



BRIEFING PAPER

FROM KAMPALA TO ISTANBUL

Advancing global accountability for IDPs
through law and policy making

19 MAY 2016

Political leaders and representatives from humanitarian agencies and civil society organisations (CSOs) from around the globe will convene in Istanbul for the 2016 World Humanitarian Summit (WHS) on 23 and 24 May. The summit's objective is to work towards the political, social and financial decisions required to implement the vision for change the UN secretary general set out in his report *One humanity: shared responsibility*.¹

Global leaders will be asked to renew the international community's commitment to the basic principle of humanity, and the unified and cooperative interaction needed at all levels to fulfil five "core responsibilities". Internal displacement is addressed within the core responsibility to "leave no one behind", which calls for a safe and dignified reduction of the number of internally displaced people (IDPs) by 2030, including through the adoption and implementation of normative frameworks on internal displacement.

The WHS provides an opportunity to finally recognise internal displacement as a global phenomenon from which few countries are immune, and to take decisions about how to address it in a concerted and coherent way commensu-

rate with its scale and human impacts. The summit convenes shortly after the publication of IDMC's annual Global Report on Internal Displacement (GRID), which identifies 40.8 million people worldwide internally displaced as a result of conflict and violence as of the end of 2015. It is the highest figure ever recorded, and illustrates the increasingly intractable problem of long-term displacement. It also highlights the inadequacy of current responses at all levels to what is a truly global crisis. The complexities of internal displacement and its seemingly inexorable upward trend require urgent and effective solutions.

To ensure that no IDP is left behind, that their needs are addressed and that their number begins to decrease, the Agenda for Humanity - the annex to the UN secretary general's report for the WHS - calls for greater efforts to establish a more accountable system for IDPs' protection and recommends a set of commitments to be made by governments and other parties involved in displacement response.²

This paper's objective is to inform the discussions that will take place at the WHS and the commitments that global leaders will be called on to take. It examines the major achievements and weaknesses of the Kampala Convention, and the potential to develop similar instruments in other parts of the world. Most importantly, it identifies some of the key benefits policy-makers and political leaders accrue by engaging in regional processes. It also takes stock of recent developments in national law and policy-making on internal displacement.

In particular, IDMC endorses the appeal made in the Secre-

tary General's report and calls for a series of concrete measures to be undertaken by states and other relevant stakeholders to improve political accountability towards IDPs through law and policy-making:

- **Acknowledge and analyse the scope, complexity and specifics of displacement** at the global, regional and national level, in order to develop effective policy and operational responses, including by gathering and sharing up-to-date, reliable and disaggregated data;
- Support the Agenda for Humanity's call to reduce internal displacement by **addressing its root causes and by making clear commitments rooted in international humanitarian and human rights law** and reflecting the most progressive instruments that guarantee IDPs' rights, such as the Kampala Convention and the Guiding Principles;
- **Adopt new normative frameworks and implement the existing ones** to ensure that policy and operational responses are in line with international human rights and humanitarian law, and draw on effective contributions from all stakeholders, including IDPs and host communities;
- **Consider the development of regional frameworks on IDPs** that address supranational displacement issues drawing on the lessons learned from the Kampala Convention and involve all relevant parties;
- With international bodies, regional institutions, CSOs and interested governments, **establish a global platform of partners** to provide the technical capacity required to develop new normative instruments, mobilise the resources needed to ensure implementation and maintain the political momentum necessary to achieve the goals set out in the Agenda for Humanity.

A call for regional normative frameworks on internal displacement

The Agenda for Humanity not only explicitly recognises the importance of national policies, legal frameworks and the Guiding Principles on Internal Displacement in ensuring "a normative system that addresses the needs of IDPs". It also acknowledges the importance of regional frameworks such as the Kampala Convention and advocates for the adoption of similar instruments in other regions.

This recommendation reflects the outcomes of regional consultations in 2014 and 2015 that paved the way for the WHS, and which consistently underscored the need for regional instruments.³ The Middle East and north Africa consultation advocated for the adoption of such a framework for IDPs, building on the experience of other regions, and called on regional organisations such as the Arab Maghreb Union, the Gulf Cooperation Council and the League of Arab States to do more to protect civilians in conflict areas.⁴ The consultations in Latin America⁵ and the Pacific⁶ also proposed the development of regional and national frameworks on IDPs' protection.

