

R2P IDEAS in brief



Asia Pacific Centre for the Responsibility to Protect

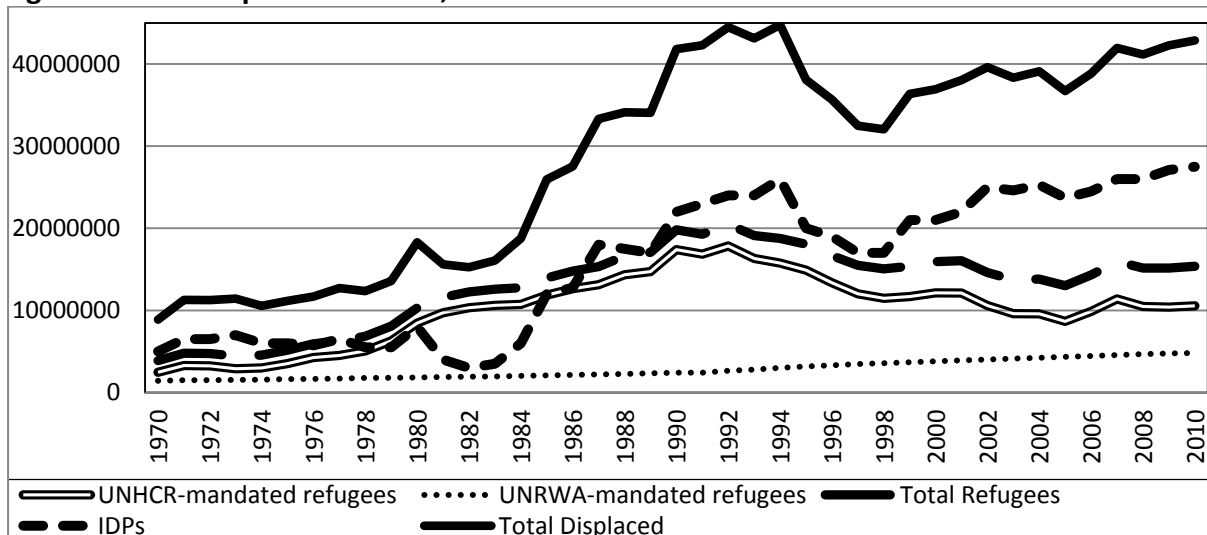
Regime-Induced Displacement as an R2P challenge

How do we respond to states that deliberately displace their own populations? Such policies, which I term regime-induced displacement, have become a growing problem for the international community over the past twenty years in countries as diverse as Kosovo, East Timor, and Darfur. This is for three reasons: because RID can blur into ethnic cleansing and genocide, because it transcends a traditional divide between refugees and internally displaced persons, and because the humanitarian response is problematic when people remain targets of their own government. However, both the Protection of Civilians (PoC) agenda and the Responsibility to Protect doctrine (R2P) offer ways of providing clear protection to people targeted by their own governments.

Why is Regime-Induced Displacement a Problem?

Forced displacement is a major problem for the international community. Part of the response to this problem has focused on containing would-be refugees to their regions and even countries of origin. This has meant that while global refugee numbers peaked in 1992 and have steadily declined (with recent increases triggered in large part by the Iraq War) the number of internally displaced persons, or people who have been forced to flee their homes but remain within their own country, have risen dramatically (see figure 1).

Figure 1: Total Displaced Persons, 1970-2010



But we have also seen a major change in the reasons why people are displaced. Traditionally, people fled primarily from state-based persecution. But, as the Human Security Report has shown, civil wars have increasingly dominated armed conflict. This has shifted the pattern of displacement - people now flee not only from direct persecution by the state, but also from persecution by non-state actors and from the climate of generalized violence created by the

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conflict. In addition, increasingly civilians have been targeted by belligerents. Thus, in 2007, the Internal Displacement Monitoring Centre noted that civilians were targeted by their governments for real or perceived support to rebel forces in Colombia and the Central African Republic, while civilians were targeted in Iraq, Sudan (Darfur), and Kenya as a means of clearing areas of people with certain ethnic, religious, or political ties.

The critical issue is that forced displacement is being caused by a deliberate choice on the part of the government or regime in power to displace their own population on a massive scale. This form of displacement, which I call regime-induced displacement (RID), occurs when government or government-sponsored actors use coercive tactics to cause large numbers of their own citizens to flee their homes.

Should we be concerned about this? I have found that of the 103 situations of mass displacement of over 100,000 refugees or internally displaced persons (IDPs) between 1991 and 2006, RID was one of the primary causes of displacement in some sixty-five of the cases (see figure 2). This is not to say that RID is the *only* cause- there is a high correlation between civil wars and RID (in 50 of the cases, both causes were present in the same year). A similar pattern holds in the Asia-Pacific. Of the 28 situations of mass displacement in the region over the same period, 13 have been caused in whole or in part by regime-induced displacement, while 25 have been caused by internal conflicts. In 11 cases both causes were present. In fact, this is to be expected. As Benjamin Valentino, Paul Huth, and Dylan Balch-Lindsay have argued, when faced with powerful guerrilla insurgencies, governments may undertake the intentional killing of civilians as a calculated military strategy. But what about the cases where this form of linkage does not exist? In Rwanda in 1994 the onset of renewed civil war occurred only following the start of the genocide which displaced hundreds of thousands of Tutsis, while Bhutan in 1993, Kenya in 2004, or Zimbabwe in 2005 are

How can we determine government responsibility?

