SEPTEMBER 2008

IPCS Research Papers

# National Legal Framework for IDPs in Sri Lanka A Critical Analysis

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New Delhi, INDIA

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# **Executive Summary & Recommendations**

This study centers on the legal entitlements of internally displaced persons (IDPs) in Sri Lanka where the ongoing ethnic strife between the Sinhalese majority and Tamil minority has led to one of the worst crises of internal displacement in South Asia.

In the absence of legislation that spells out the rights of the displaced, and a national legal framework that specifically and holistically refers to internal displacement, IDPs can be deprived of the basic necessities of life, which in turn leads to their marginalization from society.

This study places special attention on evaluating constitutional provisions that affect IDPs, on legislation pertaining to displacement, and the National Legal Framework for Relief, Rehabilitation, and Reconciliation (NFRRR).

Sri Lanka is used as a case study to operationalize a general theoretical discussion of IDP legal frameworks in a concrete national context. Therefore, critical attention is given to an alternative solution in a binding national legal framework for Sri Lanka's IDPs. Accordingly, the analysis suggests that adopting a national legal framework through an Act of Parliament will lessen the viability of vicious cycles of crime and poverty developing nationwide, contributing thereby to integral development in Sri Lanka.

The study makes the following recommendations for the legal framework to be effective in creating the sustainable conditions leading to durable solutions:

 The legal framework for the IDPs should be based on the universally recognized principles of international law and the GPID,

- It should establish the goal of preventing displacement and seeks to do so by anticipating the risks that may generate displacement, disseminates information on human rights, and creates necessary programs of attention for populations at a risk of displacement.
- It should define, determine, and clearly stipulate the state's responsibility towards internal displacement, ensuring that the rights of IDPs be enacted and protected under the law.
- It should establish the right of humanitarian attention procuring guarantees to ensure protection and assistance needs of health, shelter, food, transportation, etc. providing legal guarantees to IDPs to access humanitarian aid, projects, and programs, and offer the necessary mechanisms that allow IDPs to develop the mediums necessary for their sustainable subsistence
- It should establish objectives, parameters, and basic scheme of a national policy for the fundamental protection of IDPs; and guarantee that the national policy includes projects and programs for development of IDPs at all phases of displacement; designs and adopts judicial, economic, and social plans for the prevention of displacement and for the resettlement of IDPs.
- It should provide the means for protection at all phases; procures

- economic consolidation, social stabilization, and rehabilitation of IDPs; and enables the reintegration of IDPs into Sri Lankan society.
- It should create a national system exclusively concerned with IDPs, through a separate Authority or Ministry accountable for: implementing policies, projects, and programs for IDPs; diagnosing the causes and identifying the agents responsible for displacement; mitigating and neutralizing the dynamics that provoke displacement; collecting IDP-related data on livelihood, migration, and
- settlements; promoting and protecting human rights; guaranteeing a transparent and efficient use of funds; and integrating the national and international private and public efforts and aid,
- It should establishe the right to voluntary return while delineating the GoSL's primary responsibility of providing post-displacement protection and aiding development upon resettlement, and define the cessation of IDP conditions, delineating the parameters to gauge the end of displacement.

## Introduction

Unlike refugees, internally displaced persons (IDPs) live within the borders of their respective countries. Until recently, the applicability of international law to IDPs was restricted by claims on national sovereignty. With the establishment of the Representative of the United Nations Secretary-General on Internally Displaced Persons<sup>1</sup> and the drafting of the Guiding Principles on Internal Displacement (GPID), the leverage of international humanitarian standards over national governments with respect to IDPs has increased. In recognition of the need for international protection, these initiatives came about to counter the lack of IDP protection at the national level. Although such international pressure has motivated governments to a certain extent, to develop national responses, the nature of internal displacement obliges national authorities to commit themselves as the sole entity with the primary responsibility of protecting and assisting IDPs.

In addition to being deprived of basic necessities, IDPs often become marginalized within their own societies. Deprived of food, shelter, education, and employment, to name a few, and the resulting marginalization of IDPs, encourages the breakdown of social and cultural structures and identities. Over time, this process often leads to the creation of vicious cycles of crime and poverty that spread through IDP settlements and communities. Ultimately, these cycles compound and worsen a

<sup>1</sup> The Representative on Internally Displaced Persons was established by a UN mandate at the request of the UN Commission on Human Rights in 1992. The initial task of the representative was to compile the international legal norms that pertain to securing IDPs with rights and protection. Led by Representative Francis M. Deng, a team of international legal scholars produced the GPID under resolution E/CN.4/1998/53/Add.2 presented to the Commission on Human Rights in 1998.

nation's prospects for economic, political, and social development.

This study focuses on the legal entitlements that pertain to IDPs in Sri Lanka. It places special attention on evaluating constitutional provisions that affect IDPs, legislation pertaining to displacement, and the National Legal Framework for Relief, Rehabilitation, and Reconciliation (NFRRR) for conflictaffected communities. I discuss the general theoretical background of IDP-related legislation to argue that a comprehensive national legal framework strengthens a government's ability to gradually mitigate displacement. The major advantage of a binding and systematic framework is that it helps impede deprivation and restitute basic necessities of displaced citizens. This analysis uses Sri Lanka as a case study to operationalize a general theoretical discussion on IDP legal frameworks in a concrete national context. Therefore, critical attention is placed on looking for an alternative solution in a national legal framework for Sri Lanka's IDPs. Accordingly, the analysis suggests that a legal framework lessens the viability of vicious cycles of crime and poverty developing nationwide, thus, contributing to the integral development of Sri Lanka.

# Legal Framework for IDPs: General Background

While analyzing the legalities of IDP protection, it is crucial to differentiate between legal statuses and frameworks. Simply put, a legal status is a concept whereby individuals are assigned a specific place in society vis-à-vis the law. This status, whether determined nationally or internationally, establishes the unique set of laws that apply to a particular group of individuals with common characteristics. Throughout history, terms such as citizen, minor, prisoner of war, or refugee, amongst many others, have been designated to define and give a legal status to specific sets of people. Each term carries a legal status and is often accompanied by a framework responsible for defining the specific rights enjoyed by the group. Legal statuses, regularly, but not necessarily, function through the implementation of a legal framework. Devising a legal framework enables the legal concept of the status to be defined with an operational meaning.