Lessons from the Kampala Convention

As global leaders are called upon to consider the development of regional frameworks on internal displacement, their actions should be informed by the lessons learned in Africa.

Six years after its adoption by the African Union (AU), the Kampala Convention offers a useful precedent. The following are some of its key progressive elements:

- **The definition of stakeholders' roles and responsibilities:** the convention establishes the first common framework to define the roles and responsibilities of a wide range of stakeholders working with or affected by displacement - not only humanitarian agencies and authorities, but also host communities.
- **A tailored response to specific needs:** the convention is innovative in formulating responses tailored to the specifics of internal displacement in Africa. It places communities at the centre of the humanitarian process and refers to the vital role of host communities in protecting and assisting IDPs. It also recognises the needs of IDPs themselves and host communities at the height of a crisis and during protracted displacement.⁷
- **The recognition of displacement caused by development projects:** The convention recognises forced displacement in Africa as a wide-ranging phenomenon with a variety of causes. It explicitly identifies development projects and emphasises the responsibility of those involved in them,⁸ implicitly reinforcing the notion that they should be held accountable for neglecting their duty of care towards IDPs.⁹
- The recognition that addressing displacement cannot be limited to short term humanitarian response and requires **the commitment of development actors.**

The success of the drafting and adoption of the Kampala Convention can be attributed to a number of factors that should be considered prerequisites for similar endeavours. The main ones are:

- **Political and financial commitment from the regional intergovernmental organisation:** the AU identified the adoption of a regional framework on internal displacement as an institutional priority, demonstrated the political commitment required to reach its objective and mobilised adequate resources to do so.
- **An inclusive preparatory process:** the process involved states, regional economic communities, CSOs, UN agencies and other stakeholders. Ample consultations led to a high degree of consensus around policy choices that are now enshrined in the Convention. An AU-CSO pre-summit meeting was also held.¹⁰
- **Individual states' commitment:** the concrete commitments of several states, such as Sierra Leone and Uganda, which had emerged from serious humanitarian crises that caused mass displacement, was instrumental in garnering support for a regional treaty that might otherwise have been seen as impinging on states' sovereignty.
- **The involvement of eminent people:** several personalities of high repute, such as Archbishop Desmond Tutu and Kofi Annan, played an active role in championing the process.

The adoption of the Kampala Convention was a landmark event in that it established a common regulatory standard for the protection and assistance for IDPs and others affected by displacement. But much more needs to be done to ensure it is effective.¹¹ Despite the substantive progress made with its adoption, its implementation process reveals a number of limitations. The key ones are:

