

THE PROBLEM OF INTERNALLY DISPLACED PERSONS IN GEORGIA AS A CONSEQUENCE OF RUSSIA'S AGGRESSION IN GEORGIA*

Dr. Pikria Tatarashvili

Sulkhan-Saba Orbeliani University, Georgia
e-mail: f.tatarashvili@sabauni.edu.ge; <https://orcid.org/0000-0003-2347-9029>

Tsisia Okropiridze, MA

Sulkhan-Saba Orbeliani University, Georgia
e-mail: tsisia.okropiridze@sabauni.edu.ge; <https://orcid.org/0000-0002-4084-4895>

Abstract. Living in one place for years creates strong ties between people, their shared cultural heritage, and the place itself, hence providing both security and a sense of belonging. When people are forced to leave places that were once their homes, they experience the loss of these important connections and, consequently, they are becoming internally displaced persons (IDPs) within their homelands.

Keywords: Georgia; war; Ukraine; internally displaced persons.

INTRODUCTION

Living in one place for years creates strong ties between people, their shared cultural heritage, and the place itself, hence providing both security and a sense of belonging. When people are forced to leave places that were once their homes, they experience the loss of these important connections and consequently, they are becoming internally displaced persons (IDPs) within their homelands.

International human right instruments apply to all individuals within the borders of the state and are crucial during both peace and war. While they do not explicitly impose a person's "right to stay", they create a framework of rights that collectively prohibit forced displacement [McFadden 1996, 27-28]. Often, internal displacement is seen as temporary condition

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however, in reality, IDPs suffer from lasting vulnerability [Rekhviashvili 2015, 3]. Although their fears, needs, desires are similar with those of refugees, they do not have international status and therefore, do not receive special protection [Schimmel 2022, 505].

Georgia has experienced the huge wave of internal displacement twice (1991 to 1994 and 2008) [Rekhviashvili 2015, 4]. According to the UNHCR as for 2009, more than 220 000 persons were registered as IDPs. Approximately 138. 000 persons were displaced following Russian war against Georgia in 2008, with around 108, 600 of them having returned to their homes.¹ The problems and concerns of IDPs were taken more seriously after the war in 2008, when Georgian political elite finally admit that the return of IDPs to their homes in foreseeable future was not realistic.

Therefore, they shifted their focus on long-term solutions which was not the case for example with the first wave IDPs. Following the war in August 2008, the government shifted its focus to the socio-economic needs of IDPs rather than solely on their return. As a result, it implemented important measures and made considerable efforts to develop appropriate legal frameworks. Nevertheless, this does not mean that the process was flawless. In fact, state-provided solutions were often criticized such as poor housing quality, lack of transparency in resettlement of IDPs and other concerns [Rekhviashvili 2015, 4-6].

1. LEGAL FRAMEWORK

Internally displaced persons have individual and different needs, even though they share some common requirements such as safety and dignity. Therefore, it is of vital importance for the state to carefully consider these needs and implement all necessary measures, including legal frameworks, to address their unique circumstances, rather than applying general rules [Hickel 2001, 700]. In this regard, it is always important to assess if the state meets its international obligations as a signatory party of various legal instruments at the regional or international levels. Georgia, a country that is party to all widely recognized legal instruments, including European Convention on Human Rights (ECHR), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) has a duty to fulfill obligations derived from these instruments. This is particularly important since Georgian Constitution recognizes international treaties joined by the country as supreme over

¹ Protection of Internally Displaced Persons in Georgia: A Gap Analysis, The UN Refugee Agency, 2009, 5.

national legislation.² At the earlier stage, the major criticism was that only Georgian Constitutional Court was referring to the ECHR and international law, while other general courts or state officials were hesitant to apply international treaties to address all those essential issues and concerns of IDPs that were not covered by national law.³

In Context of Georgia, it is important to mention that since 1992, soon after the forcible internal displacement took place in Georgia, the government issued more than 200 normative acts (some specific and some general) addressing issues related to internal displacement. Georgia was among pioneering states to enact law specifically for IDPs on June 28, 1996, and it has been amended several times [Mooney 2011, 193]. However, there was a strong demand for improvements in certain areas, such as allowing persons to exercise their right to vote in their place of displacement, reviewing the monthly financial support, and updating legal norms to safeguard rights related to and ownership and internally displaced persons' right to participate in the property privatization process [ibid., 195]. Given that the law was adopted prior to the UN Guiding Principles on International Displacement, it was inconsistent with these broad principles.⁴ Apart of these issues and problems, one of the major challenges was the accurate determination of legal status of IDPs. As the Public defender of Georgia stated in 2010, the government's delay to determine the legal status of IDPs highlighted the slow pace of decision-making, which in turn affecting access to some benefits, including housing [ibid., 194]. The Council of Europe Commissioner also urged national authorities to grant IDP status in timely manner and without discrimination because for this reason, as those still lacking access to benefits, particularly housing, were in a vulnerable situation.⁵