A national legal framework for IDPs decrees a government's responsibility to uphold the rights of IDPs, creating the basis for a national policy while reflecting national commitment towards internal displacement. Countries with internally displaced populations have relied on one of three existing models to develop and implement national legal frameworks for IDP protection. The first is based on a government's adoption of laws, specific to a certain phase of displacement. Using this model, nations have implemented legislation attending specifically to pre-displacement, the situation during displacement, or the return and resettlement of the displaced. Some governments have used a second approach whereby, they have revised and aligned existing national legislation and institutional regulations with the legal necessities of IDP protection. This model has become salient and widely-used, as it facilitates legislative reform in nations where

adopting new legislation is an arduous process of institutional and personal competition. Yet, other governments have adopted a third model that decrees comprehensive national laws covering all phases of internal displacement. Although this is a resource-intensive model, it is considered the most integral model with holistic legislation securing the rights and establishing the needs of IDPs.

The question of an independent IDP legal status came under scrutiny after the United established that the primary Nations responsibility for internal displacement would rest within the jurisdiction of national authorities. Since then, experts and interest groups concerned have not come to an agreement on the advantages disadvantages of a legal status for IDPs. The general consensus within international organizations catering to the needs of the displaced is that providing IDPs a legal status within a nation is potentially dangerous and harmful for their conditions. In spite of this, the international community recognizes that the nature of displacement requires that the protection and assistance needs of IDPs be delineated, adopted, and met, in a set of clear and binding legal entitlements.

Walter Kälin<sup>2</sup>, one of the most outspoken advocates against a separate IDP status, argues that decreeing this status represents an inappropriate and detrimental institutional posture that will not contribute to a solution of displacement. For Kälin, IDPs are a vulnerable group like children, the wounded, or the sick; and like the aforementioned groups, they do not constitute a distinct legal category. This means that the displaced status does not need to be legally recognized in order for IDPs to enjoy certain specific legal entitlements. Most nations with internally displaced populations have provisions, either in their national constitutions, legislation, or international treaties, which safeguard their citizens by ensuring human rights and humanitarian protection. As a result, in theory, IDPs should be entitled to the legal protection that ordinary citizens have. Following this premise, in practice, being displaced would give IDPs a reason to invoke the humanitarian entitlements that the state provides.

Poignant advocates of Kälin's case also argue that a separate IDP legal status could

Secretary-General on Internally Displaced

<sup>2</sup> Walter Kälin (First representative of the UN

005\_WK\_RSQ\_GPs.pdf, accessed on 23 July

be used to deny IDPs the privileges already offered under national common law. By defining the legal status of IDPs, governments can specify why, where and most importantly, who can receive protection and assistance. This leaves IDPs at the mercy of policymakers who may choose to further their own personal agendas while delineating the status. Thus, the process of defining the particularities of the status has the potential to become an instrument for manipulation and denial of rights. In addition, there is an inherent difficulty in defining IDP status due to the nature of displacement – an evolving phenomenon which alters, adapts, and ends gradually. Instead of defining the status, which would be an undesirable exercise, drawing up a set of legal provisions recognizing certain entitlements of displaced populations would be far more advantageous. Comprehensive national frameworks have come to occupy the position of the most viable providers of legal entitlements for IDPs.

Due to the fact that protection, and by extension, IDP protection, is a legal concept; a binding national legal framework is the most important reflection of a nation's responsibility and commitment towards its displaced population. The development and adoption of this kind of framework is a vehicle for the fulfillment of IDP-related policy. As a process and end result, the drafting and adoption of the framework encourages diverse government institutions to:

- discuss humanitarian and international law at the national, regional, and grass root levels to delineate the rights of IDPs,
- research the causes and consequences of arbitrary displacement, prevention, and protection,
- collect IDP-related data including information on migrations, settlements, and livelihoods,
- create a national IDP policy,

Persons). Walter Kälin, "The Legal Dimension," Forced Migration Review, Issue 17, May 2003, http://www.fmreview.org/FMRpdfs/FMR17/fmr17. 05.pdf, accessed on 17 July 2008, pp. 15-16; Walter Kälin, "The Role of the Guiding Principles on Internal Displacement," Forced Migration Review, Issue 24 Supplement, October 2005, http://www.fmreview.org/FMRpdfs/FMR24/IDP% 20Supplement/03.pdf, accessed on 13 July 2008, pp. 8-9; Walter Kälin, "How hard is soft law? The Guiding Principles on Internal Displacement and the Need for a Normative Framework," Brookings-Bern Project on Internal Displacement, 19 December 2001, http://www.brookings.edu/speeches/2001/1219guid ingprinciples\_kalin.aspx, accessed on 19 July 2008; Walter Kälin, "The Guiding Principles on Internal Displacement as International Minimun Standard and Protection Tool," Brookings-Bern Project on Internal Displacement, Fall 2005, http://www.brookings.edu/fp/projects/idp/articles/2

- identify a role for national and regional institutions as well as the international community in relation to IDPs,
- identify sustainable conditions for durable solutions, and
- identify funding and financial resources that can be devoted for IDPs' development.

This process encourages a holistic and critical analysis of IDPs, their dilemmas, and the national and international responses needed for their protection. Because the process comprehensively engages all phases of displacement, the framework will holistically cover the legal and physical, protection needs and rights of IDPs to encourage a gradual resolution of the problem of internal displacement.

Closely related to the national legal framework is a national policy for internal displacement which stipulates the specific course taken by a government in its attempt to end displacement. National policies delineate the course of action in a nonbinding plan that corresponds to the adoption of national legislation. For national policies to stand the test of time, they must be based on a preconceived set of rights, delineated in a legal framework. The durability of the policy is ascribed by the sovereign legal legitimacy derived from the framework. Successful national frameworks have adopted comprehensive laws that address all needs and phases of displacement, thereby encouraging practical and efficient national policies which also cover all needs and phases of displacement. Although nations with displaced populations may share certain commonalities that pertain to displacement, they nonetheless face challenges unique to their individual geopolitical, economic, and cultural contexts. Based on this, Erin Mooney<sup>3</sup> set upon the task of identifying the minimum requirements necessary for a successful national policy. While identifying these analytical tools, she developed a recognizable set of objectives for a national policy. These objectives aim for a national policy to:

- "spell out national and local institutional responsibilities for responding to internal displacement,"
- "indicat[e] the roles and responsibilities of different government departments,"<sup>5</sup> and
- "identify a mechanism for coordination among them."

These non-binding national policy objectives for internal displacement are contingent upon a schematic and binding framework for IDP protection to establish the mechanisms to tackle displacement.

