

DISPLACEMENT IN ARMED CONFLICT AND THE PROTECTION OF CIVILIANS

**CENTER FOR
CIVILIANS IN CONFLICT**
RECOGNIZE. PREVENT. PROTECT. AMEND.



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ORGANIZATIONAL MISSION AND VISION

Center for Civilians in Conflict (CIVIC) is an international organization dedicated to promoting the protection of civilians in conflict. CIVIC envisions a world in which no civilian is harmed in conflict. Our mission is to support communities affected by conflict in their quest for protection and strengthen the resolve and capacity of armed actors to prevent and respond to civilian harm.

CIVIC was established in 2003 by Marla Ruzicka, a young humanitarian who advocated on behalf of civilians affected by the war in Iraq and Afghanistan. Honoring Marla's legacy, CIVIC has kept an unflinching focus on the protection of civilians in conflict. Today, CIVIC has a presence in conflict zones and key capitals throughout the world, where it collaborates with civilians to bring their protection concerns directly to those in power, engages with armed actors to reduce the harm they cause to civilian populations, and advises governments and multinational bodies on how to make life-saving and lasting policy changes.

CIVIC's strength is its proven approach and record of improving protection outcomes for civilians by working directly with conflict-affected communities and armed actors. At CIVIC, we believe civilians are not "collateral damage" and civilian harm is not an unavoidable consequence of conflict — civilian harm can and must be prevented.

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EXECUTIVE SUMMARY

This paper provides an overview of how displacement affects the protection of civilians, focusing on situations of displacement within conflict-affected areas.¹ It also examines certain fundamental issues related to the role of States and militaries in preventing displacement and providing protection during displacement.

Armed conflict frequently causes mass displacement as civilians flee due to the direct consequence of violence or the indirect cumulative effects of war. The actions of States and their militaries as well as the actions of other belligerent parties, such as armed opposition groups controlling territory and people, affect the protection of displaced persons in conflict zones. Compliance with applicable law, including international humanitarian law, international human rights law, and international refugee law, and ensuring the provision of adequate humanitarian assistance can help prevent displacement and improve protection during displacement. Conversely, violations of international law in armed conflict can cause displacement and suffering, and impede durable solutions to displacement. Importantly, States need to support and cooperate with other actors such as the UNHCR and the ICRC, that specifically work on the protection of displaced persons.

The paper first provides an overview of the concepts of civilians, refugees, and internally displaced persons, and the legal protections afforded to displaced persons under international law.

Next, the paper describes the ways in which displacement affects the protection of civilians in armed conflict. This paper acknowledges that affected civilians might engage in displacement as a viable self-protection option. At the same time, it is imperative to focus on the immediate physical risks and personal danger, as well as longer-term risks associated to loss of socio-economic stability resulting from displacement. In addition to being a harm in itself, displacement can exacerbate and compound other risks faced by civilians in conflict.

Key Issue 1 examines how States and other relevant actors can take preventive measures to remedy displacement in the first place, as one of the most protective steps for safeguarding civilians in armed conflict. Primarily, this includes respecting and ensuring respect for applicable laws, as well as understanding and mitigating other causes of displacement.

Key Issue 2 addresses the ways in which States and other relevant actors can provide protection to civilians during displacement. It summarises certain illustrative actions that can be taken to enhance protection for displaced persons in armed conflict.

Key Issue 3 considers the importance of recognising the multiplicity of actors involved in the protection of displaced persons in armed conflict, and of effective cooperation between such actors. Although States are the primary duty-bearers tasked with protecting displaced persons under international law, many non-State actors, humanitarian organisations, intergovernmental organisations, and local populations, including displaced persons themselves, have valuable expertise and knowledge for effective protection. In some situations, humanitarian organisations or UN agencies may in fact be better placed to provide adequate protection.