The law of 1996 was declared invalid upon the entry of the new law of 6 February 2014 (in force since 1 March 2014).⁶ The current Georgian law on Internally Displaced persons from the occupied territories of Georgia is a comprehensive legal instrument adopted to protect IDPs. This new law aims to safeguard persons during their forced displacement, provide assistance for their integration, and address their needs.⁷ Considering the importance of these measures and policies, the government agencies while undertaking this

² Constitution of Georgia, Article 6.

³ Protection of Internally Displaced Persons in Georgia: A Gap Analysis, The UN Refugee Agency, 2009, 11-12.

⁴ Ibid., 12.

⁵ Council of Europe, Commissioner for Human Rights, Report on Human Rights Issues Following the August 2008 Armed Conflict in Georgia, by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, Strasbourg, 7 October 2010, paras 17-18.

⁶ Law of Georgia on Internally Displaced Persons from the Occupied Territories of Georgia, Parliament of Georgia, 24 February 2014.

⁷ Ibid., Article 3.

obligation must act in line with the Georgian constitution other legislative or/and subordinate normative acts, and international human rights norms.⁸ According to the existing legislation, IDP status seeker is a person who applied to the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health, and Social Affairs of Georgia and waiting for the final decision (positive or negative) which the ministry takes within a month. After receiving IDP status, a questionnaire must be filled, and the IDP card will be issued. If the Ministry denies IDP status, the decision may be challenged to court within one month of receiving the refusal notification.⁹

One of the remaining key challenges in the law of 2014 is definition of who qualifies as a forcibly displaced person because for instance, the Guiding principles on Internal Displacement include those individuals who left their permanent residency due to both human-made and natural disasters,¹⁰ while Georgian law defines them as citizens or stateless people with recognized status in Georgia who have been forced to leave a place of permanent residency and have no opportunity to return to place of origin due to threats to his/her or family member's life, freedom or health that is caused by foreign occupation, armed conflict, widespread violence, or serious human right violations.¹¹

The law highlights two important points that should be noted: first, the definition of IPDs in Georgian domestic law is narrower than the one outlined in the guiding principles and second, the correct understanding of permanent residency. The issue with permanent residency is crucial because an individual can have multiple places of residency, and simply owning property does not establish it as their permanent residency, therefore for purposes of IDP status it is vital to determine a place of permanent habitation [Lomidze 2020, 9-11]. The law defines it as a "place of residence chosen by an IDP, his/her IDP parent(s), or a biological lineal ancestor, from where one or both of his/her parents or a biological linear ancestor have been forcibly displaced, and where he/she cannot return" due to the above-mentioned reasons.¹² The existing new law does not link the fact of permanent residence with the registration of a person. A person's permanent place of residence does not exclude his freedom of movement within and outside the country. The residence is based on actual living conditions (where persons spend quality time, paying taxes and desires to belong to the place) rather than merely a legal address. In other words, it should reflect a person's preferred place of residency, assessed through their lifestyle, family connec-

⁸ Ibid., Article 1.

⁹ Ibid., Article 8.

¹⁰ See: Guiding Principles on Internal Displacement, OCHA, 1998.

¹¹ Law of Georgia on Internally Displaced Persons from the Occupied Territories of Georgia, Parliament of Georgia, 24 February 2014, Article 6.

¹² Ibid., Article 4 (c).

tions, and other circumstances. Thus, the law focuses on two relevant factors for granting the status: the determination of the place of normal habitation (which helpful criteria for identifying a person) and the requirement that an individual left the place against their will [Lomidze 2020, 9-11, 25-28].

Furthermore, the new law adheres better to international standards and focuses on state's responsibility to ensure safe and dignified living circumstances until they are in displacement. Under this law, the previous concept of compact and private settlement facilities is abolished and IDPs are now better protected against eviction from their legitimately owned residences [ibid., 7]. Moreover, the law introduced the concepts of proper housing and long-term housing for the first time, stating that the state is obliged to provide proper housing to the IDPs who remain homeless.¹³ Nonetheless, the problem with monthly allowance is unsolved. The law states that the state provides financial support to IDPs on monthly basis, with an amount of 45 gel¹⁴ (approximately 17 dollars), which is inadequate.