Delineating and adopting a comprehensive national policy based on a national legal framework, will enable the inception and maintenance of sustainable conditions necessary to generate durable solutions for displacement. A national policy stemming from a preconceived legal framework creates the sustainable conditions to ensure

2001,

http://www.brookings.edu/fp/projects/idp/2000 E M PrinciplesofProtection.pdf, accessed on 18 July 2008, pp. 81-101; Erin Mooney, "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern" Refugee Survey Quarterly, Vol. 24, Issue 3, Fall 2005

http://www.brookings.edu/~/media/Files/rc/articles/2005/fall\_humanrights\_mooney/9.pdf, accessed on 8 July 2008, pp. 9-26.

http://www.brookings.edu/fp/projects/idp/2005040 1 nrframework.pdf, accessed on 13 June 2008, p. 17.

<sup>&</sup>lt;sup>3</sup> Erin Mooney, "Principles of Protection for Internally Displaced Persons," *International Migration*, Vol. 38, Number 6, Special Issue 2,

<sup>&</sup>lt;sup>4</sup> "Addressing Internal Displacement: A Framework for National Responsibility," Brookings-Bern Project on Internal Displacement, April 2005,

<sup>&</sup>lt;sup>5</sup> Ibid.

<sup>&</sup>lt;sup>6</sup> Ibid.

that IDPs no longer suffer from intimidation, attacks, or discrimination. Policies aimed at preventing and reducing these hardships must be backed by legal pronouncements for them which will lead to their resettlement. Policy prescriptions that aim for lasting solutions seek to allow IDPs to either return voluntarily, in safety and dignity, to their habitual places of residence, or resettle in other parts of the country. A national policy which creates durable solutions that ensure successful return and resettlement of IDPs is likely to stimulate a gradual end to displacement. National policies produce sustainable conditions for durable solutions by easing the process of establishing mechanisms to improve the conditions of IDPs. The processes for procuring sustainable conditions that improve the livelihoods of IDPs include: property restitution and compensation, assuring access to national protection, expediting the process of personal documentation, increasing access to public services, and access to participation in public affairs.7 Considering the above, it should be evident why a comprehensive national policy is a crucial mechanism that links the rights established in a legal framework with the sustainable conditions that lead to durable solutions to displacement.

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<sup>&</sup>lt;sup>7</sup> Elizabeth Ferris, "Durable Solutions: When Does Displacement End?," The Brookings Institution University of Bern, October-December 2007, <a href="http://www.brookings.edu/articles/2007/12\_displacement\_ferris.aspx">http://www.brookings.edu/articles/2007/12\_displacement\_ferris.aspx</a>, accessed on 18 June 2008.

## Legal Provisions in Sri Lanka: An Assessment

The ongoing ethnic strife between Sri Lanka's Sinhalese majority and Tamil minority has led to one of the worst crises of internal displacement in South Asia. In terms of the proportion of the population, Sri Lanka has one of the world's largest IDP populations. Presently, IDPs in Sri Lanka account for 2.2 per cent of the total population. This puts Sri Lanka at the lead of populations displaced (as a proportion of the total population) in the South Asian region. Internal displacement in Sri Lanka predominantly stems from conflict-related violence caused by the clashes between the government's armed forces and the Liberation Tigers of Tamil Eelam (LTTE). Disregard for human rights continues to cause displacement as rebel and government forces indiscriminately assault, arrest, and abuse civilian populations. Recurring waves of intimidation, threats, and forceful recruitment of combatants by the LTTE have also forced thousands of families to flee their native lands. In sum, Sri Lanka's IDPs have been displaced by a wide array of violent causes which make migration the only opportunity for survival.

The majority of IDPs have been displaced from the country's northern and eastern districts. Sri Lanka's IDPs can be divided into groups based on ethnicity and migration patterns. The first group is comprised of Sri Lankan Tamils who have been forced to flee due to conflict between the government forces and the LTTE. Another group, composed of Muslims, has been displaced from the northern districts by the LTTE. For the most part, Muslim IDPs have resettled in governmentcontrolled areas in northwestern districts. Sinhalese communities have also been displaced by the violence. Most Sinhalese constitute "day and night IDPs" who live in the border areas of the LTTE and

government-controlled territories. After categorizing IDPs into different groupings, it becomes clear that the three major ethnic communities present in Sri Lanka have been displaced due to the ongoing conflict.

In addition to these causes of displacement, Sri Lanka has also suffered from natural disaster and development-induced displacement. Although historically, these have not been prevalent causes for displacement in Sri Lanka, the December 2004 Indian Ocean tsunami significantly increased the number of IDPs by approximately 550,000.8 Government sources report that the number of tsunamiafflicted IDPs has drastically dropped with the introduction of resettlement programs. Yet, it is difficult to pinpoint the current number of such IDPs due to the overlap in data between today's numbers and those displaced by the conflict.

It is difficult to accurately gauge the number of IDPs in Sri Lanka due to several factors. Apart from the absence of appropriate monitoring mechanisms, there is divergence in the figures provided by civil organizations and government data. The overall lack and ambivalence in the existing data suggests that the precise number of IDPs is unknown. According to conservative estimates, the ethnic strife has left approximately 800,000 citizens internally displaced, since the armed conflict broke out in the late 1970s. Other assessments

<sup>&</sup>lt;sup>8</sup> Brookings Institution, "National and Regional Laws and Policies on Internal Displacement Sri Lanka," Brookings-Bern Project on Internal Displacement,

http://www.brookings.edu/projects/idp/Laws-and-Policies/sri lanka.aspx, accessed on 13 June 2008.

<sup>&</sup>lt;sup>9</sup> Ministry of Foreign Affairs of Japan, "Emergency Grant Aid to Sri Lanka for Internally Displaced Persons," 13 December 2002,

estimate that one million Sri Lankans have been displaced at some point during the conflict. According to the Internal Displacement Monitoring Center (IDMC), the resumption and intensification of the armed conflict in April 2006 forced 181,000 people to flee their homes in search of security. The most recent conservative estimates from civil organizations suggest that approximately 262,000 Sri Lankans are currently displaced throughout the nation. International organizations claim a higher figure of approximately 460,000.

On the other hand, while there are no available government sources that indicate the number of IDPs in Sri Lanka; the data that the government has made public indicates that 182,802 citizens have been displaced between April 2006 and May 2008. According to government sources,

http://www.mofa.go.jp/announce/announce/2002/1 2/1213.html, accessed on 28 June 2008.

<sup>10</sup> AusAID, Alexander Downer, "More Aid for Refugees and Displaced People in Sri Lanka,", 10 June 2004,

http://www.ausaid.gov.au/media/release.cfm?BC= Media&ID=5531 4146 6148 5532 9648, accessed on 28 June 2008.