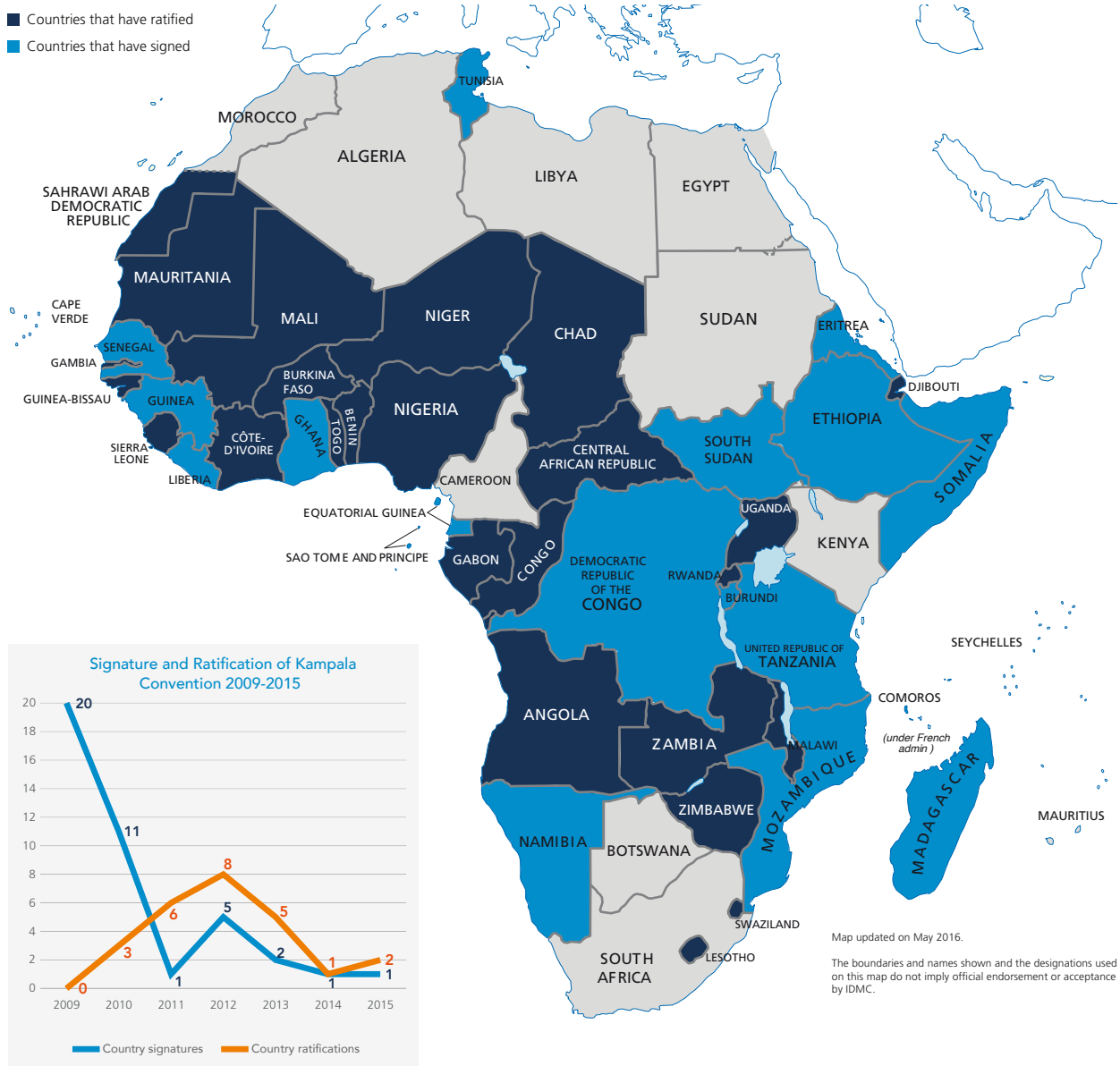
- **Loss of momentum for ratification:** the convention was the fastest AU treaty to enter into force and the ratification rate peaked between 2011 and 2013. It has fallen off substantially in the last two years, however, with only three countries becoming parties in 2014 and 2015.¹²
- **Ratification gaps:** some of the countries with the highest number of IDPs in Africa, such as the Democratic Republic of the Congo (DRC), Sudan and South Sudan, are still not parties to the convention, which significantly undermines its authoritativeness.
- **Incomplete domestication:** None of the 25 countries that are parties to the convention have completed the process of incorporating it into their national laws.
- **Lack of monitoring:** Monitoring of the convention's implementation by the African Commission on Human and People's Rights (ACHPR) and the African Peer Review Mech-

anism has not born fruit yet, and major efforts are needed to improve it. Mostly, three years after the convention entered into force, the conference of states parties it envisaged is still to be convened.¹³ It may finally be set up during a conference of ministers tentatively scheduled in 2016.

A model for other regions?

For the UN secretary general, the Kampala Convention can be used as a model to inspire similar regional undertakings in the future. Decision-makers involved in such processes should build on the convention's successes, but they should also be aware of its shortcomings in order to mitigate them or avoid them altogether in their own regions.

AFRICAN UNION COUNTRIES THAT HAVE RATIFIED OR SIGNED THE KAMPALA CONVENTION



Beyond the convention's core elements, which are replicable elsewhere, new instruments should include forms of displacement specific to the region in question, and devise protective arrangements compatible with local legislative traditions and institutional architecture. Displacement caused by organised criminal violence in Central America, for example, and that associated with the effects of climate change in the Pacific, will need to be addressed specifically.

