



# BOFAXE

## ECHOES OF NAKBA (PART 1)

### The (In)Effectiveness of the Internally Displaced Person Status

On the 12th of October, Israel issued a military order for the residents of northern and central Gaza, encompassing a population of 1.1 million Gazans, to make their way to the south of the Gaza Strip. The directive mandated the residents of Gaza, including United Nations (UN) personnel present in the area, to evacuate within a mere 24-hour timeframe. The UN, while appealing the directive, indicated the impossibility of such a big wave of movement without devastating humanitarian consequences. On the other hand, for Gazans and Palestinians, such a directive for a temporary displacement evokes memories of the 1948 Nakba (“catastrophe”) where a staggering 750,000 Palestinians were forcibly displaced from their residences in the aftermath of Israel’s establishment as a country. Bearing the core memory of the first Nakba while experiencing an active exodus at the moment, Palestinians remain one of the largest internally displaced populations in the world. Although being recognized as an internally displaced person (IDP) provides a certain level of acknowledgement and can be a basis for protection, the overall protection depends on a combination of legal, humanitarian, and security factors. In this blog post, I will argue that what IDPs truly need is not an additional legal status but rather effective protection from the consequences of displacement.

#### Who are IDPs?

The largest group of displaced individuals worldwide is currently comprised of IDPs, surpassing the number of refugees by a significant margin. Although IDPs are significant in number, they do not fall within the scope of the 1951 Refugee Convention as they do not cross international borders. Additionally, until 1998, international law lacked a clear declaration of the rights of IDPs. These gaps were addressed by the UN Guiding Principles on Internal Displacement in 1998. The Guiding Principles aimed to improve how the organization works with IDPs. It’s important to note that UNHCR and other UN agencies lack the legal authority to formally ‘protect’ people who were displaced within their own country. Cohen emphasizes that while international law, especially refugee and human rights law, provides some protection for those crossing borders, there is a significant gap in legal safeguards for IDPs within their own countries (pp. 310-311). While individuals who cross international borders are safeguarded by the principle of non-refoulement in refugee and human rights law, there is no equivalent protection in general international law for those internally displaced within their own country.

The lack of specific legal protection in the case of internal displacement leaves IDPs with serious human rights violations. Unlike refugees, IDPs are more likely to stay near or become trapped in conflict zones, exposed to crossfire, and vulnerable to being manipulated, targeted, or used as human shields by conflicting parties. The most recent example of these kinds of human rights violations can be seen in the case of Gazan IDPs after the eviction directives given by the Israeli government since the 12th of October.

#### Internal displacement in Gaza

As of 13.12.2023, about 1.9 million people in Gaza are internally displaced. This amounts to 85% of the population, including the people who have been displaced more than one time. Of these 1.9 million, around 1.3 million are sheltered in 155 UNRWA (The United Nations Relief and Works Agency for Palestine Refugees in the Near East) facilities, 211,00 in government shelters, 96,000 in public shelters, and 219,000 at host families.

Numerous instances were reported of Israeli forces committing violence against Palestinian civilians evacuating south via Salah Al-Din Road as per Israeli instructions (see here). These incidents involve inhumane treatment, arbitrary arrests, unlawful detention, and killings. UN also reported the continuity of attacks near hospitals in the north that are sheltering a great number of IDPs.

Following the orders of the Israeli government, areas encompassing nearly 30 percent of the Gaza Strip have been marked for evacuation on the Israeli military’s online map that was launched on 1 December. According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), this suggests the possibility of permanent displacement of civilians from the north to the south of the Gaza Strip. The concept of permanent displacement is not unfamiliar to Palestinians, as over three-quarters of Gaza’s population consists of refugees who have been denied the right to return to their homes since 1948.



