

INVISIBLE DISPLACEMENT: A CALL FOR COMPREHENSIVE LEGAL PROTECTION FOR "OTHER PERSONS OF CONCERN"

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Article	Abstract
<p>Keywords: Invisible Displacement, Comprehensive Legal, Protection</p> <p>DOI: 10.28946/scls.v1i1.2788</p>	<p>The global debate on forced migration, which focuses on international legal frameworks and policies, is subjugated mainly by the refugee narratives. The plight of displaced individuals who have been compelled to leave their homes but remain within their own country has received considerably less attention in the international arena due to the absence of a specific international legal framework that comprehensively addresses their unique challenges. These individuals, often generalized as "other persons of concern," attract little to no attention for protection and assistance from the global community. This research explores the legal protections currently available to "other persons of concern," and identifies gaps and challenges in these frameworks. The article analyzes existing literature on the subject, judicial decisions, and relevant legal instruments using the legal research method. The article argues for the urgent need to create a comprehensive legal framework that recognizes and protects the rights of "other persons of concern." Ultimately, this research makes a compelling call for the international community to recognize the vulnerability of "other persons of concern" and the pressing need to shift the discourse on forced displacement toward a more inclusive and comprehensive approach that recognizes the plight of all those who have been forcibly displaced, regardless of whether they have crossed an international border or not.</p>

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A. INTRODUCTION

Arising from the escalation of conflicts and human rights violations across different parts of the world, numerous vulnerable individuals of different categories strewn across the globe remain in need of protection within and beyond their country of origin. Internally displaced persons (IDPs), stateless persons, and refugee returnees are among the groups facing unique challenges and risks.

At the time, the innumerable agencies within the United Nations (UN) that were created towards the end of the Second World War had a *de facto* monopoly on a particular policy.¹ One

¹ Alexanders Betts, "Regime Complexity and International Organizations: UNHCR as a Challenged Institution" 19 (2013): 69-81.

such policy aim that resulted in an international Convention concerns vulnerable persons forcefully displaced beyond the borders of their country of origin, be they citizens or stateless persons habitually residing in a given country. The 1951 Convention Relating to the Status of Refugees (the Refugee Convention) and its 1967 Protocol are the primary documents that outline the fundamental principles of refugee protection. Besides, a UN agency, the United Nations High Commissioner for Refugees (UNHCR), is in place to oversee states' implementation of the Refugee Convention and other related protection regimes.² The Refugee Convention focuses on the individuals it covers and the circumstances leading to their displacement. Although it is rooted in international human rights principles, its restricted definition of the term 'refugee' automatically leaves out refugee returnees, stateless persons, and internally displaced people from its crucial objective of safeguarding the rights and well-being of the world's most susceptible individuals. Further, its limited scope continues to hinder the UNHCR's mandate to safeguard the rights and welfare of individuals forcibly displaced within their borders.

Therefore, even though modern international law views the existence of a framework for asylum and refugee rights as a significant accomplishment,³ a substantial proportion of individuals who are forced to flee their homes do not fit within the bounds of the description of a 'refugee' as laid out in the Refugee Convention and its 1967 Protocol.⁴ While the Refugee Convention has been instrumental in highlighting the needs and entitlements of refugees and asylum seekers, the situation of "other persons of concern," a phrase employed by the UNHCR to refer to those forcibly displaced persons who do not meet the criterion of a refugee according to the provisions of the Refugee Convention, remains unclear. These instruments do not adequately address the specific needs and vulnerabilities of "other persons of concern," leading to a situation of "invisible displacement."

The invisibility of displacement experienced by these "other persons of concern" perpetuates their vulnerability and undermines human rights principles and international law. Consequently, this article explores legal and practical obstacles facing IDPs, stateless persons, and returnees, who form a significant proportion of the forcibly displaced population globally. The central question it seeks to answer is: What legal instruments and frameworks exist to protect "other persons of concern," and how effectively are they responding to their specific needs and vulnerabilities? In addressing this question, the article comprehensively analyzes the protections available for "other persons of concern," identifies the gaps in current legal frameworks, and suggests alternative approaches.