There are many challenges inherent in the development of regional frameworks on internal displacement. Their adoption, however, is vital in ensuring that IDPs are properly protected and that no one is left behind. Decision-makers should also be aware of their many benefits. They provide an opportunity to:

- **Share and capitalise on lessons learned** at the national level at the supranational level
- Address **internal displacement caused by factors whose impacts are not confined to a single country** in a coherent and concerted way
- **Develop common conceptual approaches and definitions** across a whole region
- Support the **effective collection of reliable, regularly updated and disaggregated data on displacement**
- Improve the **planning and implementation of integrated responses** that combine humanitarian and development components

Central America would seem well placed to move forward in developing a regional protection system for IDPs. The scale and scope of displacement warrant such a move, and the institutional set-up seems conducive. The establishment of a human rights observatory on displacement at the Central American Integration System (SICA) as proposed in the Brazil declaration, provides an opportunity in this direction.¹⁴

In parallel, the Inter-American Commission on Human Rights has already demonstrated its willingness to play a significant role in addressing displacement at the regional level. Its freedom to do so is currently hampered by the lack of a regional standard to engage member states, but an intergovernmental organisation such as the Organisation of American States (OAS) could play such a role in working towards a consensus on a common framework by supporting a consultation process similar to that which led to the drafting of the Kampala Convention.

Advancing national frameworks for IDPs' protection

Irrespective of whether a regional framework is in place or not, the Agenda for Humanity underlines the value of domestic laws and policies on internal displacement.¹⁵ At the WHS, policy-makers should reaffirm their commitment to adopt or strengthen such instruments as a means of improving their responses to IDPs' protection and assistance needs.

A number of states have already developed national laws or policies on internal displacement in line with international standards, and others are in the process of doing so. A mapping exercise conducted by IDMC and UNHCR under the umbrella of the global protection cluster (GPC) led to the creation of a global database on such instruments in March 2016. The exercise found that as of the end of 2015, at least 27 states had enacted laws, policies or other national instru-

ments specifically on internal displacement, and 13 were in the process of, or had shown interest in doing so.¹⁶

Those adopted in Afghanistan and Yemen in 2013 and Somalia in 2014 represent notable advances in building effective normative frameworks that address all phases of displacement while tailoring responses to the reality on the ground.