Recommendations

- States should endeavour to prevent voluntary displacement by civilians as a means of self-protection from the adverse consequences of armed violence. Effectively, this could be achieved by respecting and ensuring respect for international humanitarian law and international human rights law in armed conflict.
- Arbitrary forced displacement of civilians is prohibited. Temporary evacuations necessary for the safety of affected civilians or for imperative military reasons must only last as long as the conditions warranting them exist.
- While planning military operations, armed actors should incorporate precautionary considerations assessing how the destruction or damage of infrastructure/property may cause immediate or longer term displacement.
- Other actors can provide adequate humanitarian assistance, or facilitate such assistance to prevent certain types of displacement.
- Adequate protection of displaced persons in armed conflict is best achieved by considering the complementary protection afforded to them under international refugee law, international human rights law, and international humanitarian law. States should ratify relevant international and regional treaties related to the protection of civilians, refugees, and internally displaced persons.
- States and militaries should use the *Guiding Principles on Internal Displacement*, comprising relevant customary IHL and IHRL rules, as a framework for the protection of internally displaced persons.
- States should commit to the *Global Compact on Refugees* as a framework for more predictable and equitable responsibility-sharing regarding the protection of refugees.
- States and non-State actors must ensure the protection of displaced persons under their control or territory. This includes ensuring their physical safety and personal dignity, as well as providing adequate shelter, nutrition, healthcare, education, and protections for family life.
- Those involved in protection efforts must ensure the non-discrimination of displaced persons, and recognise the compounding protection risks, including the intersectionality of vulnerabilities that can occur in displacement.
- States should seek to coordinate and cooperate with other relevant States and non-State actors for the effective protection of displaced persons. This includes working with and supporting organisations with international mandates for the protection of displaced persons, especially the UNHCR and ICRC. In many situations, humanitarian organisations or UN agencies may in fact be better placed to provide adequate protection for displaced persons.
- When States and relevant non-State groups (in situations where they effectively control people and territory) are in a position to ensure access and the safety of humanitarian organisations, they should do so, and they may not arbitrarily deny humanitarian access to populations in need.
- States and non-State actors must respect the impartiality, neutrality, and humanity of humanitarian organisations.
- States and relevant non-State armed actors exercising effective control should ensure the meaningful involvement of displaced persons in protection efforts benefitting them. First, their capacity as protection agents should be strengthened. Second, displaced persons should be allowed to meaningfully participate in decision-making regarding the forms of assistance best-suited to prevent displacement and to remedy actual displacement. Local authorities, civil society groups, and humanitarian organizations also possess local knowledge and expertise to better understand diverse needs and implement effective protection and assistance *measures*.

INTRODUCTION

Armed conflict frequently causes people to flee either as a direct consequence of violence or due to the indirect or cumulative effects of war.² The human and security costs of displacement can be high, as civilians become particularly vulnerable to different types of harm and situations of conflicts can be exacerbated and protracted.³ Therefore, preventing and addressing displacement has been frequently recognised in the UN Security Council's Protection of Civilians agenda.⁴

The actions of States and their militaries, as well as armed non-State actors in situations where they effectively control people and territory, affect the protection of displaced persons in conflict zones. Compliance with the law and ensuring the provision of adequate humanitarian assistance can help prevent displacement and improve protection during displacement.⁵ Conversely, violations of applicable international law in armed conflict can cause displacement, suffering during displacement, and impede durable solutions to displacement. Importantly, States and relevant non-State armed actors, need to support and cooperate with other actors with international mandates for the protection of displaced persons such as the UNHCR and the ICRC.⁶

This paper provides an overview of the adverse consequences of displacement on the protection of civilians, with a focus on conflict-related displacement. It examines certain key issues related to the role of States and militaries in preventing displacement and offering protection during displacement. The issues identified in this paper do not constitute an exhaustive analysis of the topic but are illustrative of contemporary issues of relevance, as identified in current practice.

Compliance with the law and ensuring the provision of adequate humanitarian assistance can help prevent displacement and improve protection during displacement.

REFUGEES AND INTERNALLY DISPLACED PERSONS

Those displaced by armed conflict are usually (but not always) civilians,⁷ and have various protections afforded to them under international humanitarian law, international human rights law, and international refugee law. Displacement is not a uniform phenomenon, and an individual's displaced status is legally determined by the specific context of each situation, the actors involved, the causes of displacement and specific protection needs.

In considering the legal protections afforded to displaced persons under international law, there is a distinction between the status of refugees, who flee across international borders, and internally displaced persons (IDPs), who flee their habitual place of residence but stay within their country

of origin. Such classifications can be useful to determine legal status or for understanding specific protection needs that often arise in the context of displacement. Nevertheless, it is worth noting that such classifications often group together non-homogeneous groups and are not sufficient to understand the full breadth of diverse protection needs in a given situation.⁸ Furthermore, individuals who have not been displaced, such as those unable to leave or those responsible for hosting other displaced persons, also have their own protection needs as civilians affected by conflict.⁹

The customary international legal principle of non-refoulement, incorporated in international refugee law, international humanitarian law and human rights law, prohibits States from returning any individual to a situation where their life or freedom would be threatened.¹⁰ International refugee law imposes responsibilities on States with regard to certain displaced persons who arrive in their territory and jurisdiction. However, this protection is restricted to specific circumstances based on a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.¹¹ It does not protect people fleeing for reasons other than persecution, for instance due to natural disasters/degradation,¹² or those who do not leave their country of nationality, such as internally displaced persons.¹³

The *Global Compact on Refugees* builds upon the 1951 Refugee Convention, and provides a framework for States and other actors to ensure better protection and assistance for refugees and fairer and more predictable burden- and responsibility-sharing by the international community as a whole.¹⁴ The aforementioned agreement also refers to the impact of climate-change, environmental degradation and natural disasters on refugee movements.¹⁵ The framework acknowledges that sudden-onset natural disasters may cause external forced displacement.¹⁶ A crucial form of international co-operation envisaged under the *Global Compact* involves investing in capacity development for new technology and renewable energy to address the environmental impacts of hosting a large number of refugees in developing and least developed hosting countries.¹⁷ Even though the *Global Compact* is not legally binding, it has been signed by a significant majority of UN Member States, and represents multilateral consensus towards creating sustainable systems to host refugees and empower them.