<sup>11</sup> Inter Agency Standing Committee (IASC), "Sri Lanka: Spreading the news to IDPs," *IRIN*, 17 March 2008,

http://www.irinnews.org/Report.aspx?ReportId=77 309, accessed on 3 July 2008.

<sup>12</sup> Estimates from the Internal Displacement Monitoring Center as of August 2007 and UNHCR 2007 report published in June 2008. "Number of IDPs (Special report, 2007)," Internal Displacement Monitoring Center, 26 September 2007, <a href="http://www.internal-displacement.org/idmc/website/countries.nsf/(httpEnvelopes)/3331B1BA9A91FF4CC125735C004929">http://www.internal-displacement.org/idmc/website/countries.nsf/(httpEnvelopes)/3331B1BA9A91FF4CC125735C004929</a> 25?, accessed on 18 June 2008.

<sup>13</sup> Ministry of Resettlement and Disaster Relief Services and the GIS Statistical Unit of the Ministry of Nation Building & Development published by the UNHCR and the Internal Displacement Monitoring Center. "IDPs by Place of Displacement and Place of Origin as at 31 May 2008," Internal Displacement Monitoring Center, 6 June 2008.

http://www.unhcr.lk/statistics/docs/SummaryofDis

Jaffna, Kilinochchi, Mulaitivu, Mannar, and Vavunya are estimated to have the largest IDP populations. Nation-wide IDP trends indicate that approximately 150,000 citizens have been displaced in these five northern districts alone, since April 2006. The eastern districts with the largest numbers of IDPs are Batticaloa, Trincomalee, and Ampara. Together, these districts have approximately 29,000 IDPs according to government estimates. Together, these districts have

In Sri Lanka, IDPs have not been accorded a special place in the legal system. Sri Lanka's IDPs are citizens with the same obligations, rights, and duties, as those who have not been displaced. There is no single piece of legislation that addresses IDPs specifically, let alone a comprehensive legislation. Existing provisions are scattered in an unsystematic, disorderly manner, with little cohesion, and do not address critical concerns. Nonetheless, the rights of IDPs are partially secured by eight existing common national laws.

The first act that is pertinent to IDPs is the Rehabilitation of Persons, Properties and Industries Authority Act, No. 29 of 1987. It was drafted with the intention "to assist the owner of any affected property to repair and restore such property." In it, the Government of Sri Lanka (GoSL) upholds the responsibility of creating an authority to assist in the repair, restoration, or rehabilitation of persons, properties or

placement-7Apr06-31May08.pdf, accessed on 4 July 2008, p. 5

http://www.idpsrilanka.lk/html/IDP%20Related%2 <u>ONorms%20and%20Laws/IDP%20Related%20Domestic%20Laws/1987%20No%2029%20of%20Rehabilitation%20of%20Persons,%20Properties%20and%20Industries%20Authority%20Act.pdf</u>, accessed on 24 June 2008.

<sup>&</sup>lt;sup>14</sup> *Ibid*, p. 1-3.

<sup>15</sup> *Ibid*, p.3-4

<sup>&</sup>lt;sup>16</sup> Parliament of the Democratic Socialist Republic of Sri Lanka, "Rehabilitation Of Persons, Properties And Industries Authority Act, No. 29 of 1987."

industries. Of the total of eight laws, five were created between 2002 and 2007 and are also common laws that pertain to all citizens, although they tend to be more focused on the necessities and particularities of IDPs. The first act, enacted during these years, is the Welfare Benefits Act, No. 24 of 2002 which states that the GoSL provides the necessary legal framework for the payment of welfare relief benefits and formulates the guidelines for a transparent selection process for welfare recipients. The second entitlement from this time period is the Mediation (Special Categories of Disputes) Act, No. 21 of 2003. This act dictates the creation of arbitration boards for special categories of disputes, including those that relate to resettlement. Although most special categories are not clearly defined in the act, the authority created in the process upholds the responsibility of identifying and defining these special circumstances.

In 2005 alone, three of the eight laws for IDPs were ratified by the GoSL, two of which were special or temporary provisions, in response to the 2004 tsunami. Although not explicitly drafted for their concerns, these acts have implications for the displaced communities. The Sri Lanka Disaster Management Act, No. 13 of 2005 called for the establishment of the National Council for Disaster Management, the Disaster Management Centre, and technical advisory committees, amongst other entities. These entities are responsible for the preparation, coordination, and management of disaster-related plans and programs. The Tsunami (Special Provision) Act, No. 16 of 2005 and Registration of Deaths (Temporary Provision) Act, No. 17 of 2005 served in the pressing aftermath of the 2004 tsunami to address temporary and immediate coordination and distribution channels for humanitarian aid and relief.

The two latest acts, applicable to internal displacement, were ratified in 2006 and 2007 respectively. The Geneva Conventions Act, No. 04 of 2006 gives "effect to the first,

second, third, and fourth Geneva Conventions on Armed Conflict and Humanitarian Law."17 Adherence to the obligations under the Geneva Conventions has a bearing on the status of Sri Lanka's IDPs as the government upholds multiple international standards on the rights of civilians during times of war. Lastly, the Resettlement Authority Act, No. 09 of 2007 decrees the "Establishment of an authority to be called the Resettlement Authority; to vest the Authority with the power to formulate a national policy and to plan, implement, monitor, and co-ordinate the resettlement of the internally displaced persons and refugees." When compared to the aforementioned legal provisions, Act No. 09 of 2007 most clearly addresses the issues and concerns of the IDPs. The Resettlement Authority Act seeks to:

- "ensure resettlement or relocation in a safe and dignified manner of internally displaced persons" and
- "facilitate the resettlement or relocation of the internally displaced persons in order to rehabilitate and assist them by facilitating their entry into the development process."<sup>20</sup>

The law holds the Resettlement Authority responsible for:

 formulating and implementing a resettlement policy for IDPs;

<sup>&</sup>lt;sup>17</sup> Parliament of the Democratic Socialist Republic of Sri Lanka, "Geneva Conventions Act, No. 4 of 2006,"

http://www.idpsrilanka.lk/html/IDP%20Related%20Norms%20and%20Laws/IDP%20Related%20Domestic%20Laws/2006%20No%2004%20of%20Geneva%20Conventions%20Act.pdf, accessed on 24 June 2008.

<sup>&</sup>lt;sup>18</sup> Parliament of the Democratic Socialist Republic of Sri Lanka, "Resettlement Authority Act, No. 09 of 2007."

http://www.idpsrilanka.lk/html/IDP%20Related%2 0Norms%20and%20Laws/IDP%20Related%20Do mestic%20Laws/2007%20No%2009%20Resettlem ent%20Authority%20Act.pdf, accessed on 25 June 2008.