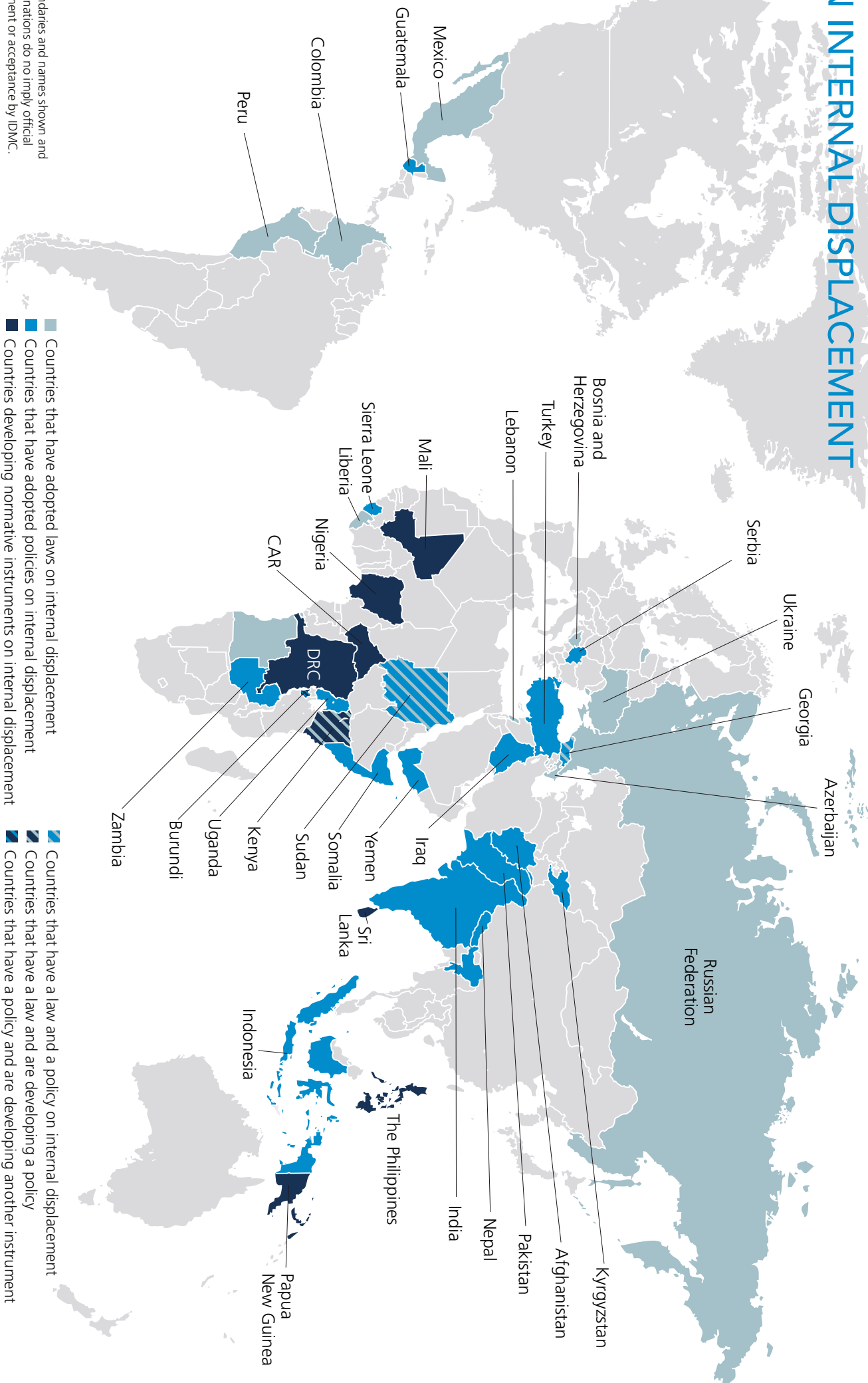
The 12 African state parties to the Pact on Security, Stability and Development in the Great Lakes Region, known widely as the Great Lakes Pact, and its protocol on IDPs have transposed the Guiding Principles in their legislation.¹⁷ Other countries, such as Burundi and Sudan, have endorsed them by signing peace agreements that incorporate their provisions. Such developments are desirable, not only to reinforce national systems, but also to move towards the recognition of the Guiding Principles as part of international customary law. If such result was attained, all states would be obliged to respect them regardless of whether they have incorporated them into domestic law or have ratified a supranational instrument.¹⁸

Lack of political commitment, failure to devote adequate resources and insufficient planning often jeopardise the potential positive impact of a law or policy. In Kenya, the creation of the National Consultative Coordination Committee (NCCC) in January 2015 laid the foundation for the implementation of the country's 2012 act on IDPs. An IDMC review of the country's normative framework, however, revealed that further action was needed.¹⁹ A study of Afghanistan's national policy on IDPs suggested three areas where humanitarian, development and government entities should actively support its implementation at the central, provincial and district levels: dissemination to promote a common understanding of the definition of an IDP, fundraising to ensure that IDPs' issues are integrated in annual budgets and plans, and building key stakeholders' capacity through sensitisation and training.²⁰

Conclusion

The UN secretary general's report for the WHS encourages the establishment and implementation of normative frameworks as a way to reach the global aim of a safe and dignified reduction of internal displacement. Upholding the standards set out by international human rights law and international humanitarian law, including through regional normative instruments following the model of the Kampala Convention and national frameworks addressing the specifics of local displacement, is premised on an official endorsement of this goal as well as genuine efforts to turn it into reality. The WHS is an opportunity to make official commitments towards global aims, but a broader multi-stakeholder initiative placing the governments at the center of the process is needed to sustain this project politically and operationally in the aftermath of the summit. To this end, a global platform could be instrumental, on the one hand, to monitor and propel the courses of action required to pursue well-meaning intentions and, on the other, to support the overall development of laws and policies on internal displacement by building the necessary know-how and mobilising adequate resources.

COUNTRIES THAT HAVE ADOPTED LAWS OR POLICIES ON INTERNAL DISPLACEMENT



The boundaries and names shown and the designations do not imply official endorsement or acceptance by IDMC.

- Countries that have adopted laws on internal displacement
- Countries that have adopted policies on internal displacement
- Countries developing normative instruments on internal displacement
- Countries that have a law and are developing a policy
- Countries that have a policy and are developing another instrument

NOTES

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