2. ISSUES OF CONCERNS OF INTERNALLY DISPLACED PERSONS

2.1. Challenges

Forced Displacement takes place when people have no choice but to leave their homes to protect own lives. Unlike refugees, internally displaced persons do not fall under protection of United Nations 1951 Refugee Convention that focuses on legal definitions, rights, and national-states responsibilities to recognize these rights [Schimmel 2022, 505]. These shows the importance of the state to guarantee rights of own population within the state boundaries, as Amnesty International called upon the Georgian government and recommended to “devote the maximum available resources to progressively achieving the full realization of economic, social and cultural rights.¹⁵ Often the needs of IDPs are underestimated because unlike refugees (cross-border element), they are considered to be within their homeland. However, this perspective overlooks the important fact that in a country like Georgia, with diverse culture and traditions varying by region, forcibly relocating from one part of the state to another and rebuild one's life can be extremely challenging. According to the UN Guiding Principles on Internal Displacement, the states themselves (not international community)

¹³ Ibid., Article 14.

¹⁴ Ibid., Article 12 (1) (a), Law of Georgia on Internally Displaced Persons from the Occupied Territories of Georgia, Parliament of Georgia, 24 February 2014.

¹⁵ See: In the Waiting Room: Internally Displaced People in Georgia, Amnesty International, August 2010.

“have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.”¹⁶

The problem of displacement does not begin and finish with suitable shelters; It is a long process in which the state needs to continue taking measures to ensure that its approach is tailored to IDPs’ needs. It is important the state to promote integration within host society and enable resettlement in any safe part of the country. Internally displaced persons like other citizens of the country possess the fundamental rights including right of free movement and the freedom to choose the place of stay based on individual preferences. Furthermore, the state has responsibility to establish requisite conditions for IDP resettlement and ensure their full engagement in the processes of return, resettlement, and reintegration. Additionally, when the time comes, the decision for IDPs to return should be made under dignified circumstances that guarantee a safe living environment, while economic, social, and political conditions must meet standards ensuring human dignity. Moreover, displaced persons should be free from discrimination, and in cases of property loss or damage, they should be entitled to property restitution and compensation.¹⁷

2.2. Housing

The brutal attack of Russia Georgia caused people to flee their homes and seek shelter elsewhere in the country, where they became shelter seekers within their homeland. One of the immediate tasks of the government was to provide adequate housing for people as it was evident from the beginning that some would not be able to return to their homes in the near future. The IDPs were either placed in newly built cottages or provided with a 10.000 USD voucher to secure their own accommodation [Rekhviashvili 2015, 5]. The government was in a rush to build thousands of individual family cottages as the existing collective centers were not suitable for long-term habitations therefore, as a result, within a few months, new villages appeared across the country. The rushed construction of the cottages led to significant challenges, including poor conditions such as dripping ceilings and moldy walls, due to the use of inadequately dried materials and insufficient time for proper settings.¹⁸ However, as it was explained by the engineer, the quality of the houses was reasonable and met the expectations even if it was far from perfect, given the limited time for construction and the budget of under 28.000 gel per house¹⁹.

¹⁶ Principle 3, Guiding Principles on Internal Displacement, OCHA, 1998.

¹⁷ See: *Civilians in the line of fire: Georgian-Russian Conflict*, Amnesty International Publications 2008.

¹⁸ *Internally Displaced Persons in Georgia: Issues of Concern*, Transparency International Georgia, 3 April 2009, 1-2.

¹⁹ Civil Georgia. “Ministers Brief on IDP Housing Project.” 24 December 2008, <http://www.civilgeorgia.org>.