The article assesses the effectiveness of existing frameworks in addressing the unique needs and vulnerabilities of "other persons of concern" by examining a range of international instruments, such as the Refugee Convention, the Guiding Principles on Internal

² Alexander Betts, Gil Loescher, and James Milner, "The United Nations High Commissioner for Refugees (UNHCR)," *The United Nations High Commissioner for Refugees (UNHCR)*, 2008, <https://doi.org/10.4324/9780203928394>.

³ Katalin Siska, "Historical and Legal Perspectives of the Right of Asylum and Extradition until the 19th Century," *Chinese Journal of International Law* 3, no. 1 (2004): 188-97, 188, <https://doi.org/10.1093/oxfordjournals.cjilaw.a000520>.

⁴ The 1951 convention as supplemented by the 1967 Protocol, defines a refugee as including any person who is outside their country of origin and unable or unwilling to return there or to avail themselves of its protection, owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group, or political opinion.

Displacement⁵, the 1961 Convention on the Reduction of Statelessness⁶ (the 1961 Convention) and the Sustainable Development Goals, among others. It contends that the current legal framework is disjointed, with varying instruments and frameworks dealing with different facets of displacement, leading to incomplete and uncoordinated protection approaches. This, therefore, has resulted in certain groups of forcibly displaced persons falling through the cracks, resulting in a state of "invisible displacement" for them. Ultimately, the study intends to contribute to the ongoing discussions and debates concerning the need for a comprehensive legal framework to safeguard other persons of concern in forcibly displaced situations. Eventually, in outlining the difficulties these groups encounter and suggesting a comprehensive legal framework, this study intends to aid in developing policies and programs that cater to the needs and protection of rights of all forcibly displaced persons in a more practical sense.

B. RESEARCH METHODS

This research design involves doctrinal legal inquiry, which focuses on the analysis of primary and secondary legal sources, including international legal instruments, case law, and relevant scholarly literature. This article adopts a legal research approach, encompassing the systematic analysis of legal sources and applying legal principles and doctrines mainly within the framework of Public International law. It identifies gaps and challenges in the existing legal framework and suggests a comprehensive and integrated review of legal protection systems at the global level.

C. ANALYSIS AND DISCUSSION

1. Context and Scope of the 'Other Persons of Concern'

The term "other persons of concern" in this context refers to individuals and groups of people who have not been afforded extensive protections under the Refugee Convention but who nonetheless need protection and help from the international community because of their displacement or vulnerability in situations similar to asylum seekers. The context of this concept can be traced back to the Refugee Convention, which established a legal definition of a refugee and a framework for their protection. The definition under the 1951 Refugee Convention recognizes the fact that displacement can take many forms and that those affected by it require varying degrees of protection and assistance but restricts its subject to those who have crossed international territories. Therefore, the scope of this discussion is limited to persons of concern in the category of stateless persons, returnees, and the IDPs, who, by and large, outside the frame of the Refugee Convention, can carry the 'refugees' label. An elaborate distinction is made regarding the protection needs of these categories of persons from the protection currently being provided under the Refugee Convention.

a. Returns

Returnees have been displaced at some point but have returned to their place of origin or habitual residence. While internally displaced persons making their return home after

⁵ Walter Kälin, "The Guiding Principles On Internal Displacement As International Minimum Standard And Protection Tool," *Internally Displaced Persons: The Challenges Of International Protection* 4, no. 3 (2005): 27-36, 27.

⁶ Michelle Foster, "1961 Convention Anniversary Symposium The 1961 Convention On The Reduction Of Statelessness: History, Evolution And Relevance," *Statelessness & Citizenship Review - Children And Statelessness Special Issue* 4, no. 1 (2022): 188-93, 188.

displacement can indeed fit into the description of a 'returnee' reference to returnees here is confined to persons who were beneficiaries of refugee status under the Refugee Convention and had, due to the application of Article 1C of the convention which provides as thus:

"The 1951 Convention shall cease to apply to any person falling under the terms of Article 1(A) if: (5) He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality; Provided that this paragraph shall not apply to a refugee falling under section A(1) of this Article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality; (6) Being a person who has no nationality he is, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence; Provided that this paragraph shall not apply to a refugee falling under section A(1) of this Article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence."⁷

Further, the Guidelines on International Protection⁸ assert that refugee status ceases when the reason for persecution ceases, regardless of whether the refugee must return to a particular safe zone within the country to avoid persecution. The invocation of the ceased circumstances clause could have severe implications for the affected individuals since the individual's vulnerability may persist even though it may have ceased. Therefore, returning home after a period of migration confronts returnees with unique challenges in the aftermath of displacement.⁹ They may return to an unstable situation, with ongoing conflict, insecurity, and limited access to essential services such as healthcare, education, and employment. Their homes and communities may have been destroyed or damaged, and they may face discrimination or stigmatization due to their displacement. Furthermore, returnees may have undergone trauma and require assistance with their physical and mental health.