Many displaced individuals do not fall under the international law definition of refugees. The majority of people displaced by conflict today are internally displaced persons who have not left their country of origin, and are not covered by international refugee law.¹⁸ Nevertheless, all displaced individuals retain protection under IHL in situations of armed conflict and under IHRL,¹⁹ and have the right to enjoy the same rights and freedoms that accrue to other persons in their country, under domestic and international law, without discrimination.²⁰ Furthermore, displaced civilians who remain in or flee to areas of armed conflict remain entitled to protection as civilians under IHL.²¹ The Guiding Principles on Internal Displacement provide practical guidance on addressing the needs of IDPs, by identifying IHRL and IHL principles that guarantee the rights relevant to the protection and assistance of IDPs, as well as their resettlement and reintegration upon return to their place of habitual residence.²² While the aforementioned Guiding Principles are not legally binding, they are still authoritative since they are derived directly from IHL and IHRL.²³

HOW DOES DISPLACEMENT AFFECT THE PROTECTION OF CIVILIANS?

Displacement can exacerbate and compound other risks faced by civilians in conflict through the loss of usual resilience mechanisms and self-protection capacities.²⁴ The intersectionality of vulnerabilities such as age, disability, gender, ethnicity, nationality and economic status can also put individuals at greater risk.²⁵

There are various threats and vulnerabilities specifically tied to displacement. Displacement in itself can be one of the greatest fears faced by civilians in conflict.²⁶ Displaced individuals can be exposed to immediate physical risks and personal danger, as well as longer-term risks associated to loss of socio-economic stability, such as loss of housing, healthcare, income and subsistence, and a disruption of family connections.²⁷ Displacement can also affect psychological and psychosocial wellbeing,²⁸ and often interrupts access to education and peoples' usual means of sustenance.²⁹ When experts, such as healthcare professionals, flee due to conflict, this can result in greater suffering and significant resource-constraints, ultimately causing further displacement as people seek assistance elsewhere.³⁰

Displacement can exacerbate and compound other risks faced by civilians in conflict through the loss of usual resilience mechanisms and self-protection capacities.

Further, displacement also affects access to humanitarian aid and results in increased exposure to threats of physical violence – such as crossing through war zones with ongoing conflicts or active landmines. These risks are acute in case of women and children, who are at additional danger of facing sexual and gender based violence. Beyond humanitarian considerations, displacement also results in several governance-related challenges. For instance, where there is a concentration of civilians fleeing into a specific region or territory, the government and humanitarian aid organizations in that region are likely to face resource constraints, affecting their ability to support the needs of local populations.

On occasion, displacement can constitute a self-protection mechanism, if civilians flee to escape immediate danger, including through temporary evacuations.³¹ Families or individual members may also decide to leave, to escape unsustainable security and/or financial conditions generated by conflict.³² However, this is usually a measure of last resort, as a last viable option for immediate or long-term survival.

KEY ISSUES

1. Preventing displacement in the conduct of military operations

One of the strongest methods of protecting civilians from displacement is to prevent situations where civilians are compelled to flee for protection.³³ States can do this primarily by respecting and ensuring respect for applicable laws in armed conflict, and seeking to understand and mitigate other causes of displacement. The following sub-section lists some considerations related to the conduct of military operations in armed conflict that may play a role in preventing displacement.

Preventing displacement through upholding the law

There is no guarantee that complete compliance with applicable laws will preclude conflict-related displacement. However, violations of IHL and IHRL can aggravate and lead to more protracted displacement.³⁴ A crucial step in seeking to prevent displacement is therefore to respect and ensure respect of applicable international laws, including international humanitarian law and international human rights law, which is likely to result in lesser individuals being forced to flee.³⁵ Armed forces effectively implementing the IHL principles of distinction and proportionality could for example help affected civilians living far away from military objectives to more safely assume that they are at limited risk of getting harmed and thereby are safe(r) to stay put rather than needing to displace.

Regarding armed actors compelling civilians to leave a location out of military necessity, both IHL and IHRL also provide for protection against arbitrary displacement,³⁶ and contain many other rules and rights which serve to indirectly protect against displacement.