<sup>&</sup>lt;sup>19</sup> *Ibid*, Part II, Clause 13, Sub-Clause (a).

<sup>&</sup>lt;sup>20</sup> *Ibid*, Part II, Clause 13, Sub-Clause (b).

- formulating and implementing specific programs and projects for resettlement and relocation of IDPs;
- assisting in the coordination of funding to implement the approved programs;
- making possible the restoration of human rights to empower the IDPs;
- promoting livelihood and economic activities for IDPs.

The act vests ample powers in the Authority for the accomplishment of such objectives.

In July 1999, the GoSL announced its intention to lead the development of a National Framework for Relief, Rehabilitation, and Reconciliation (NFRRR), aimed at addressing the challenges of the nation's conflict-affected populations. Based on a wide-ranging consultative process involving multiple government agencies, civil society groups, and the international community, the GoSL initiated the development of a framework to strengthen Sri Lanka's capacity to:

- "ensure basic needs of people affected by conflict,"<sup>21</sup>
- "rebuild productive lives where feasible," <sup>22</sup> and
- "facilitate reconciliation and partnership across ethnic lines."<sup>23</sup>

By June 2002, the GoSL adopted the framework with the intention to formulate policies, strategies, and mechanisms for providing effective assistance to conflict-affected communities.

The GoSL was represented in the formative stages of the framework by the Steering Committee which led and coordinated the initiative while ensuring the participation of key public decision makers of the Kumaratunga government. A series of working groups were established within the Steering Committee, thereby bringing into the process, members of the international community, civil society, and government departments, to contribute their experience and technical knowledge concerning relief, rehabilitation, and reconciliation for conflict-affected communities. At the national level, committees deliberated on aid modalities, institution-building, program priorities and peace-building before comparing their policy recommendations with those produced at the district levels.

The Steering Committee capitalized on the consultation process of stakeholderparticipation to produce a framework of policy reference, guided by the ultimate vision of peace. The consultation process sought to remedy the lack of participation of affected communities while encouraging the expansion of the range of issues discussed by the framework's architects. An important component of the consultation process was that conflict-affected populations were given the space to discuss their grievances pertaining to their districts, the existing impasse in humanitarian relief, and the weaknesses of past rehabilitation projects. These were discussed at district-level thematic workshops organized by the Consortium of Humanitarian Agencies (CHA)<sup>24</sup> before being presented to the Steering Committee. As a process, the framework relied on citizens throughout the country, across ethnic and communal lines, providing ample input from a broad range of affected communities. In theory, the consultative nature of the formative stage of the framework would induce the process to become inclusive and conducive for responding to the needs and demands of the targeted populations.

<sup>&</sup>lt;sup>21</sup> National Framework for Relief, Rehabilitation and Reconciliation, "Annex III: The RRR Framework Process," June 2002, <a href="https://www.erd.gov.lk/publicweb/RRR2002/Annex3.doc">www.erd.gov.lk/publicweb/RRR2002/Annex3.doc</a>, accessed on 11 June 2008, p. 1.

<sup>&</sup>lt;sup>22</sup> Ibid

<sup>&</sup>lt;sup>23</sup> Ibid

<sup>&</sup>lt;sup>24</sup> The Consortium of Humanitarian Agencies was established in April 1997. It was used extensively by the Steering Committee as a national service provider in the non-profit sector for the formational steps of the Framework.

The imperative for peace guided the process and underlies the proposed policy guidelines while simultaneously legitimizing the significance of the framework. The framework constitutes a frame of policy reference that serves as a working tool for the development of national policies for destitute communities. The framework has ten policy recommendations covering issues of human rights, relief, development, reconciliation, and peace-building. It is divided into six parts, beginning with a background of conflict-affected communities and concluding with priorities for nation-building and a transition to peace. The NFRRR prescriptions include IDPs in the category of conflict-affected populations.

The NFRRR refers to IDPs on multiple occasions as it recommends policies relating to their rights, relief and development, and their role in reconciliation and peacebuilding. Two of the framework's clauses, clause (b) of Part II and clause (a) of Part III, pertain to the legal status of IDPs. Part II of the framework delineates the bulk of policy recommendations and prescriptions for future action. Part III is of special interest as it focuses on creating a precedence to improve the effectiveness of programs and the priorities of action while establishing concrete time frames to follow, in case the policies are adopted. Clause (b) of Part II explicitly refers to a "Policy on the Rights of the Displaced" by stating:

The universally accepted rights of displaced persons, to protection, to liberty and security of person, to humanitarian assistance and to their return, resettlement and integration in society, constitute a key principle of official policy in the conduct of relief, rehabilitation and reconciliation activities on behalf of the internally displaced persons affected by the conflict.

This policy recommendation is based on the "universally accepted rights of displaced persons" which alludes to the GPID. As the clause affirms, the framework recommends that these apply to Sri Lanka's displaced.

Complementing the proposed policy prescription is the framework's clause (a) of Part III which delineates the "General recommendations" to improve the effectiveness of programs. In reference to internal displacement, the recommendation states that it is necessary to: "Adopt the Guiding Principles on Internal Displacement as official policy for assisting internally displaced persons affected by the conflict and commit the concerned ministries to bringing their policies and programmes into alignment with these principles."25 While clause (b) of Part II alludes to the adoption of the GPID, the framework's priority of action explicitly calls for the need to adopt them as official policy to assist IDPs. Furthermore, the clause recommends that parallel actions be taken for dissemination, discussion, and training both the private and public sectors responsible for IDPs, to familiarize them with the GPID.

In regard to the legal aspects concerning IDPs, the priorities for action recommend that the competent authorities:

- use the GPID as an analytical instrument to identify deficiencies in the existing legal frameworks concerning IDPs,
- comprehensively analyze specific policies and program improvements with the purpose of aligning their policies and programs with the GPID,
- develop a comprehensive and consistent approach outlined in a "National durable solutions policy"

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<sup>&</sup>lt;sup>25</sup> "National Framework for Relief, Rehabilitation, and Reconciliation," June 2002, <a href="https://www.erd.gov.lk/publicweb/RRR2002/chapters1-6.doc">www.erd.gov.lk/publicweb/RRR2002/chapters1-6.doc</a>, accessed on 11 June 2008, p. 18.