Judicial decisions from various jurisdictions have brought the plight of returnees in displacement situations to the fore. Many such decisions emphasize the difficulties confronting returnees, who are frequently obliged to return to their home countries due to situations beyond their control, such as armed conflict, persecution, and natural catastrophes. In one such case, *Sufi and Elmi v. United Kingdom*¹⁰, the court highlighted the precarious situations returnees face in conflict and persecution settings. The brief facts of this case were that Somali refugees were forcibly repatriated to Somalia by the UK government, despite the unstable condition in their country of citizenship. The court noted that returning to their insecure country exacerbated their vulnerable situation. The court's view, in this case, accentuates the significance of giving legal protection and assistance to returnees. The European Court of Human Rights ruled that the decision of the government of the United

⁷ United Nations Office of Legal Affairs, 'Convention Relating to the Status of Refugees. Geneva, 28 July 1951 Article 1C of the 1951 refugee convention sets out when refugee status comes to an end (article 1C; for example, in the case of voluntary return, acquisition of a new, effective nationality, or change of circumstances in the country of origin.

⁸ "Guidelines on International Protection No. 12 - World | ReliefWeb," accessed May 23, 2023, <https://reliefweb.int/report/world/guidelines-international-protection-no-12>.

⁹ Ine Lietaert, Ilse Derluyn, and Eric Broekaert, "Returnees' Perspectives on Their Re-Migration Processes," *International Migration* 52, no. 5 (2014): 144–58, 144, <https://doi.org/10.1111/IMIG.12052>.

¹⁰ *Sufi and Elmi v the United Kingdom* [2011] ECtHR 8319/07, 11449/07.

Kingdom to deport Somali people to their home country violated their Article 13 rights.¹¹ This implies that states are responsible for respecting and preserving the human rights of displaced people, especially those forced to return to their home countries.

In addition, the Guiding Principles on Internal Displacement also outlines the management of returnees' return and reintegration processes while recognizing their legal rights. By Principle 28 of the Guiding Principles, it is crucial to either recompense returnees for any property that cannot be recovered or return to them the belongings they were compelled to leave behind during their relocation. It highlights how crucial it is to have returnees actively participate in their return and reintegration process. The Guiding Principles' Principle 29 further emphasizes the significance of defending the needs and rights of returnees. In essence, like other displaced populations in vulnerable situations, these principles aim to advocate for returnees to receive adequate protection and aid so they can rebuild their homes and start over. Making sure that returnees can access essential services like healthcare, education, and career opportunities is part of this approach.

Furthermore, international pacts and treaties such as the International Covenant on Civil and Political Rights,¹² the Universal Declaration of Human Rights,¹³ and the International Covenant on Economic, Social, and Cultural Rights,¹⁴ recognize individuals' right to return to their country of origin and to be protected from forced displacement. The Geneva Conventions¹⁵ that provide foundations for International Humanitarian law also offer protection to people who have been displaced or who have returned home following an armed conflict. These conventions forbid forced relocation and property destruction and guarantee the secure return of displaced people to their homes. In addition, the UNHCR Handbook on Voluntary Repatriation¹⁶ provides recommendations for the protection and help that should be given to returnees. This encompasses creating certainty in returns so that such individuals may rebuild their lives in safety and dignity and have access to fundamental services.

b. Stateless Persons

Even though the denial of legal nationality is an apparent contravention of the provisions of UDHR¹⁷, which is reinforced by several binding international frameworks such as the 1954 Convention relating to the Status of Stateless Persons¹⁸ and the 1961 Convention, statelessness remains a widespread phenomenon. Stateless persons lack identity papers which are often critical for accessing fundamental rights and state protection, in addition to receiving

¹¹ David John Harris and others, *Law of the European Convention on Human Rights* (Oxford University Press, USA 2014), 42.