IHRL generally protects individuals from arbitrary and forced displacement, by protecting their freedom of movement and choice of residence.³⁷ Under IHL, there is a general prohibition of forced displacement by parties to conflicts, with specific rules and prohibitions in situations of occupation.³⁸ The exception to this prohibition includes temporary evacuations for the safety of the civilians involved or for imperative military reasons, but in such cases “the burden is on the warring party to demonstrate that the displacement is both justified and absolutely necessary.”³⁹ Evacuations must be temporary, and must only last as long as the conditions warranting them exist.⁴⁰ Other provisions of IHL which may lead to temporary displacement include the obligations to provide advance warning of attacks where feasible, or removing civilians from the vicinity of military objectives.⁴¹

Many other provisions of IHL and IHRL indirectly protect civilians from displacement because they enhance the actual and perceived physical safety and security of civilians. Individual or widespread violations may be a cause of displacement, as people may choose to flee reactively or pre-emptively to escape the associated risks.⁴² For example, civilians who know that they may be unlawfully targeted may be more likely to flee, whereas based on the ICRC’s experience, it is clear that civilians feel much more secure when they are aware that attacks are aimed at specific military targets.⁴³ Complying with the law, and actively portraying such compliance – for instance by investigating and redressing violations – can therefore improve the perception of security and prevent displacement in certain cases.⁴⁴

Specific human rights violations which may cause people to flee include the real or perceived threat of arbitrary detention, torture, or enforced disappearance.⁴⁵ Under IHL, relevant rules which may be likely to lead to displacement if violated include “provisions prohibiting attacks on civilians and civilian property, indiscriminate attacks, starving civilians as a method of warfare, destroying objects

indispensable to their survival, and carrying out reprisals against civilians and civilian property.”⁴⁶ The use of certain prohibited weapons such as chemical or biological weapons, can also cause displacement when used or threatened.⁴⁷

Other ways to prevent displacement

Individuals may also decide to flee based on other general aspects of conflict, including immediate threats of violence, the cumulative effects of violence, the loss of infrastructure or access to basic services and assistance. Although States may not feasibly prevent all such factors, certain actions can help mitigate these causes of displacement.

The use of certain types of weapons particularly in densely populated regions, can increase the probability of causing displacement – for instance, consider the use of explosive weapons in urban areas.⁴⁸ Although not explicitly prohibited under IHL, the ICRC has been advocating for parties to armed conflicts to refrain from using explosive weapons with a wide impact area in densely populated areas.⁴⁹ The destruction of civilian infrastructure will often also cause long-term protection issues including displacement, for example through the destruction of health, education, or sanitation infrastructure.⁵⁰ Furthermore, the destruction of homes or means of livelihoods can cause people to seek safety elsewhere. Seeking to reduce such damage and destruction, even if it results from lawful actions such as causing proportional damage to a legitimate military target, will therefore enhance the direct protection of civilians and mitigate the longer-term harms associated with displacement.

Finally, the timely planning for and effective provision of adequate humanitarian assistance can help prevent displacement, if people are able to seek support for their needs without traveling far.⁵¹ States and relevant non-State armed actors have an obligation to provide for those in their territory and control (*de facto* and/or *de jure*), and they should also enable safe access to impartial humanitarian organisations to aid the civilian population.⁵² This paper considers this aspect further in 3. below.

2. Protection of civilians during displacement

States bear the primary responsibility of protecting displaced persons under international law,⁵³ although their international legal responsibilities will vary, depending upon their role in the conflict and relationship to the displaced individuals. For instance, these distinctions are particularly influenced by whether the State is a host country with displaced persons within its territory, whether it is an occupying power, or whether it simply operates in an area with displaced individuals. A State hosting displaced persons within its territory has a broad range of obligations tied to territorial jurisdiction under domestic and international law, including broad human rights obligations, and obligations related to persons claiming refugee status.⁵⁴ Occupying powers have specific detailed obligations under international humanitarian law, as well as further international human rights obligations related to territorial control.⁵⁵ States carrying out extraterritorial operations will primarily be bound by international humanitarian law, but may also possess obligations under international human rights law.⁵⁶

This section summarises certain non-exhaustive actions that can be taken by States and their militaries to enhance the protection of displaced persons, even if they are not the primary duty-bearers in a given situation.⁵⁷ This paper explores the complementary role of different actors in protecting displaced persons below in Section 3.

Displaced persons need to be able to move freely and choose their place of residence. This requires States, *inter alia*, to respect and ensure their freedom of movement, for example by not hindering their flight, and by enabling them to move freely in and out of camps and other

settlements.⁵⁸ Refugee and IDP camps should always be civilian and humanitarian in character.⁵⁹ This means that such camps should not host combatants or fighters together with civilians, and all persons hosted within the camp should be disarmed.⁶⁰ Maintaining such camps can be an effective way in which to provide protection for displaced persons. However, due to the long-term challenges associated with them, these camps are increasingly seen as a measure of last resort.⁶¹ Displaced persons must also not be forced to return to or move on to unsafe areas.⁶²

Displaced persons require safeguards for their physical safety and dignity,⁶³ including “against acts of violence and torture, sexual and gender-based violence, landmines, and recruitment of children into armed groups.”⁶⁴ Part of this protection can be enhanced by safeguarding the civilian character of refugee or IDP camps.⁶⁵ Tensions can also arise with host communities, which often require humanitarian support or assistance to deal with the effects of conflict and the influx of displaced persons.⁶⁶ It is important to always conduct continuous impartial protection risks analysis and prioritise responses accordingly – even if it is the host communities that require more protection and assistance than the IDPs living with them.