- based on the GPID for the resettlement of the displaced, and
- use the GPID to support the Human Rights Commission in an effort to enhance the assistance to the displaced.<sup>26</sup>

Apart from the eight legislative acts and the NFRRR, there are no other legal provisions that secure the protection of IDPs. Although at first sight these legal entitlements seem to provide protection for IDPs by covering all phases, scenarios, and needs of displacement; a closer analysis shows that their lack of cohesiveness and inefficiency hinder their ability to solve the problems faced by the displaced.

#### Existing Legal Provisions: A Critique

Although the bulk of legislation concerning IDPs is intertwined with general entitlements common to all citizens, the adoption of the latest laws suggest that the GoSL is interested in recognizing certain legal entitlements specific to IDPs. Seven legal provisions were drafted between 2002 and 2007 as a response to the surging numbers of IDPs and as a sign of the pressure IDPs are exerting on the government. It is worth noticing that there is an increasing emphasis on IDP-related provisions in recently drafted legislations. This present trend can be seen by comparing the Resettlement Authority Act with the Rehabilitation of Persons, Properties and Industries Authority Act. When examined in light of each other, the entitlements provided for by the Resettlement Authority Act are more in accordance with specific needs of the IDPs. Although the recent trend of adopting IDPspecific legislation seems opportune, a closer analysis suggests that it is a façade with little to offer to IDPs.

By neglecting IDP-specific legislation, the GoSL fails to tackle the needs of a portion of the population that lives under distinct

circumstances. Furthermore, despite the fact that the existing entitlements relating to IDPs are common laws, they are for the most part authority-creating decrees. Act No. 29 of 1987, Act No. 50 of 1998, and Act No. 09 of 2007 are laws that create authorities with diverse purposes, including some relating to IDPs. Creating an authority does not guarantee a legal responsibility that forces it to pursue its objectives. This, added to the lack of accountability in the authorities, calls into question the effectiveness of the acts. Thus, it is necessary to question and revise the impact that the authority-creating acts have on the ground realities they seek to affect. Furthermore, in addition to the faults in legislation, the special and temporary provisions intend to provide short-term humanitarian cures as opposed to long-term sustainable solutions. This makes the relevance of existing laws pertaining to IDPs minimal. These common laws which emphasize immediate responses as opposed to sustainable and durable solutions continue to negatively affect IDPs.

The effectiveness of the existing legislation is further called into question as the Acts do not take into consideration all phases of displacement. Because of this, their prospects for success are minimized as they fail to promote an integrated and holistic response, necessary for developing durable solutions. For instance, only the fundamental rights guaranteed by the Constitution (and that too only to a limited extent), address issues related to displacement. Similarly, and more importantly, only the Welfare Benefits Act and the Disaster Management Act pertain to the realities faced by IDPs during the phase of actual displacement. Yet, the GoSL has emphasized the post-displacement phase in legislation, which concerns the restoration and rehabilitation of persons and properties, mediation and arbitration of disputes of resettlement, the tsunami and deaths acts, and the Resettlement Authority Act. The discrepancy between legislations relating to distinct phases, illustrates an imbalance in

<sup>&</sup>lt;sup>26</sup> *Ibid*, p. 32.

safeguards for IDPs during different stages of displacement. The emphasis on post-displacement, points to the GoSL's blind enthusiasm for ending displacement without considering the steps needed to attain this goal. The fact that the laws are not comprehensive reflects the short-term approach adopted to address the problem. Adding to this reality, the prospects for success are further blurred by provisions for post-displacement, which emphasizes resettlement, while neglecting the complex challenges faced by returnees.

The ineffectiveness of the present legislation is proved by its limited effect on the day-today reality of IDPs. The Constitution's fundamental rights section, for example, does not grant enough physical protection or assurance to IDPs because they face challenges that are different from the rest of the population. A case that clearly proves the ineffectiveness of legislation in addressing the day-to-day reality of IDPs is legislation that ensures welfare payments and, in certain cases, legislation that provides space for residence within Welfare Centers (WC) or Temporary Accommodation Centers (TAC) for IDPs. Due to the fact that this legislation is not specific to IDPs, it does not specifically provide for fundamental rights like education and health to IDPs living within WC and TAC. This is salient considering that 81 per cent of IDPs live outside WC and TAC.27 IDPs who find shelter in friends' or relatives' houses face an added number of difficulties. Current aid schemes allow government rations to be distributed to individuals residing in WC and TAC, but not those living outside. These are essentially discriminatory policies towards IDPs who are forced to find refuge elsewhere due to the insufficient number of WC and TAC. The inequality in aid distribution not only violates the principles of impartiality and non-discrimination established by the GPID, but also creates resentment amongst IDPs. This is an

The present overcrowding and shortage of shelter, toilets, and daily rations can also be attributed to a lack of planning and implementation of projects structured through a coherent legally-backed state policy. Despite the emphasis on legislation on resettlement, ground realities have motivated local and international organizations to condemn time and again the forced resettlement of IDPs.<sup>28</sup> Due to the inefficient legislation on the rights of the displaced, the Sri Lankan armed forces have forced IDPs who are not willing to voluntarily return to their originally inhabited areas, due to security concerns, to resettle wherever the government proclaims.<sup>29</sup> This has been permitted in the absence of legislation safeguarding the right of IDPs to voluntary return and resettlement.

Although there is legislation on rehabilitation of property, property restitution has also been a major concern for IDPs. Sri Lankan legislation decrees that private ownership of land can only be established after an uninterrupted occupation of more than ten years.<sup>30</sup> When citizens become IDPs, they relinquish their land, thereby, causing them to interrupt their occupation of it. As the ten year minimum requirement is not fulfilled in many cases, often due to second and even third-time displacements, the possibility of attaining private ownership of the land is minute. Present policies on migration of landless IDPs state that they cannot be

unnecessary cause for tension that feeds hatred between communities, deteriorating the prospects for security.

<sup>&</sup>lt;sup>28</sup> n. 5, p. 13.

<sup>&</sup>lt;sup>29</sup> n. 5, p. 18.

<sup>&</sup>lt;sup>30</sup> Bhavani Fonseka, "Land Rights of Internally Displaced Persons," *IDP Newsletter*, Consortium of Humanitarian Agencies, Issue 2, November 2005

http://www.cpalanka.org/research\_papers/IDP\_newsletter\_English\_Issue\_2.pdf, accessed on 8 July 2008, p. 8.