¹² Christian Tomuschat, "International Covenant On Civil And Political Rights," *United Nations Audiovisual Library of International Law*, no. December 1966 (2008): 1-4.

¹³ Atle Grahl-Madsen, "Universal Declaration of Human Rights, Article 13," *The Land Beyond*, January 1, 2001, 425-34, https://doi.org/10.1163/9789004481039_039.

¹⁴ Audrey R. Chapman, "A 'Violations Approach' for Monitoring the International Covenant on Economic, Social and Cultural Rights," *Human Rights Quarterly* 18, no. 1 (1996): 23-66.

¹⁵ Bianca Watts, "Better than a Thousand Hollow Words Is One Word That Brings Peace: Enforcing Article 49(6) of the Fourth Geneva Convention against Israeli Settlements in the Occupied Palestinian Territory," *Pacific McGeorge Global Business & Development Law Journal* 24 (2011), <https://heinonline.org/HOL/Page?handle=hein.journals/tran124&id=447&div=&collection=>.

¹⁶ Marjoleine Zieck, *UNHCR and Voluntary Repatriation of Refugees: A Legal Analysis* (Martinus Nijhoff, 1997), 57.

¹⁷ Article 15(1) of the 1948 Universal Declaration of Human Rights.

¹⁸ Carol Batchelor, "The 1954 Convention Relating to the Status of Stateless Persons: Implementation Within the European Union Member States and Recommendations for Harmonization," *Refuge: Canada's Journal on Refugees* 22, no. 2 (September 1, 2005): 31-58, <https://doi.org/10.25071/1920-7336.21330>.

humanitarian aid. Therefore, the absence of a legal nationality remains a pervasive human rights abuse that impacts a significant number of human populations across the globe.¹⁹

As it were, the international legal framework governing stateless persons in internally displaced situations is multifaceted and consists of a collage of international treaties and domestic laws.²⁰ Attempts have also been made at regional levels to address their plight, but all these have fallen short in addressing their dire concerns. Notably, situations of statelessness are often the result of factors such as legal complexities or administrative issues, including discriminatory citizenship laws and policies, arbitrary detention, or displacement due to conflict or persecution.

The 1954 Convention and the 1961 Convention offer a foundation for the defense of stateless people and the avoidance of statelessness. These conventions recognize the legal standing of stateless people and seek to shield them against unfair treatment, arbitrary detention, and expulsion. A stateless person is defined under the 1954 Convention as a person who is not treated as a citizen when any State applies its laws. The Guiding Principles on Internal Displacement also note that stateless people are particularly vulnerable and should get the same protection and aid as internally displaced people. Principle 17 states:

*"competent authorities shall, to the greatest extent possible and without discrimination, ensure that internally displaced persons who are not nationals of the country in which they find themselves are not deprived of the enjoyment of any rights because of such status."*²¹

In addition to these international treaties, various regional and national laws provide some protections for stateless persons in situations of internal displacement. For example, the African Union's Kampala Convention²², adopted in 2009, includes provisions regarding the prevention and response to internal displacement in Africa, including provisions related to statelessness. Similarly, some countries have domestic laws that provide greater protections for stateless persons, such as India's 2020 Citizenship Amendment Act²³ which grants Indian citizenship to certain non-citizens who have fled religious persecution from neighboring countries. However, implementing these laws can be uneven, and there is a lack of effective mechanisms for holding governments accountable for failing to protect stateless persons within their territories.

It is not uncommon for Stateless persons to find themselves in situations of forceful displacement. Displaced Stateless persons may face additional barriers when seeking to return to their habitual residence or rebuild their lives. They are particularly vulnerable to displacement since they often face significant barriers to accessing their fundamental human rights. They must contend not only with the difficulties of being easy prey for flagrant human rights violators but also with the reality that in many states, nationality is necessary for gaining access to political and judicial systems and economic, social, and cultural rights.²⁴

¹⁹ Carleen Maitland, *Digital Lifeline?: ICTs for Refugees and Displaced Persons* (Amerika: MIT Press 2018), 32.

²⁰ UN General Assembly, *Convention Relating to the Status of Stateless Persons*, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117, available at: <https://www.refworld.org/docid/3ae6b3840.html> [accessed 14 January 2022].

²¹ Kälin, *Op.Cit.*, 6.