Displaced persons, the same as other civilians in armed conflict, require adequate standards of living include the provision of sufficient shelter, hygiene, health, and nutrition.⁶⁷ Displaced persons, by definition, have often lost their own homes. The struggle to access basic medical care and adequate living conditions can put their health at risk, including through the risk of malnutrition or infectious diseases.⁶⁸ Furthermore, displacement and armed conflict have both been documented to take a heavy toll on people’s psychological and psychosocial well-being, and displaced persons in particular can struggle to get the right treatment for these conditions.⁶⁹ Certain categories of people, such as displaced women, unaccompanied children, disabled people, men of a certain ethnicity or the elderly, may have specific needs.⁷⁰

Assistance for education and livelihood are important to enrich the protection of displaced persons.⁷¹ The inability to access official documents which may have been destroyed during flight, and the adverse disruptive impact of armed conflict frequently hinder the continuation of education and livelihood.⁷² Challenges in accessing education are particularly exacerbated for children who are displaced.⁷³ Families facing displacement habitually face separation and/or loss of their usual means or income, livelihood and other resilience mechanisms, resulting in a loss of economic and social independence. States should ensure that displaced persons do not suffer discrimination in terms of “employment, economic activities and social security.”⁷⁴

Displaced persons have the right to family life and family unit. This includes ensuring that individuals are not separated from their family members during or after displacement,⁷⁵ and that all appropriate steps are taken to facilitate reunification.⁷⁶ Furthermore, feasible measures should be implemented to establish the fate and whereabouts of loved ones missing in conflict.⁷⁷

Finally, displaced persons have the right to sustainable and durable solutions to their displacement. This may involve safe and voluntary return to their homes as soon as the reasons for displacement cease to exist. Alternatively, they may seek integration into their host communities. The full range of considerations for sustainable and durable solutions to displacement is not explored here.⁷⁸

3. Multiple actors involved in protection

The protection of displaced persons is often undermined by States being unable or unwilling to fulfil their legal obligations owed to such persons. In this context, it is particularly important to recognise the multiplicity of actors involved in the protection of displaced persons in armed conflict.⁷⁹

This aspect is particularly relevant, given that many non-State actors, including humanitarian

organisations, intergovernmental organisations, and local populations can have valuable expertise and knowledge for the effective protection of displaced populations. In many situations, humanitarian organisations or UN agencies may in fact be better placed to provide adequate protection.

States and parties to armed conflicts bear “the primary obligation to meet the basic needs of the population under its control,”⁸⁰ including displaced persons. Nevertheless, impartial humanitarian organizations “have the right to offer their services in order to carry out humanitarian activities (including those benefitting internally displaced persons), in particular when the needs of those affected by the armed conflict are not fulfilled.”⁸¹ When States and their militaries are in a position to ensure access and the safety of humanitarian organisations, they should do so, and they may not arbitrarily deny humanitarian access to populations in need.⁸² Preparing and coordinating such access with the humanitarian community should be an integral part of operational military planning by all armed actors and not just a last-minute exercise. In situations of large influxes of displaced persons into an area, safe access for humanitarian organizations may be especially important, as States in such cases “often lack the necessary human and financial resources to fulfil their primary role and duty of responding to internal displacement or are unwilling to do so.”⁸³

Humanitarian organisations can also have access to areas or types of assistance that State actors may not, for example due to their humanitarian nature.⁸⁴ The UNHCR and ICRC have different and complementary roles for the protection of displaced persons in armed conflict.⁸⁵ The ICRC provides protection and assistance to the entire civilian population in conflict zones, including those who have been displaced, taking into account the particular needs arising due to displacement in such contexts.⁸⁶ The UNHCR’s mandate is to provide international protection to refugees, but it is also the lead agency for the protection of conflict-driven IDPs under the Global Protection Cluster.⁸⁷ The Global Protection Cluster works to coordinate NGOs, IOs and UN agencies in protection work, inter alia to avoid gaps and duplication of work.⁸⁸ In all cases, States, their militaries as well as armed non-State actors controlling territory and people, must respect the impartiality, neutrality, and humanity of humanitarian organisations.

