

Submission for the Special Rapporteur on the human rights of internally displaced persons

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The [Institute for Integrated Transitions](#) (IFIT) is an independent, non-governmental organisation dedicated to the effective integration of strategy and policymaking in the context of national dialogues and transitions arising in fragile and conflict-affected states.

In response to the request from the Special Rapporteur on the human rights of internally displaced persons, we are pleased to make this submission in the context of her upcoming report to the General Assembly. The submission is primarily based on published ideas and recommendations developed by IFIT's [Law and Peace Practice Group](#) (LPPG). Comprised of 17 leading global experts, the mission of the LPPG is to offer creative and realistic solutions regarding the challenges of rule of law, accountability, reconciliation, and legal security that arise in contexts of negotiated transition out of war, crisis, or authoritarian rule. Insights from IFIT's [Peace Treaty Initiative](#) have also informed this submission.

Concerning the barriers to and catalysts for the protection and enjoyment of human rights by IDPs, this document focuses on the *variable of violence* and the *contribution of conflict resolution efforts*.

Risks of shrinking the scope for peace negotiation and mediation

- Under international law, states are equally obligated to prevent and punish international crimes. There is no hierarchy between them – and both entail affirmative obligations to act, and not merely to refrain from committing violations.
- Peace negotiation and mediation are critical tools for conflict prevention and resolution. However, recent talks to end violent conflict in contexts such as Colombia, the Central African Republic, Ukraine, and Sudan show that seeking an adequate balance between peace and accountability for serious violations continues to be a very challenging issue.
- While peace agreements that ignore or postpone the demands of justice may help reduce violence in the short run, they may introduce risks of long-term vengeance and instability. However, if the demands for justice are taken too far, they risk obscuring the opportunity for a negotiated solution that can bring the worst violations to an end.
- The Refugee Convention does not address questions of institutional or individual accountability with regard to displacement. However, the independent rise of maximalist accountability demands has the effect of shrinking the margin of manoeuvre for negotiators and mediators to effectively balance prevention and punishment considerations, including vis-à-vis IDPs.
- Peace talks involve significant political costs and moral hazards for governments. They also entail immense risks for individuals who, in good faith, initiate or participate in them. Yet, as it stands, international law provides very little help to address or mitigate these risks and costs.
- To meet the challenges that negotiators and mediators face time and again, international law requires an upgrade aimed at de-risking the threshold political choice of peace talks and increasing the flexibility, clarity and support that negotiators and mediators need.

The growing threat of criminal violence and the importance of peace negotiations in preventing enforced displacement

- Globally, criminal groups are a growing concern. This is primarily due to their violence rather than their criminality, which in some cases is so widespread and brutal that a country, or parts of it, can experience war-like conditions. In contrast with political violence, the problem of criminal violence is ubiquitous.
- The threat of criminal violence is so big that the ICRC has expanded scope of situations under International Humanitarian Law (IHL) to include “other situations of violence”, including organised crime.

- The UN system reflects a similar awareness, for example through the Convention Against Transnational Organized Crime (UNOTC). Nevertheless, from a prevention perspective, the UNOTC leaves policy-makers with their hands tied by limiting the scope of options to coercive and punitive means. This obscures the contribution that conflict resolution tools such as negotiation and mediation might make.
- Regardless, negotiations with violent criminal groups are common, albeit risky (see [Negotiating with Violent Criminal Groups: Lessons and Guidelines from Global Practice](#)). The initiative sometimes comes from conflict-affected communities themselves (see, e.g., [Mexico's mothers in the search for their missing negotiating with criminal groups](#)).

Striking a balance between participation and efficiency in peace talks

- The incorporation of diverse voices into peace talks is a highly desirable goal. Among other things, it can help to challenge the dominant narratives carried by the parties involved in the negotiation, build a sense of dignity for the victims, put transformative agendas on the table that respond to the views and needs of a broader range of actors outside the elites, provide a sense of ownership and accountability for future implementation, and increase the legitimacy and sustainability of the process.
- While the possibility of incorporating diverse voices into a negotiation is a highly desirable goal, the nature and number of actors that can do so must be balanced with the many intrinsic limitations of the process itself. Research shows that there are participation options inside as well as outside the negotiation room. Ultimately, participation is best understood as a means rather than an end, requiring a strategy geared above all at making political settlements and peace accords more likely to materialise.

The importance of using integrated approaches and addressing root causes

- Research shows that a more integrated focus to peacebuilding is more likely to overcome threats of renewed violence, social fragmentation, and repression.
- An integrated focus has three building blocks: a) strategies that aim to bridge social divides and create a common sense of nationhood, b) the deliberate adoption of inclusiveness as a guiding principle for policy-making, and c) actions that reduce institutional bias and increase accountability.
- An integrated focus would enable policymakers to better assess conditions of cyclical violence and henceforth to better design and implement programmes that forge a strong and inclusive social contract in which human rights can flourish.

Sample IFIT publications on this topic:

- [Rethinking Peace and Justice](#)
- [Negotiating with Violent Criminal Groups: Lessons and Guidelines from Global Practice](#)
- [Negotiating with Organized Crime Groups: Questions of Law, Policy, and Imagination](#)
- [Negotiating Amnesties, Peace, and Justice: A New Path](#)
- [Draft Articles of the Convention on Conflict Prevention and Resolution](#)
- [Effective Participation in Political and Peace Negotiations](#)
- [Victim Voices and the Making of International Law](#)
- [Three Building Blocks to Successful Inclusive Transitions](#)