²² Adama Dieng, "Building Efforts of the ICTR: A Different Kind of Legacy Capacity-Building Efforts of the ICTR: A Different Kind of Legacy," *Northwestern Journal of International Human Rights Capacity* 9, no. 3 (2011): 403–22, <http://scholarlycommons.law.northwestern.edu/njihr/vol9/iss3/5.a>

²³ Taiyba Khan, "The Citizenship Amendment Act, 2019: A Religion Based Pathway to Indian Citizenship," *SSRN Electronic Journal*, April 21, 2020, <https://doi.org/10.2139/SSRN.3665743>.

²⁴ David Weissbrodt and Clay Collins, "The Human Rights of Stateless Person," ed. G. Balint et al., *Human Rights Quarterly* 7, no. 1 (2013): 343–54, <https://doi.org/10.2/JQUERY.MIN.JS>.

Being denied identity documents by their states of habitual residency is one reason why stateless people frequently are unable to access these procedures and entitlements,²⁵ which makes it difficult for them to travel, access social services, and exercise their rights. As such, more often than not, they are excluded from legal protections and assistance provided to citizens of a country.

As emphasized in the case of the *Gambia v. Myanmar*,²⁶ the situation of Rohingya, an ethnic Muslim minority in the Rakhine State of Myanmar, highlights some of the challenges faced by stateless persons in situations of internal displacement, including discrimination, persecution, and lack of access to essential services and protections. In its decision, the court acknowledged the precarious situation that stateless persons could face in displacement situations.

c. Internally Displaced Persons (IDPs)

Although "internal displacement" has gained widespread acceptance across international forums, several conceptual issues remain unclear. One such issue is the precise and universally accepted meaning of "internal displacement" and "internally displaced persons." While some proponents view internal displacement as a concept that only includes those uprooted by conflict, violence, and persecution, others define internal displacement as more encompassing, including millions of additional people uprooted by natural disasters or development project.²⁷ Furthermore, there is no consensus on the endpoint of internal displacement or the criteria for transitioning an internally displaced person to a different category.

In the context of this article, reference to IDPs entails the expulsion of individuals or populations from their homes within their country of origin or habitual residence. It is essential to note that internally displaced persons have not traversed any international border to secure refuge. In other words, unlike refugees, they are on the run at home. As a result, the definition of internal displacement can be broken down into two key components: first, the fact that the movement is unintentional, and second, the fact that it occurs within national borders, which separates it from refugees, who, by definition are outside of their country according to the universal conventional definitions.

In July 1992, the designation of the Representative of the Secretary-General on internally displaced persons and the subsequent expansion of their mandate in the forty-ninth session of the Commission on Human Rights marked a significant advancement in addressing the human rights concerns related to the issue of internal displacement.²⁸ There was no definition of "internally displaced persons" when the topic of internal displacement first appeared on the international agenda in the early 1990s.²⁹ Hitherto, to gather data and define laws and policies that would help the populations of concern and their unique requirements, it was crucial to have a definition to commence a discourse on how to attend to their plight. Therefore, the Representative of the United Nations Secretary-General on Internally Displaced Persons had a

²⁵ *Ibid.*

²⁶ *The Plight of the Rohingya: Genocide Allegations and Provisional Measures in The Gambia v Myanmar at the International Court of Justice.*

²⁷ "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern," accessed May 26, 2023, <https://www.brookings.edu/articles/the-concept-of-internal-displacement-and-the-case-for-internally-displaced-persons-as-a-category-of-concern/>.

²⁸ Francis Deng, 'Internally Displaced Persons: Report of the Representative of the UN Secretary-General, Mr. Francis Deng. Commission on Human Rights, January 1994 Document' (1994) 6 *International Journal of Refugee Law* 291.