In addition to international organisations, local authorities, civil society groups and humanitarian organizations can be particularly important for the protection of displaced persons.⁸⁹ They are often the first actors involved in the protection of the displaced, and can have the local knowledge and expertise to best understand needs and implement effective protection measures.⁹⁰

Finally, acknowledging the expertise, agency and voices of the displaced individuals is crucial. This includes centering the narrative experiences of displaced persons, empowering them to be protection agents, actively engaging with them to gather insights, giving them an opportunity to prioritise their needs and supporting their meaningful participating in decision-making and strategizing, alongside others. For instance, displaced persons are an invaluable resource in making decisions around what sort of assistance and protection is needed, both to prevent displacement and to alleviate the effects of actual displacement.⁹¹ The most effective protection mechanisms can include strengthening the capacities and existing self-protection efforts of the displaced themselves.⁹² The meaningful involvement of displaced persons is particularly crucial with regards to safe and voluntary return, or possible integration into host societies.⁹³

ENDNOTES

- 1 The term “conflict” in this text is used as shorthand to refer to the legal concept of “armed conflict” which would trigger the application of international humanitarian law.
- 2 ICRC, “Displacement in Times of Armed Conflict: How International Humanitarian Law Protects in War, and Why it Matters” (2019) p. 9.
- 3 Jacques, M., *Armed conflict and displacement: the protection of refugees and displaced persons under international humanitarian law*, CUP (2012), p. 2.
- 4 Mooney, E., “Displacement and the Protection of Civilians under International Law”, in Willmot, H., Mamiya, R., Sheeran, S., and Weller, M., *Protection of Civilians*, OUP (2016), p. 184.
- 5 ICRC 2019 (n 2) p. 5.
- 6 See *inter alia* UNHCR, “UNHCR’s mandate for refugees, stateless persons and IDPs”, Emergency Handbook (4th ed, version 2.5, 2022); Guterres, A., “Forced displacement and the role of the ICRC: perspectives for the twenty-first century”, IRRC Vol 94 No 888 (2012).
- 7 Combatants and those involved in hostilities may also be displaced, but may face restrictions in the legal protection or humanitarian assistance which they access, an issue which will not be addressed in detail in this paper. See *inter alia* UNHCR, “Civilian and humanitarian character of asylum”, in *Emergency Handbook* (4th ed, Version 2.1, 2022)
- 8 ICRC, “Internal Displacement in Armed Conflict: Facing up to the Challenges”, ICRC (2020), p. 7; UN, Global Compact on Refugees (2018) para 12.
- 9 ICRC, “Internal Displacement in Armed Conflict: Facing up to the Challenges”, ICRC (2020), p. 21; Global Compact on Refugees (n 8).
- 10 Convention relating to the Status of Refugees 189 UNTS 137 (1951), Art 33; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1465 UNTS 85 (1984), Art 3; International Convention for the Protection of All Persons from Enforced Disappearance (2006), Art 16; Geneva Convention (III) Relative to the Treatment of Prisoners of War, 75 UNTS 135 (1949), Art 12; Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, 75 UNTS 287 (1949) Art 45 & Art 49; Common Article 3 to the Four Geneva Conventions 1949; Mooney (n 4) p. 195; UNHCR, “Guidelines on International Protection No. 12” (December 2016), HCR/GIP/16/12; Rodenhäuser, T., “The principle of non-refoulement in the migration context: 5 key points”, ICRC Law & Policy Blog (30 March 2018).
- 11 1951 Refugee Convention (n 10) Art 1(A).
- 12 There are certain situations in which these situations may lead to protection under international refugee law, for example if such situations lead to conflict and/or persecution by the State. UNHCR, “Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters” (1 October 2020).
- 13 Global Compact on Refugees (n 8) para 12; other.
- 14 Global Compact on Refugees (n 8).
- 15 Global Compact on Refugees (para 13).
- 16 Global Compact on Refugees (para 12).
- 17 Global Compact on Refugees (para 78-79).
- 18 Jacques (n 3) p. 1; Mooney (n 4) p. 177.
- 19 UNHCR, “A guide to international refugee protection and building state asylum systems: Handbook for Parliamentarians N° 27” (2017) p. 23; Fisher, D., “Guide to International Human Rights Mechanisms for Internally Displaced Persons and their Advocates”, Brookings Institute (2006); Global Protection Cluster Working Group, “Handbook for the Protection of Internally Displaced Persons” (June 2010).
- 20 Global Protection Cluster Handbook (n 16) p. 16.
- 21 ICRC, *Customary International Humanitarian Law* (2009) Rule 131; ICRC Advisory Service, “Internally Displaced Person and International Humanitarian Law” (December 2017).
- 22 OCHA, *Guiding Principles on Internal Displacement* (1998). See also the first international legal instrument specifically concerning IDPs adopted by the African Union: Convention for the Protection and Assistance of Internally Displaced Persons (2009) (Kampala Convention).
- 23 “IDP Definition,” UNHCR Emergency Handbook (2023).
- 24 Mooney (n 4) p. 177-178; 197; ICRC, “When Rain Turns to Dust: Understanding and Responding to the Combined Impact of Armed Conflicts and the Climate and Environment Crisis on Peoples’ Lives” (2020), p. 20.
- 25 Mooney (n 4) p. 180; ICRC 2019 (n 2) p. 20; Jones, N., Pincok, K., & Yadete, W., *Adolescents in Humanitarian Crisis: Displacement, Gender and Social Inequalities*, Routledge (2021), pp. 54-77.
- 26 International Committee of the Red Cross (ICRC) and Ipsos, OurWorld: Views from the Democratic Republic of the Congo. Opinion Survey, 2009 (Geneva: Ipsos and ICRC, 2009) 16; Mooney (n 4) p. 180.
- 27 Mooney (n 4) p. 180; ICRC 2019 (n 2) pp. 18-19.
- 28 ICRC 2019 (n 2) p. 19.
- 29 ICRC (2017) (n 18) p. 1; ICRC 2019 (n 2) p. 19.
- 30 ICRC 2019 (n 2) p. 18.
- 31 ICRC 2019 (n 2) p. 7.
- 32 This form of displacement can be affected by gender, age, and/or disability, and can compound other vulnerabilities and protection issues, such as family separation, human trafficking, and physical security. ICRC 2019 (n 2) p. 31; Global Protection Cluster Handbook (n 16) pp. 231-240; Christ, S. & Etzold, B., “Family figurations in displacement: entangled mobilities of refugees towards Germany and beyond”, *Journal of Ethnic and Migration Studies* (2022).
- 33 Global Compact on Refugees (n 8) para 9; OCHA, *Guiding Principles on Internal Displacement* (1998), Principle 5.
- 34 ICRC 2019 (n 2) p. 36.
- 35 Mooney (n 4) p. 203.