<sup>&</sup>lt;sup>27</sup> n. 14

relocated on government-owned land in any district other than that of their origin.<sup>31</sup> As it exists today, this relocation policy compels IDPs to remain in WC or TAC, become alien destitute communities, or return to an area against their will. Loss of personal documents including land titles, and the lack of existing provisions to replace these titles is another impediment for property restitution. Considering that the majority of conflict-induced IDPs in Sri Lanka depart from their homes during times of violent incursions, it is common for them to leave behind their personal documentation. Undocumented IDPs face additional challenges because they must identify themselves to access welfare benefits, relief provisions, or to migrate, or work. It is imprudent for the GoSL to emphasize restitution and rehabilitation, especially since it has failed to recognize that the loss of personal documents is a common phenomenon in conflict situations.

A recurring theme in the legislation is evidenced by this scenario, where the law is clearly inapplicable due to the conditions of IDPs. Unrealistic demands (like documentation or land titles) are placed on IDPs for them to receive the benefits of multiple laws. There is an inherent contradiction in the fact that legislation ensures aid to IDPs but only if they have documentation. This is a dismissal of reality and a proof of a deviated context in the laws pertinent to IDPs. Hidden agendas enabling corruption are thus evidenced in these laws where their context deviates from the necessities of IDPs. The inapplicability of the law continues to complicate humanitarian, restitution, and resettlement processes. It is crucial for the GoSL to undertake all necessary legal action to expedite the process of documenting IDPs, aiding them in reclaiming lost documents

and tiles. It is possible to do this using a legal framework that impedes such discrepancies by delineating the rights of IDPs.

On the other hand, the NFRRR's wholesale adoption of the GPID, in addition to its ambiguous definition of IDP-specific rights, needs, and programs, has raised difficult questions. For instance: Who will protect IDPs? How are they going to be protected? Adopting the GPID does not necessarily mean that they will provide a solution to the problem. The effectiveness of the GPID in easing the displacement crisis depends on the degree to which the government can successfully translate them to procure the development of legislation, provisions, and directives at the national level; reflective of the country's situation. The GoSL's adoption of the framework seeks to translate international law to suit the national context. Yet, the final framework attests to the intrinsic challenge of transforming international IDP principles into concrete and viable legal provisions at the national level. The framework fails as a tool of translation and, therefore, is not compatible with the national context, as it is not legally binding, not specific to IDPs, and does not comprehensively address all phases of displacement. Despite Sri Lanka being a signatory to multiple international conventions and treaties, international law and by extension international humanitarian law, these will become applicable to the citizens of Sri Lanka only if there is a national enabling legislation.

The NFRRR fails to serve as a translational tool as it depicts incongruent intentions between the government's goal and the national reality of Sri Lanka. As a framework concerning IDPs, it intends to ensure that the basic needs of conflict-affected populations be met by upholding the GPID. Yet, by blindly relying on the GPID and not on specific goals and policies pertinent to the national context, the framework's drafters produced an oversimplified document. It takes for granted the necessity

<sup>&</sup>lt;sup>31</sup> Centre for Policy Alternatives, "Land and Property Rights of Internally Displaced Persons," February 2003, <a href="http://www.cpalanka.org/research\_papers/Land\_and\_Property\_Rights\_of\_IDPs.pdf">http://www.cpalanka.org/research\_papers/Land\_and\_Property\_Rights\_of\_IDPs.pdf</a>, accessed on 8 July 2008, pp., 7-8.

of adopting a national policy or a national plan of action to produce suitable conditions for durable solutions to displacement. Adopting the GPID was a political maneuver intended to convince international donors to support IDP-related initiatives in Sri Lanka. Lured by funds, the GoSL dismissed an opportunity to create a truly effective framework. Their indulgence in an expensive consultative process in the framework's drafting is incongruent with the end results. This suggests that the consultation offered to affected communities was the façade of a plan to lure international humanitarian support in a bid to validate the process. It is however, imprudent to consider a consultative process whose end result is simply adopting the GPID. If the true intention was to aid IDPs, the framework would not have simply adopted the GPID, but instead, would have also incorporated the results of the consultation process. As if this was not enough, the adoption of the GPID in the absence of any specifications has created spaces for conflicting interpretations. Sri Lanka's conflicting interpretations, mixed views, and divergent opinions are due to a lack of clarity on displacement.

Even though the NFRRR claims that security, humanitarian assistance, and return are rights of the displaced as established by the GPID, there is an absence of any comprehensive national law covering the specifics of each phase of displacement. The GoSL's adoption of the GPID however, cannot be regarded an effective replacement of a holistic response to all phases of displacement. While the GPID is a nonbinding instrument in theory, its crossreferencing with other international human rights and humanitarian laws, renders it binding, in practice. Yet, this does not imply that the GPID will necessarily be suitable for the ground conditions of where they are implemented. Albeit the fact that the GPID are comprehensive, its prescriptions do not necessarily fit into a national context, thereby rendering its mission at best misplaced and the guidelines confusing.

Thus, the implementation of the GPID as a comprehensive framework is impossible. The aforementioned problems lead to the inapplicability of the GPID in Sri Lanka. Thus, it is accurate to claim that governments will only comply with the GPID when they are incorporated into domestic laws.

The NFRRR, adopted in 2002 as the official policy of the GoSL towards conflictaffected populations, is neither a binding law nor decree and thus provides no legal protection to IDPs. This is exemplified by the fact that the framework recommends that a "national durable solutions policy" be developed while using the GPID to revise existing legislation. Until today, such measures have not been undertaken because there is no decree that legally binds the government to do so. Protection is a legal concept, and without it being decreed as a national responsibility with legal implications, it is highly unlikely that the NFRRR will translate into action.

In addition to the aforementioned problems, is the fact that only two clauses in the framework refer directly to IDPs. This proves that the framework is not solely dedicated to them. The framework's objective is deceptive because it accommodates all conflict-affected populations within one category and this proves the unwillingness of the GoSL to provide targeted protection to specific groups of people. It does however, serve the purpose of having an ambiguous policy to justify any governmental action undertaken in respect of IDPs or internal displacement. The NFRRR's oversimplification and ambiguity allows room for personal convictions to intercede and justify individual agendas.

Until today, the IDP policy in Sri Lanka is largely extemporary while driven by individual personal fervor as opposed to national institutional schemes. Apart from failing to legally secure the rights of those internally displaced, the NFRRR has failed

to establish the grounds for a national policy to develop and coordinate the suitable conditions necessary for resettlement and reintegration. This has proved to be a hindrance for multiple government institutions and their respective authorities, such as the Ministry of Resettlement and Disaster Relief Services and the Ministry of Disaster Management and Human Rights, which, continuously waste resources due to the lack of coordination amongst agencies. Due to a lack of coordination amongst agencies, it is unclear which agency (from amongst more than ten) is responsible for providing targeted protection, which agency covers a specific geographic area, and which agency works at a specific administrative level. This, in turn, accounts for fund mismanagement, conflicting intentions, and tardiness which continue to affect the viability of projects.