According to the Institute for War & Peace reporting, tension over the housing issue resurfaced in January 2022 after the suicide of Zurab Kiria, a person who was forcibly displaced from Abkhazia.²⁰ He spent 29 years in a 14m² room, waiting for adequate accommodation. The Mstkheta-Mtianeti Regional Hub reports that, the issues with living standards and housing have persisted throughout the entire period of displacement. It is worth mentioning that the war in 2008 highlighted the importance for a change in state's approach. Approximately, three billion USD was allocated for housing but the problems with right management of these funds the process was delayed, only in past 2-3 years the pace of house construction has increased.²¹

2.3. Health

Given the vulnerability of internally displaced persons, who have been forced not only to leave their houses but also their normal lives, work, study and start all over again in a new place even if within their own homeland, there are numerous challenges for IDPs especially in the beginning of displacement. One of such important and challenging concern is Health care issue due to confusion over insurance coverage. For instance, there were issues with overlapping insurance programs and short-term policies. On numerous occasions it was claimed that while the consultations of doctors are free, the prescribed medicine are not free and most of IDPs were not able to cover these expenses.²² Considering that the monthly based financial support is currently 45 gel (approximately 17 USD) it is clear why these expenses are difficult to cover. Additionally, it should be noted that a significant majority of households (84%) has a collective monthly income below 1250 gel (approximately 465 USD), with 22% earning less than 300 gel per month (approximately 111 USD).²³

2.4. Predictability and Representation

The IDPs were resettled in various areas of Georgia. The government was distributing aid packages which were different among settlements due to poor coordination leading IDPs to receive unequal treatment. Such unpredictability was

civil.ge/eng/article.php?id=20189 [accessed: 02.08.2024].

²⁰ Institute for War & Peace Reporting (2022), Georgia: IDP's Death Reopens Debate Over Housing.

²¹ Understanding Displacement in Georgia: An In-Depth Analysis of IDP Needs, Estonian Refugee Council 2024, 6.

²² Internally Displaced Persons in Georgia: Issues of Concern, Transparency International Georgia, 3 April 2009, 3-4.

²³ Understanding Displacement in Georgia: An In-Depth Analysis of IDP Needs, Estonian Refugee Council 2024, 8.

highly related to the informal representation, particularly as aid providers relied on ‘mamasakhlisi’ of a settlement as the primary contact point. Despite their important role as intermediaries between IPDs and resource providers, ‘mamasakhlisi’ lack both a clearly defined role and formal legitimacy. Considering the situation and challenges brought by forced displacement, along with the state’s responsibility for prompt action, such informal representation could only be effective in short term. In long term such poor coordination proved to be insufficient, as aid distribution was often chaotic and unpredictable, making it difficult to people to plan for its arrival in advance. This, of course, highlights the problem of lack of access to information. The lack of information not only reduces but also impedes person’s ability to plan and reclaim control over their own lives. Providing information about aid is essential, not optional.²⁴

2.5. Employment

The state’s decisions regarding the location of settlement for internally displaced individuals has significant impact on people and their life choices because the place of settlement is connected to future studies, employment and etc. The settlement areas for IDPs are often located in areas with limited job perspectives, making it hard to people to find employment and resume a normal life they left behind. The issue is linked to economic resources; those with normal or no income are frequently forced to leave their families and migrate abroad. While economic hardship is not unique to IDPs, forced displacement exacerbates their vulnerability and worsens their situation. Very often, IDPs may accept any type of work, even outside their professional skills, or become depended on the state support. These can lead people to emotional distress. After the war, when people were resettled in different areas, the problem with employment was addressed by some programs designed to help IPDs to earn for living were mainly of pilot nature, lacking national wide coverage, comprehensiveness, and long-term sustainability due to absence of follow up measures.²⁵ According to Mtskheta Regional Hub, the problem with employment is still unresolved because as they note the income of IDPs whether from state or personal employment falls short of barely covering the basic expenses. Thus, economic difficulties of IPDs should be adequately addressed. The attention should be given to displaced women as their vulnerability creates “feminization of poverty” and they are at serious risks of domestic violence.²⁶

²⁴ Internally Displaced Persons in Georgia: Issues of Concern, Transparency International Georgia, 3 April 2009, 4-5.

²⁵ See: In the Waiting Room: Internally Displaced People in Georgia, Amnesty International, August 2010.

²⁶ Understanding Displacement in Georgia: An In-Depth Analysis of IDP Needs, Estonian

3. CONCLUDING REMARKS

The voices of IDPs are often lost in war and aftermath. The immediate attention should be placed on their needs and long-term solutions should be made. Although Georgian law on Internally Displaced persons from the occupied territories of Georgia places attention on importance of integration of IDPs in host communities and as well as upon their eventual return to place of origin, it is crucial that IDPs themselves should be actively involved throughout the process. Furthermore, as the issue of unemployment remains problematic, the government should develop various long-term programs to encourage employment. Moreover, it is important to take into account the needs of Internally displaced women and encourage their economic empowerment.

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