- 36 Mooney (n 4) p. 190; Guiding Principles (n 29) Principle 6.
- 37 Mooney (n 4) p. 190.
- 38 GCIV (n 10) Art 49; Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, 1125 UNTS 3 (1977), Art 85(4)(a); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts 1125 UNTS 609 (1977) Art 17; Rome Statute of the International Criminal Court, 2187 UNTS 3 (1998) Art 8(2)(e)(viii); ICRC Customary Study (n 18) Rules 129 & 130.
- 39 Mooney (n 4) p. 188.
- 40 GCIV (n 10) Art 49; APII Art 17(1); ICRC, “Reducing Civilian Harm in Urban Warfare: A Commander’s Handbook” (2021), pp. 53-56; UNHCR, “Humanitarian Evacuations in Violence and Armed Conflict” (2016), p. 5.
- 41 ICRC 2019 (n 2) p. 29; API (n 34) Arts 57(2)(c) & 58(c).
- 42 ICRC 2019 (n 2) p. 35.
- 43 ICRC 2019 (n 2) p. 30.
- 44 ICRC 2019 (n 2) p. 14; Mooney (n 4) p. 185.
- 45 ICRC 2019 (n 2) p. 35.
- 46 Mooney (n 4) p. 185.
- 47 ICRC 2019 (n 2) p. 30.
- 48 ICRC 2019 (n 2) p. 31; Handicap International, “‘Everywhere the bombing followed us’: Forced Displacement and the Use of Explosive Weapons in Populated Areas: Perspectives of Syrian Women Refugees in Lebanon”, (2017), p. 6.
- 49 ICRC 2019 (n 2) p. 30; ICRC, “Explosive Weapons With Wide Area Effects: A Deadly Choice in Populated Areas”, ICRC (January 2022).
- 50 ICRC 2019 (n 2) p. 32.
- 51 ICRC 2019 (n 2) p. 5.
- 52 ICRC 2019 (n 2) p. 33; Guiding Principles (n 29) Principle 25.
- 53 Guiding Principles (n 29) Principle 25; Global Compact on Refugees (n 8) para 33; Guiding Principles of Humanitarian Assistance, General Assembly Resolution 46/182 concerning the Strengthening of the Coordination of Humanitarian Emergency Assistance of the United Nations of 19 December 1991.
- 54 UNHCR, “A guide to international refugee protection and building state asylum systems: Handbook for Parliamentarians N° 27” (2017); UNHCR, “Working with a host government”, Emergency Handbook (digital version 2.1), available at: <https://emergency.unhcr.org/entry/78614/working-with-a-host-government>.
- 55 Jacques (n 3) pp. 156-184.
- 56 Frenzen, N., “Extraterritorial Refugee Protection”, in Nollkaemper, A. & Plakokefalos, I., *The Practice of Shared Responsibility in International Law*, CUP (2017); Wallace, S., “Jurisdiction over Extra-Territorial Military Operations”, in Wallace, S., *The Application of the European Convention of Human Rights to Military Operations*, CUP (2019).
- 57 For a more comprehensive account of the ways in which to protect displaced persons in armed conflict, see Global Compact on Refugees (n 8); Guiding Principles (n 29); ICRC 2019 (n 2); ICRC 2020 (n 9).
- 58 Guiding Principles (n 29) Principles 12-15; International Covenant on Civil and Political Rights, 999 UNTS 171 (1966) Article 12; ICRC (2017) (n 18) p. 3; Global Protection Cluster Handbook (n 16) p. 19; ICRC 2019 (n 2) p. 6.
- 59 See note 58 below. While such camps remain the responsibility of States in whose territory they are established, they must be run according to humanitarian principles. It is important therefore to support the work of the UNHCR in such contexts. See Section D below.
- 60 “Civilian and humanitarian character of asylum,” UNHCR (2023).
- 61 ICRC 2020 (n 9) p. 12; Global Compact on Refugees (n 8) para 55.
- 62 ICRC (2017) (n 18) p. 1.
- 63 ICRC (2017) (n 18) p. 3; Global Compact on Refugees (n 8) paras 56-57; Guiding Principles (n 29) Principles 10 & 11.
- 64 Global Protection Cluster Handbook (n 16) p. 28; ICRC (2017) (n 18) p. 4.
- 65 UNSC Resolution 1208 Security Council resolution 1208 (1998) [on the maintenance of the security and civilian and humanitarian character of refugee camps and settlements in Africa], S/RES/1208(1998); UNHCR, A Thematic Compilation of Executive Committee Conclusions, 7th edition (June 2014), pp. 327-344.
- 66 ICRC 2020 (n 9) p. 15; ICRC (2017) (n 18) p. 1.
- 67 Global Compact on Refugees (n 8) paras 72-73; 78-81; Guiding Principles (n 29) Principles 18 & 19; Global Protection Cluster Handbook (n 16) p. 27; ICRC (2017) (n 18) p. 3; ICRC Customary Study (n 18) Rule 131; ICRC 2019 (n 2) p. 25.
- 68 Guiding Principles (n 29) Principle 19; ICRC 2019 (n 2) p. 18.
- 69 Guiding Principles (n 29) Principle 19; ICRC 2019 (n 2) p. 19.
- 70 Guiding Principles (n 29) Principles 4 and 19; ICRC Customary Study (n 18) Rule 131; ICRC 2019 (n 2) p. 20; Global Compact on Refugees (n 8) paras 59-60.
- 71 Global Compact on Refugees (n 8) para 68-71; Guiding Principles (n 29) Principles 22 & 23.
- 72 ICRC (2017) (n 18) p. 1.
- 73 ICRC (2017) (n 18) p. 4; ICRC 2019 (n 2) p. 19.
- 74 ICRC (2017) (n 18) p. 4.
- 75 ICRC Customary Study (n 18) Rule 131.
- 76 ICRC (2017) (n 18) p. 3.
- 77 Guiding Principles (n 29) Principles 16 & 17; ICRC Customary Study (n 18) Rule 117; ICRC Advisory Service, “Missing Persons and their Families” (2015).
- 78 See *inter alia* Global Compact on Refugees (n 8) paras 85-100; Guiding Principles (n 29) Principles 28-30; ICRC 2019 (n 2) pp. 51-58; Mooney (n 4) p. 201.
- 79 Guiding Principles (n 29) Principle 2(1); Global Compact on Refugees (n 8) para 33. The Global Compact lays out many ways in which relevant stakeholders may work together to enhance protection for refugees and share responsibilities for their protection.
- 80 ICRC (2017) (n 18) p. 3; Guiding Principles (n 29) Principle 3 & 23; Global Compact on Refugees (n 8) para 33.

