***Analysis of legal frameworks relating to internal displacement in*** *[COUNTRY]* ***- [Template]***

**Background**

*[Add relevant information on the country of reference and main causes of displacement, including data on IDPs and recent events that caused mass displacement.]*

**Global and regional legal and policy frameworks on internal displacement; national commitment**

*[Add global and regional framework on internal displacement applicable to the country of reference, and specify commitments expressed by the State to bring its national framework in line with the international and/or standards set out on the subject. The link with relevant frameworks and national commitments relating to development, disaster and climate change, human rights and peacebuilding should also be made. Clarify role of UNHCR and other relevant partners in supporting the Government in the legal analysis process if/as relevant].*

EXAMPLE

The Government of (COUNTRY) ratified the Kampala Convention in XXX, and deposited its instrument of ratification on XXX. As a state party to the Kampala Convention, the Government of XXX expressed its intention to incorporate the Convention into its domestic legislation. The development and implementation of a national framework on internal displacement will also contribute to the achievement of the African Union Agenda 2063, 2030 Agenda and the Sustainable Development Goals in XXX, in line with the global commitment to “leave no one behind”.[[1]](#footnote-0)

Mindful that the development of a national framework is an essential exercise of sovereignty, and as such is a core responsibility of governments facing internal displacement, interested humanitarian, human rights, peace and development partners, facilitated by UNHCR including in its role as Protection Cluster lead, will support the Government’s efforts in the domestication and implementation of the Convention - also in line with the UN Secretary General’s “Call to Action for Human Rights: The Highest Aspiration”, launched in 2020.

**Purpose and scope the proposed study**

The project aims to two main objectives:

1. To verify the compliance of national legislation in identified key thematic areas with the international (and regional as relevant) legal standards on IDP protection, with the aim of highlighting eventual gaps or obstacles to the full enjoyment of IDPs’ rights;
2. To address areas of potential incoherence between different pieces of the national legislation, especially in areas where legal developments are already being undertaken, so as to avoid conflicts with more specific standards relating to internal displacement.

***Objective 1***

The analysis of the State’s overall legal and policy framework for the protection and assistance of internally displaced persons shall be undertaken in light of the supranational standards established at UN and regional level on internal displacement. In particular, a thorough analysis of the legislative framework, to be situated within the international and regional context, could:

* Create a clearer and shared understanding of internal displacement in [\_\_\_\_\_\_\_] among relevant stakeholders;
* Highlight potential legal, policy and institutional gaps or overlaps in the prevention, protection and assistance of internally displaced men, women, boys and girls (and other displacement-affected communities) and in their search for durable solutions[[2]](#footnote-1).

***Objective 2***

Similar assessments of other national frameworks show that one of the potential challenges to the implementation of the normative framework of internal displacement relates to the failed harmonization and lack of ultimate adoption of other legal and policy frameworks dealing with issues related to internal displacement, which may lead to multiple but disjointed legal frameworks applying to IDPs with potentially overlapping or conflicting protection regimes.

In this respect, the study will help to:

* Highlight potential discrepancies in the use of categories partially or entirely overlapping with the IDP definition (i.e., evictees, homeless, affected communities, etc. vs. IDPs);
* Identify areas for potential cooperation or potential conflict between the institutions responsible for the implementation of these frameworks, and provisions relating to their funding;
* Consider the analysis of the institutional structure responsible for the protection and assistance of IDPs and of the funding channels: the existence of different organisms potentially in charge of various areas of intervention or competent for different stages of a response, without the establishment of appropriate mechanisms of coordination, may result in lack of synchronization of the government’s action for the protection of internally displaced men, women, boys and girls; in the same vein, separate funding channels may create duplications or, worse, insufficient allocation of resources to the IDP portfolio.

**Scope of the research**

The analysis will concentrate on a series of areas of regulation that are deemed central to ensuring adequate response (i.e., prevention, protection and durable solutions) to internal displacement. These thematic areas, and the respective “minimum essential elements of state regulation”, are taken from the “[Protecting Internally Displaced Persons: A Manual for Law and Policymakers](https://www.globalprotectioncluster.org/_assets/files/tools_and_guidance/Internal%20Displacement/manual-for-law-and-policymakrs_internal_displacement.en.pdf)”.[[3]](#footnote-2) They include:

1. *Identification (definition of: IDPs, persons/communities affected by internal displacement, vulnerable groups);*
2. *Protection against discrimination;*
3. *Right to life, physical security and integrity;*
4. *Prevention of displacement and prohibition of arbitrary displacement;*
5. *Data collection relating to IDPs;*
6. *National and local structures of governance for an IDP response, including coordination mechanisms;*
7. *Allocation of necessary financial and human resources, including training and capacity-building;*
8. *Recognition, issuance and replacement of documents;*
9. *Freedom of movement;*
10. *Participation of IDPs and electoral rights;*
11. *Right to family life;*
12. *Housing Land and Properties;*
13. *Basic necessities of life;*
14. *Other Economic, Social and Cultural Rights (i.e., education and employment);*
15. *Addressing displacement in the context of Disaster and adverse effects of climate change.*

For each of the mentioned areas of regulation, the analysis will concentrate on:

* Analysis of the relevant supranational provisions (e.g. UN Guiding Principles, Kampala Convention, relating Model Law) and assessment of compliance based on minimum essential elements of State regulation on internal displacement;
* Analysis of the national provisions and identification of potential gaps, overlaps or contradictions;
* Recommendations for: a) normative action; b) policy action.