The framework's failure to produce a national institutional focal point to manage internal displacement nationwide has also

obstructed the creation of a national policy. Establishing a unified national institutional focal point could facilitate the efforts of coordination and sustained humanitarian assistance for the displaced. In turn, this could promote transparency and accountability within the process by reducing the costs of operation while maximizing efficiency and coordination with national and international organizations. Multiple institutional options could be employed to create and manage this institutional focal point. For example, the GoSL could mandate an existing government agency to coordinate all matters relevant to displacement, create a new department, committee, working group, ministry, or authority dedicated to this endeavour. The success of any framework depends on the establishment of a system composed of a single entity mandated to oversee and coordinate national, district. and local responses to displacement.

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### **Conclusions**

Considering the fact that the existing legislation and the NFRRR together do not specifically, entirely, and holistically refer to internal displacement, its causes and prospects, and do not legally decree the rights of the displaced, it is not inappropriate to claim that IDPs have very limited protection in Sri Lanka. The purpose of this analysis is to demonstrate how a national legal framework for IDPs can positively engage and influence the prospects for internal displacement in Sri Lanka, contributing to the gradual solution of the problem. After having analyzed the theoretical and practical applications of a framework through a focused and encompassing approach suited to Sri Lanka's context, this paper underscores the need for the GoSL to undergo a change in its policy prescription towards IDPs. As argued throughout, the sustainable conditions that lead to durable solutions will only be established after the government enacts an exclusive national legal framework. Only then, will the humanitarian problems faced by IDPs be resolved, the vicious cycles of crime and poverty destabilized, and the prospects for longterm security sustained. Only then, will the strains on the Sri Lankan economy be reduced by minimizing government spending, while reducing the numbers of displaced, and contributing to the development of the nation.

Existing binding national laws and a non-binding national framework have proven ineffective in rendering adequate protection to the displaced and developing gradual solutions to displacement in Sri Lanka. Modifying the laws and incorporating them within a legal framework inclusive of the three phases of displacement— (1) generating phase or pre-displacement, (2) displaced phase, and (3) resettlement phase or post-displacement— will change the future prospects of the nation's IDPs. The effectiveness of the framework depends on the adequate use of legal mechanisms and

processes through which enforcement can be achieved. Judicial, executive, and legislative enforcement of the framework is therefore necessary to make it binding on the government, citizens, and actors in the conflict.

The lack of a national legal framework is evident in the unwillingness of the GoSL to accept the imposition of legally-binding standards of protection. Convenient and politically-motivated policies have traditionally dominated IDP discussions and legislation. To do away with this, a national legal framework for IDPs should be passed through an Act of Parliament to become a binding law. The formulation and passage of an Act, decreeing a national legal framework for IDPs will give a juridical basis to subsequent national action on internal displacement. It will simultaneously serve as a counter balance to the lack of enabling legislation for international humanitarian law. The nature of the framework will induce the repulsion of any unnecessary and incomplete existing legal entitlements provided to IDPs in other legislation. The framework will supersede previous legislation. Therefore, the framework will make previous legislation obsolete and impractical which will in turn induce the repulsion of it.

The adoption of a binding framework will happen only when an administration has the political will to propose such legislation. Similarly, and like any other act of Parliament, the national legal framework will only be effective if there is the political will to abide by the law. Apart from political commitment, the framework will require the strengthening of Sri Lanka's judicial system in order for it to be effective. The benefits of the framework will be contingent on the executive and judicial compliance with the law.

A major impediment that the framework must overcome is the question of how not

to be overshadowed and nullified by security legislation or national security concerns. Any possible legal framework will face the challenge of being nullified by invoking the Public Security Ordinance (PSO) which has the power to restrict civil liberties such as the freedom of movement. In order to avoid this problem, the framework should delineate the minimum inalienable rights of IDPs – right to protection, humanitarian assistance, and aid. Thus, the minimum rights established in the framework should be able to withstand any other existing legislation. Consequently, any national policy on resettlement should seek to distance displaced communities from conflict-prone areas where security legislation commonly nullifies other existing entitlements.

To reinforce the protection of IDPs, the GoSL must incorporate within the national legal framework legislation that makes forced displacement of persons a liable crime punishable with severe sentences. Criminalizing the act of forced displacement will set a precedent for justice that will lead the present and future actors in the conflict to strive for the rehabilitation of IDPs and the reconciliation of the parts.

Sri Lanka's recurring problems with respect to internal displacement and IDPs can be alleviated temporarily and solved gradually if a binding national legal framework for IDPs is decreed. For the framework to be effective in creating the sustainable conditions that lead to durable solutions it must be decreed in an act that:

- is based on the universally recognized principles of international law and the GPID,
- establishes the goal of preventing displacement and seeks to do so by anticipating the risks that may generate displacement, disseminates information on human rights, and creates necessary programs of

- attention for populations at a risk of displacement,
- defines, determines, and clearly stipulates the state's responsibility towards internal displacement, ensuring that the rights of IDPs be enacted and protected under the law. Establishes the rights and guarantees for ensuring: physical protection, humanitarian attention and relief, and voluntary resettlement,
- establishes the right of humanitarian attention procuring guarantees to ensure protection and assistance needs of health, shelter, food, transportation, etcetera., providing legal guarantees to IDPs to access humanitarian aid, projects, and programs, and offering the necessary mechanisms that allow IDPs to develop the mediums necessary for their sustainable subsistence,
- establishes the objectives, parameters, and basic scheme of a national policy for the fundamental protection of IDPs; guarantees that the national policy includes projects and programs for development of IDPs at all phases of displacement; designs and adopts judicial, economic, and social plans for the prevention of displacement and for the resettlement of IDPs; provides the means for protection at all phases; procures economic consolidation, social stabilization, and rehabilitation of IDPs; and enables the reintegration of IDPs into Sri Lankan society.
- creates a national system exclusively concerned with IDPs, through a separate Authority or Ministry accountable for: implementing policies, projects, and programs for IDPs; diagnosing the causes and identifying the agents responsible for displacement; mitigating and

neutralizing the dynamics that provoke displacement; collecting IDP-related data on livelihood, migration, and settlements; promoting and protecting human rights; guaranteeing a transparent and efficient use of funds; and integrating the national and international private and public efforts and aid

• establishes the right to voluntary return while delineating the GoSL's primary responsibility of providing post-displacement protection and aiding development upon resettlement, and defines the cessation of IDP conditions, delineating the parameters to gauge the end of displacement

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