- 81 ICRC (2017) (n 18) p. 3.
- 82 GCIV (n 10) Arts 23 and 59; API (n 34) Art 70; APII (n 34) Art 18; ICRC Customary Study (n 18) Rules 55 and 56; Global Compact on Refugees (n 8) para 32; UN OCHA, *Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict*, 27 October 2016, pp. 21-25.
- 83 ICRC (2017) (n 18) p. 3.
- 84 ICRC 2020 (n 9); in some contexts it may in fact be preferable to leave humanitarian assistance to impartial humanitarian organisations, rather than using military forces, e.g. in order to preserve the civilian nature of refugee or IDP camps. See note 58 above.
- 85 Krill, F., "The ICRC's policy on refugees and internally displaced civilians", IRRC (2001).
- 86 Krill (n 78) p. 610.
- 87 UNHCR, "UNHCR's mandate for refugees, stateless persons and IDPs", Emergency Handbook (4th ed, version 2.5, 2022); UNHCR, "Protection Cluster", Emergency Handbook (4th ed, version 2.1, 2022).
- 88 ICRC 2020 (n 9) p. 21.
- 89 Global Compact on Refugees (n 8) para 37 & 40.
- 90 Global Compact on Refugees (n 8) para 37.
- 91 Global Compact on Refugees (n 8) para 13; para 40.
- 92 Global Compact on Refugees (n 8) para 34, 40.
- 93 ICRC 2020 (n 9) p. 17. See note 71 above.