²⁹ Mooney (n 28).

significant challenge at the beginning of his mandate in drafting a definition for this category of persons.³⁰ In the interim, the United Nations Secretary-General's working definition from 1992 serves as a starting point because it defines IDPs as:

*"Persons or groups who have been forced to flee their homes suddenly or unexpectedly in large numbers, as a result of armed conflict, internal strife, systematic violations of human rights or natural or man-made disaster, and who are within the territory of their own country."*³¹

This definition considers various situations that result in internal displacement and the distinctive involuntary nature of movement within their national borders.³² The grounds cited were derived in part from the larger characterizations of refugees as provided in the regional instruments such as the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa and Latin America Cartagena Declaration, which expands the Refugee Convention's requirement of persecution also to include people fleeing armed conflict, internal unrest, and systematically violating human rights.³³

However, this idea was further enhanced by incorporating those displacements arising from artificial and natural disasters.³⁴ Indeed, floods, earthquakes, starvation, and artificial disasters like nuclear or chemical mishaps, had uprooted communities in numerous instances, and it was indisputable that these were also significant factors in population displacement.³⁵ Such a broad concept recognizes several causes that lead to IDP circumstances. Before shifting the focus away from IDPs as a distinct group, ensuring that the unique risks and vulnerabilities resulting from their displacement have indeed ceased to exist is crucial. This is because the concept of IDPs is established on the premise that their displacement entails additional vulnerabilities.³⁶

IDPs frequently face significant difficulties when obtaining basic services and safeguards like shelter, sustenance, clean water, and medical care. Limited resources, security worries, and the absence of accessibility to affected regions often hinder endeavors from protecting and assisting IDPs. In addition, long-term conflict and displacement can result in protracted displacement scenarios, with IDPs lingering in limbo without being able to return home or secure durable solutions to their displacement. Furthermore, IDPs may be vulnerable to discrimination, exploitation, and abuse, particularly since they remain inside their country of origin and may be located within areas under the control of non-state actors or armed

³⁰ The United Nations Secretary-General, at the request of the Commission on Human Rights (Resolution 1992/73), appointed Francis Deng as his Representative on Internally Displaced Persons in 1992. His successor, Walter Kälin, was appointed in September 2004 as Representative of the Secretary-General on the Human Rights of Internally Displaced Persons.

³¹ United Nations Commission on Human Rights, *Analytical Report of the Secretary-General on Internally Displaced Persons*, UN Doc. E/CN.4/1992/23 (14 February 1992), para. 17.

³² *Ibid.*

³³ Under the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa (1969), the term "refugee" encompasses the definition in the 1951 Refugee Convention and "every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality." In Latin America, the Cartagena Declaration on Refugees (1984) defines refugees as persons forced to move "because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violations of human rights or circumstances which have seriously disturbed public order.

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ *Ibid.*

groups.³⁷ Although the United Nations Guiding Principles on Internal Displacement provide guidelines for safeguarding and aiding IDPs, it is not legally binding. Therefore, it is crucial that the international community join forces in establishing a binding international framework to tackle the intricate and multifaceted difficulties IDPs face. Such an effort would demonstrate a unified commitment to addressing the needs and securing the rights of this vulnerable population.

2. Limitations of Existing International Frameworks

Several international and regional instruments have focused on the needs of individuals who are designated "other persons of concern." However, these measures have been limited in providing an all-inclusive, legally binding framework that can protect and assist this demographic. The Guiding Principles on Internal Displacement, developed by the United Nations in 1998, offer a non-compulsory framework for defending and aiding IDPs but fail to provide a comprehensive strategy to address their challenges. The principles lack enforcement tools, leaving it up to individual governments and legal systems to decide whether or not internally displaced people can benefit from international legal safeguards. Akin to the provisions of the 1954 Convention, the 1961 Convention also offers some protection to stateless people, but their scope of application and membership are both constrained. While the 1954 Convention outlines the rights and safeguards that stateless people are entitled to, it does not offer a thorough framework for resolving this group's unique problems. Stateless people are hence frequently denied access to essential services like healthcare and education and are more susceptible to prejudice and retaliation.

A person qualifies as a refugee if they have a well-founded fear of persecution based on specific criteria, including race, religion, nationality, political beliefs, or societal association. This definition does not include other individuals who merit attention and might be escaping from armed conflict and other types of violence. Stateless individuals face a heightened vulnerability to exclusion from the refugee protection framework due to their lack of national identification. They often cannot access fundamental rights and services, including education, healthcare, and employment. This lack of legal recognition and protection leaves stateless individuals open to discrimination, exploitation, and abuse while restricting their access to support and aid.