**Procedural aspects**

*[In line with the specificities of each process devised at country level, clarify 1) who will conduct the research; 2) how and by whom the researcher/ research team will be supported. E.g., advisory structures may be set up to contribute to and integrate the analysis of the desk researchers (reference group); and/or selected members with high-level experience on law and policy for IDPs may be involved at a later stage to review the analysis, and ensure the quality control of the project; 3) how the government will be involved in the exercise (e.g. whether throughout the process from the beginning, or at validation of the analysis)]. What follows is a proposal based on the process followed in a number of countries.*

The researcher/research[[4]](#footnote-3) team will be supported by two advisory structures to be set up in the early stages of the research with different purposes and tasks.

1. *Reference Group:*

A Reference Group[[5]](#footnote-4) will be set up at country level to support government efforts on this. Part of the group’s responsibilities will be to integrate the analysis of the desk researchers.

The Group will:

* Indicate areas of legislation to be considered in the overall research in the light of the specificities of the context in Mozambique;
* Collect and share with desk researchers additional legal and/or policy texts when not available from online sources;
* Assist desk researchers in the analysis of single elements of the national framework and provide inputs on the national displacement context analysis;
* Comment on the various drafts that will be submitted by the desk researchers to ensure sound analysis and identification of adequate recommendations;
* Assist in the organisation and participate in a validation workshop to be held in Mozambique in the lead up to the publication of the report.
1. *Global Protection Cluster’s Task Team on Law and Policy (TTLP):*

Selected members from various institutions involved in supporting law and policy making on internal displacement that are part of the GPC Task Team on Law and Policy will also review the analysis to ensure the quality control of the project. In the final phases of the research, the chair of the GPC Task Team will submit its draft findings and recommendations to the Group, which will:

* Review the first draft document produced to ensure that adequate attention is given to issues of relevance in the ultimate analysis of the national framework relating to the protection of IDPs;
* Offer suggestions on advocacy strategy, dissemination strategy and next steps.

**Target and dissemination**

*[Define who will be the main target for sharing the findings of the legal review (e.g., relevant protection, development and disaster-related authorities and organizations) and how the final products of the research – which should feature thematic recommendations and a set of key recommendations summarizing suggested action – will be disseminated for promoting informed next steps on how to move forward.]*

**Final outputs**

The (Authors of the study) aim to publish a *Review of the Normative Framework of [\_COUNTRY\_\_\_\_\_\_\_\_] Relating to the Protection of IDPs* (hereafter the ‘Report’) to provide an analysis of the national framework against international standards. The document will feature highlights on the specific pieces of legislation mentioned above where relevant. The Report will constitute the main product of the research. The described process – in particular the engagement of the different support bodies – will essentially serve its development and drafting. A Report framework will be devised in collaboration with the researcher/research team.

**Future project developments**

*[If the legal review of national legislation for the country of reference is conceived as a part of a broader project on national frameworks on internal displacement – done at a sub-regional, regional or continental level - please describe the expected impact of the analysis and how it may contribute to identify good practices for the processes of domestication of international and/or regional instruments on displacement].*

**Intended duration of the project**

Proposed timeframe:

* First phase: [\_\_\_\_\_\_];
* Second phase: [\_\_\_\_\_\_].

The final report should be published in [\_\_\_\_\_\_].

1. Internally displaced persons are explicitly mentioned in the [2030 Agenda](https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E) as a vulnerable group whose needs and rights need to be included. [↑](#footnote-ref-0)
2. The analysis contained in the thematic chapters of the report will consider, when relevant, specific aspects relating to the different phases of the displacement response. Should this distinction be considered of value, the separate analysis will be reflected in the recommendations contained at the end of the single chapter. [↑](#footnote-ref-1)
3. Brookings - Bern, 2008, also available in [F](https://www.globalprotectioncluster.org/_assets/files/tools_and_guidance/Internal%20Displacement/manual_internal_displacement.fr.pdf)rench. [↑](#footnote-ref-2)
4. In some countries, the legal analysis was carried out by one or more consultants; in others, it was conducted by a team of lawyers from a legal firm working pro-bono for UNHCR. Different approaches are possible depending on resources available among partners. [↑](#footnote-ref-3)
5. The reference group can be chaired by the Government, if it’s taking the lead of the exercise (e.g. Ministry of Justice or Human Rights, or lead focal point for IDP issues if there is one) or by a relevant government partner - e.g. UNHCR as lead agency on protection - or other actors as relevant in the country context (e.g. NHRI or CSOs). [↑](#footnote-ref-4)