

# Protecting the Displaced: Introduction

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The concept of the ‘responsibility to protect’ was recently invoked in the landmark African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa. This Convention, for the first time, calls upon states to recognise the rights of internally displaced persons (IDPs) to humanitarian assistance, and defines the obligations of states and armed groups to protect uprooted citizens. The Convention not only applies to those forced into displacement by conflict, but also natural disasters. As the UN High Commissioner for Refugees, António Guterres, said after the African Union adopted the Convention on 23 October 2009: ‘this represents the concept of “responsibility to protect” in action. It demonstrates that national sovereignty is fully compatible with the responsibility to protect’.<sup>1</sup> This Convention will come into force when, and if, it is ratified by 15 African Union member states. Surprisingly, this is the first time that international law has been created to try and address the lack of protection that IDPs have within their home country. Though this Convention is not yet in force and only applies to the African continent, it is significant that the African Union – the first region to adopt the responsibility to protect – has also been the first to codify the humanitarian and protection needs of those displaced within their home country. The UNHCR reported 42 million forcibly displaced people worldwide at the end of 2008 – this includes 15.2 million refugees, 827,000 asylum-seekers (pending cases) and 26 million IDPs.<sup>2</sup> Whose responsibility is it to protect people when their home country no longer wishes to? How can the international community step in to assure such persons protection when the home country is unwilling? The African Union adoption of the Convention is significant for advancing the principle of sovereignty as responsibility into policy, but is it

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<sup>1</sup> Melissa Flemming and Yusuf Hassan, ‘African Union adopts major convention to protect and assist the internally displaced’, *Reuters AlertNet*, 23 October 2009. <http://www.alertnet.org/thenews/newsdesk/UNHCR/9ae65e392e513d8aee119d50b88ebfd5.htm> Accessed 30 October 2009.

<sup>2</sup> UNHCR, *UNHCR – 2008 Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons*. <http://www.unhcr.org/4a375c426.html> Accessed 30 October 2009.

premature for High Commissioner Guterres to label this document as the responsibility to protect in action? These are some of the questions that this volume seeks to answer.

As those who have followed the responsibility to protect debate are intimately aware, member states at the United Nations 2005 World Summit agreed that the ‘responsibility to protect’ (R2P) principle imposed upon each individual state a primary responsibility to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity. When the state is unable to uphold their responsibility, the international community is to assist states to exercise their responsibility. The significance of R2P for refugees and IDPs is that these are often the persons at most risk from genocide and mass atrocities. When a state commits to protect IDPs and refugees, they are exercising their responsibility to protect. However, as has been noted by those concerned with the protection of refugees and displaced persons, there has been relatively little debate about how the R2P principle – in practice - enhances the work of those who have long advocated a link between the protection of IDPs and refugees with the principle of sovereignty as responsibility.<sup>3</sup> Furthermore, it is unclear to what extent R2P protects people in situations of displacement due to natural disaster, severe economic crises, food shortages and disease outbreaks? Opinion is divided between those calling for the application of R2P when states fail to protect persons in such instances,<sup>4</sup> and those who demand that R2P remain restricted to the duty to protect under the remit of paragraphs 138 and 139 in the World Summit document.<sup>5</sup>

Erika Feller from UNHCR argued in 2006 that the responsibility to protect ‘should imply that affected states, donor governments, and partner agencies alike make all efforts to bring sovereignty, political will, mandates and resources into alignment with better protection’.<sup>6</sup> Yet prior to the recent African Union Convention for IDPs, we have seen little policy elaboration from states or international organisations on how such an alignment between R2P and displaced persons may apply in the day to day protection needs of IDPs and refugees, or to what extent the responsibility to protect should be broadened to accommodate instances where people need protection, and not only from genocide and mass atrocities. As such, the purpose of this book is to invite

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<sup>3</sup> Brian Barbour and Brian Gorlick, ‘Embracing the “Responsibility to Protect”: A Repertoire of Measures Including Asylum for Potential Victims’, *International Journal of Refugee Law*, 20/4: 533-66 (2008).

<sup>4</sup> Lloyd Axworthy and Allan Rock, ‘R2P: An Unfinished Agenda’, *Global Responsibility to Protect*, 1/1: 54-69 (2009).

<sup>5</sup> Eli Stamnes, ‘“Speaking R2P” and the Prevention of Mass Atrocities’, *Global Responsibility to Protect*, 1/1: 70-89 (2009).

<sup>6</sup> Quoted in Barbour and Gorlick, ‘Embracing the “Responsibility to Protect”’, p. 566.