risk. Displacement is both a cause and consequence of insecurity and low or unequal economic and social development. High vulnerability combined with poor physical and economic security can quickly translate into crises for individuals, communities and states. Unsustainable development practices increase the risks that trigger displacement, even in high-income countries with significant governance capacity.

More data on IDPs will not necessarily translate into better outcomes, however, and reporting only on the scale of internal displacement and the urgency of protection concerns will not paint a truly global picture. It is even less likely to shift political attention and programme approaches. High quality and interoperable data across the entire displacement continuum is needed, and that data must be used to inform smart and effective responses. A range of development and humanitarian actors, including national line ministries, will have to cooperate and coordinate to put them into practice in order to achieve collective outcomes.

Chapter I of the study sought to identify that protection is both a legal and social issue. Therefore, protection must cover the full range of rights in international human rights law, including civil, political, social and economic and cultural rights. Unlike refugees, there is no humanitarian international institution which has the exclusive mandate for dealing with the protection and assistance of IDPs.

This is problematic on a number of fronts. Whereas international law entitles refugees to physical security and human rights protection in addition to assistance, no such legal guarantees exist for those who are left within the borders of a state. In an attempt counter this obvious gap, more than the last two decades have witnessed an attempt to establish an internationally acceptable set of normative principles. The Guiding Principles have proved instrumental in defining internal displacement but whilst also including elements of international humanitarian law, human rights and refugee law covering all phases of internal displacement.

Chapter II mainly placed the terms internally displaced and refugee in the context of this study. For the purposes of the Guiding Principles, the term “internal displacement” describes situations in which individuals and groups are forced or obliged to leave and remain away from their homes, but remain within the borders of their own countries. However, the
second element distinguishes them from refugees, who are also involuntarily displaced but across internationally recognized state borders. Internal displacement occurs typically in response to armed conflict, persecution, situations of widespread violence, natural and human made disasters and, more recently, large-scale development projects.

The chapter also clearly illuminated on who is responsible on protecting IDPs. The primary responsibility for protecting IDPs and all persons within their own country rests with the national authorities of the country. National responsibility is a core concept of any response to internal displacement. It is a fundamental operating principle of the international community and is routinely emphasized by governments themselves, as a function of their sovereignty. However, then, the role of international actors is to reinforce, not replace national responsibility.

Chapter III examined the origin of the Responsibility to Protect from the perspective of IDPs protection and establishes the link between the Guiding principles and R2P. Furthermore, it identified the problems that arise in applying the concept to displaced persons. It then offered suggestions for reconciling R2P with IDPs so that the concept may benefit displaced persons, as was intended. The historically close relationship between providing protection to IDPs and the concept of R2P has created the expectation that R2P by definition will prove beneficial to IDPs.

However, it cannot be assumed that R2P will automatically provide greater protection for IDPs. There may be situations where R2P’s application compounds their problems, creates more displacement and falls short of helping them. It is therefore essential to continue to explore the relationship between R2P and IDPs protection and make sure that R2P strategies are carefully designed to fit the needs of IDPs. R2P after all is a new concept that needs to be tried out and carefully tailored to IDPs concerns so as to ensure that genuine protection is provided.

Chapter IV sought to comprehend the legal framework contained in the Guiding Principles on Internal Displacement. The principles increasingly have been guiding governments and international organizations in addressing situations of displacement, influencing how the displaced are perceived and treated at the national and international levels. In a nutshell, the Guiding Principles on Internal Displacement do provide a comprehensive set of durable solutions for IDPs and are therefore a useful framework in all circumstances.
Conversely, less effective have been the institutional arrangements developed, but here too progress is discernible. The UN’s decision to assign responsibilities to specific agencies has the potential to bring predictability and clarity to the international response system for the displaced. Thus, the chapter exposed the synergies and differences between UNHCR’s refugee and IDPs work that the agency has identified. The UNHCR’s role in the new division of labour is pivotal because it is focused on protection, the biggest gap in the system. Indeed, UNHCR is at a critical juncture, having agreed to substantially expand its role to encompass the internally displaced. For the first time since the end of the Second World War, a comprehensive regime is being designed to address the needs of forced migrants on both sides of the border.

Chapter V reinforced that in accordance with established principles of International Law, it is first and foremost the responsibility of the governments concerned to meet the assistance and protection needs of their displaced populations. The Guiding Principles underscore that “national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction. However, the IASC policy paper also affirms that the protection role of international agencies and NGOs should involve reinforcing national responsibility and supporting, not substituting the protection responsibilities of competent authorities. Thus, state responsibility is an underlying principle for the United Nations approach to durable solutions, with organizations like UNHCR working in support of national actors.

5.1 Recommendations

Following the findings of this study, the UNHCR has been proactive in the IASC in placing protection at the center of humanitarian action, including as leader of the GPC, contributing to the statement by IASC principals as the centrality of protection and the subsequent IASC Protection Policy. Through its leadership or co-leadership of three clusters at global level, UNHCR has been a key contributor to methodologies and practices underpinning protection mainstreaming. In doing so, UNHCR has been able to draw from its own expertise as well as its in-house tools for community based protection.

The determination to reinforce protection as the purpose of humanitarian action has been reaffirmed by the office in its 2017-2021 Strategic Directions, which states that UNHCR will ”strengthen protection across the whole spectrum of forced displacement”, ensuring that a protection perspective is central. In the same vein, the study also found out
that protection is unevenly integrated in operations, despite evidence of strong protection mainstreaming. This has resulted in inconsistence in operational design and impact. The study also confirmed that UNHCR does not always fully capitalize on its leadership of national clusters approach to achieve protection outcomes even though this is explicit in the 2016 operational guidelines.

On the other hand, existing displacement and future risk need to be better understood through comprehensive assessments of their scale and nature. Complex and interdependent risk drivers, including poverty and inequality, political instability and state fragility, water stress and food insecurity, climate change and environmental degradation, unsustainable development and poor urban planning combine in different ways in different countries to increase people’s exposure and vulnerability to displacement. A solid evidence base is vital to make the case for the significant investments that will be required in future action to address these issues.

In addition, national capacity to deal with internal displacement and reduce future risk will need to be systematically built and maintained. This includes policy planning, implementation and follow-up at the highest levels of government, combined with the devolution of resources and decision-making to local authorities to enable them to help IDPs achieve durable solutions.

What is more, internal displacement must be integrated into existing development mechanisms, particularly national development plans and poverty reduction strategies. Failure to address long-term displacement has the potential to undermine the 2030 Agenda for Sustainable Development Goals (SDGS). Greater investment in national and regional efforts to build peace, reduce disaster risk and address the impacts of climate change need also to consider displacement risk. The capacity across line ministries and service providers to understand and address internal displacement needs to be supported in a more targeted manner. International organizations have a role to play in supporting, but not substituting national programmes, policies and investments laws to protect and assist them, and shows that despite growing commitment by many countries and the humanitarian and development communities, the main drivers and triggers of displacement and the conditions that prevent durable solutions remain largely unchanged. Thus, the study proposes a shift from understanding internal displacement as an unforeseeable and external shock to which countries must respond, to its recognition as an inherent and contingent liability, the true
scale and cost of which must be accounted for on national balance sheets and in development agendas.
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