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## ECHOES OF NAKBA (PART 2)

### The (In)Effectiveness of the Internally Displaced Person Status

— IDPs in Israel and the Occupied Palestinian Territories (OPT) are not formally registered. Because of this, defining Palestinians displaced within Gaza and the West Bank due to evictions, demolitions, or property confiscation is methodologically complex. While categorizing them as IDPs seems logical, some may also qualify as refugees under UNRWA's definition due to displacement in the 1948 war. This distinctive circumstance leads to individuals in the OPT being recognized as both IDPs and refugees (see [here](#)).

#### Assessing the Effectiveness

Receiving constant eviction orders with no prospect of Gazans returning home raises doubts about whether IDP status indeed provides any meaningful protection to the affected populations. Schimmel [argues](#) that international refugee law paradoxically and problematically reinforces sovereign borders' legal, moral, and policy significance at the expense of human rights protection. By asserting that the right to international protection is only activated upon crossing an international border, the law emphasizes the importance of borders and systematically excludes individuals who are internally displaced. While doing so, IDPs' rights and needs frequently go unnoticed, met with apathy and insufficient humanitarian response from the United Nations, its agencies, member states, and global humanitarian non-governmental organizations. On top of this, Kälin [argues](#) that establishing a distinct legal status for IDPs poses challenges as it ties their treatment to status determination rather than addressing their needs directly (pp. 53-54). Creating a legal category similar to refugees may relegate IDPs to a secondary status, potentially limiting their rights. Enshrining IDP status in law might hinder access to rights for those not formally designated as IDPs, leaving certain categories of IDPs unprotected. Additionally, tying rights to a legal status can complicate finding durable solutions, especially in protracted situations, where IDPs may fear losing the right to return. On one hand, the Refugee Convention establishes enforceable regulations for the safeguarding of refugees, with binding rules applicable to every state party irrespective of the varying degrees of implementation. On the other hand, the situation for IDPs lacks a comparable international legal framework. The UN Guiding Principles, though informative in delineating the characteristics of IDPs, lack the force of law. Unlike the Refugee Convention, these principles fail to provide a legally binding status for IDPs, creating a soft law document that lacks a solid legal foundation for the protection of internally displaced individuals. The Guiding Principles highlight that the rights of IDPs are grounded in their humanity and citizenship, rather than being derived from an officially granted legal status.

Based on Schimmel and Kälin's arguments, relying solely on the Guiding Principles to establish the legal status of IDPs is ineffective and practically impossible for two main reasons. Firstly, in the context of IDPs in Gaza, there is [limited and fragmented](#) state power to protect them. Secondly, unlike the Refugee Convention, which assigns responsibility to contracting states, the absence of IDPs crossing national borders makes it challenging to determine which state should bear the responsibility for their protection. This raises questions about how responsibility should be shared among neighbouring countries and those located far away and how cooperation in this regard could be effectively managed.

The Kampala Convention is one of the first legally binding documents that [emphasizes](#) cooperation among contracting states to address internal displacement challenges within a specific region. Through the convention, cooperation with international organisations, civil society, and relevant agencies is encouraged. The primary duty and protection for the protection falls to the nation-state of IDPs however, in situations where resources are insufficient, states are obligated to cooperate in seeking assistance from international organizations and other actors. While the Convention distinguishes itself by being legally binding, an argument can be made that its impact is limited, given that nearly half of the African Union members [have not ratified it](#). The low ratification rate indicates a global trend of neglecting the needs of IDPs, regardless of having a legally binding document or not.

This shows an urgent need for effective protection for IDPs that must be provided at the supranational level. The protection although can be provided through the implementation of a legally binding document, the existing examples of legally binding rules shows that it requires large-scale ratification and cooperation. However, while providing effective protection to IDPs, the unique nature of the conflict has to be taken into consideration. Kalin argues that bringing an IDP lens helps [identifying](#) specific needs and ensures that they can be addressed. the current example of IDP Gazans underscores a broader deficiency in the international community's perspective and sensitivity towards the issue. This awareness extends beyond the question of whether IDPs have legal status or not.

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