Additionally, IDPs are disadvantaged regarding inclusion in the refugee protection framework, as they are not recognized as refugees under international law because they have not crossed an international border. The Guiding Principles on Internal Displacement offer some guidance on protecting and caring for IDPs, but a comprehensive legal framework for safeguarding their rights is currently lacking. The refugee convention highlights the five grounds that warrant protection under persecution, i.e., race, religion, nationality, membership of a particular social group, or political opinion, excluding several other probable causes of involuntary displacement. Yet despite the original mandate of the United Nations High Commissioner for Refugees explicitly excluding IDPs from its coverage, the organization has continued to utilize its expertise to protect and intervene in their affairs without any legal reinforcement from the convention.

3. Proposals For Reforms

³⁷ Katalin Siska, *A Nemzetközi Jog Alapkérdései a Nemzetközi Kapcsolatok Elméletének És Történetének Viszonylatában: Tankönyv Közigazgatási Menedzsereknek* (Debrecen: Debreceni Egyetemi Kiadó, 2010), 69-82.

At the 2003 forced migration conference in Chiang Mai, Thailand, Susan Martin proposed significantly restructuring the United Nations' refugee protection and humanitarian framework.³⁸ Martin advocated substituting UNHCR with a UN High Commissioner for Forced Migrants. This new office would be responsible for providing assistance and guaranteeing the safety of all displaced people, extending beyond those recognized as refugees, including victims of human trafficking.³⁹ While certain scholars object to extending the scope of the 1951 Convention to protect other vulnerable groups, UNHCR has redefined itself to become more similar to the Office of the High Commissioner for Forced Migrants than the Office of the High Commissioner for Refugees.⁴⁰ The agency's transformation can be observed in the terminology referencing its beneficiaries. Despite historically positioning itself as the custodian of "refugees" and "asylum seekers," UNHCR has presently adopted the designation of "persons of concern to UNHCR" or "people on the move,"⁴¹ which highlights the agency's intention to expand the sphere of its policy concerns and operational activities to include other vulnerable groups. Refugee returnees, stateless persons, and internally displaced people constitute a significant proportion of this at-risk population that continues to receive the attention of UNHCR and other humanitarian agencies.

The protection and solutions framework for individuals without citizenship has become a prevalent and well-funded feature of UNHCR's activities following its 1975 assertion of a formal mandate regarding stateless people.⁴² While several significant international and regional instruments exist to address the issue of stateless individuals, none explicitly cover stateless persons displaced forcibly within their countries of habitual residency. These frameworks primarily focus on reducing statelessness, and UNHCR's efforts appear similar to those envisaged under these instruments. Besides, UNHCR has dealt with populations that have been internally displaced for a long time, although its interactions with these individuals from the 1970s through the 1990s were sporadic.⁴³ In 2005, the UNHCR's approach to internal displacement received scathing criticism for its perceived lack of consistency and predictability.⁴⁴ However, within a year, the situation changed as UNHCR agreed to take the lead in internal displacement protection, emergency shelter, camp coordination, and management as part of the UN's humanitarian reform process and the introduction of the "Cluster Approach."⁴⁵

The exclusion of persons of concern beyond refugees from the refugee protection regime poses a considerable challenge, as it impedes their access to the support and aid they require. To address this, it is essential to develop more comprehensive legal frameworks that explicitly consider the needs and vulnerabilities of other persons of concern. Raising awareness and advocating for the rights of these populations can also aid in ensuring that they receive the appropriate assistance and protection.

³⁸ Jeff Crisp, "Refugees, Persons of Concern, and People on the Move: The Broadening Boundaries of UNHCR," *Refuge: Canada's Journal on Refugees* 26, no. 1 (October 9, 2010): 73–76, <https://doi.org/10.25071/1920-7336.30611>.

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

D. CONCLUSION

The available literature indicates a sizable cavity in the international legal framework for "other persons of concern." The problems of stateless people, internally displaced people, and refugees returning from exile have received much attention and concern in recent years.⁴⁶ Despite the growing awareness of their issues, governments still struggle to address these groups' unique difficulties adequately. This problem emerges because there isn't a framework that can guarantee these groups' human rights and is practical to use. Due to the lack of legal protection for these vulnerable populations, the international community must either develop a comprehensive legal framework or re-implement the core principles of existing international human rights protection. This is a crucial first step toward ensuring these marginalized groups develop a long-term answer that complies with human rights laws and permits their social, economic, and political reintegration.

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