One of the critical issues with regime-induced displacement is government culpability. Thus, widespread abuses by disaffected soldiers, such as occurred in Sierra Leone from 1991-1994, are not enough to constitute regime-induced displacement. In the Liberian civil war between 1992 and 1994, fighting displaced almost 2 million people, but most fled generalized violence and looting by both sides. By contrast, the 800,000 people who were displaced in Liberia in 2003 frequently cited government forces engaging in widespread patterns of human rights abuses and forced recruitment of IDPs.

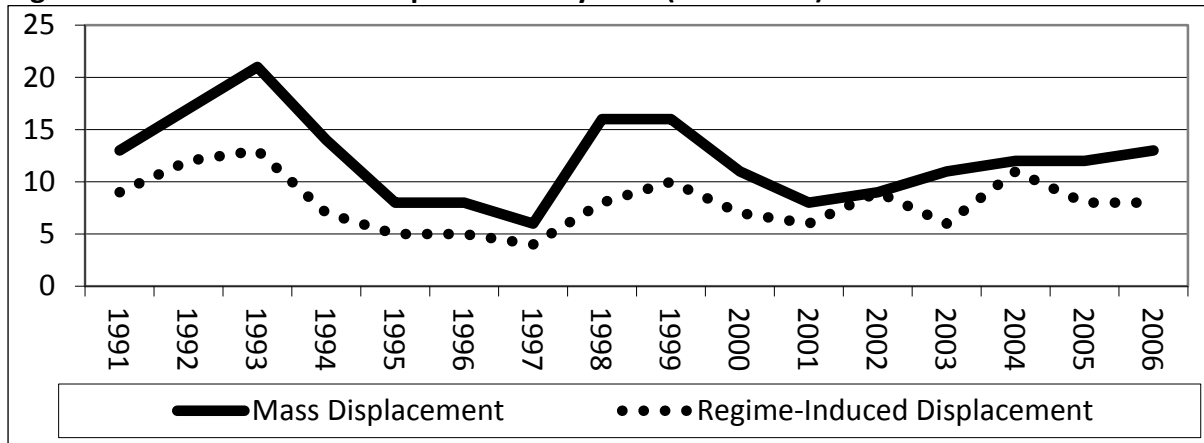
Similarly, coercion is a key element. Legislative efforts to move large numbers of people for their own security is allowed in emergency situations in both the Guiding Principles on Internal Displacement and under Protocol 2 of the Geneva Conventions. But such policies can easily lead to the widespread use of force. In Uganda, for example, the 'protected villages' scheme was introduced in 1996 as a government policy to neutralize the Lord's Resistance Army insurgency. However, force was frequently used to trigger movements, include shelling near reluctant villages.

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cases of regime-induced displacement with no civil war as cause.

Figure 2: Incidents of Mass Displacement by Year (1991-2006)



How Does the International Community Respond?

RID poses a unique challenge to the international community and for Australia for three linked reasons. The first is that such acts frequently transition into mass atrocities including ethnic cleansing and genocide, such as in Darfur, East Timor, and Kosovo. As Roberta Cohen and Francis Deng have noted, “when governments become directly involved in uprooting minority populations they often see those they are uprooting not as their citizens but as ‘the other.’ This process of dehumanization enables authorities to more easily explain away the high number of those killed or uprooted.”

Thus, the most extreme cases of RID fall within the bounds of the United Nation’s Responsibility to Protect doctrine (R2P), which establishes that military interventions for human protection purposes are justified to halt or avert either large scale loss of life or large scale ethnic cleansing, whether carried out “by killing, forced expulsion, acts of terror or rape,” a view endorsed by the United Nations 2005 World Summit Declaration which expanded the mass atrocities included to encompass war crimes and crimes against humanity.

Second, as Brian Barbour and Brian Gorlick have argued, in the past, the traditional asylum regime offered protection in such cases. However, most victims of RID are unable to leave their own country. Consequently, RID transcends the traditional divide between the international refugee regime – based in protections accorded through the 1951 Convention Relating to the Status of Refugees and in the role played by the United Nations High Commissioner for Refugees (UNHCR) – and the IDP protection regime – based around the Guiding Principles on Internal Displacement. The bifurcated international response has meant that many of these victims receive inadequate protection.

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This leads directly to the third, and most critical, issue: a shift in the nature of humanitarian protection. While the number of humanitarian actors who undertake protection activities has grown markedly, their role is problematic in RID situations as they frequently lack the capacity to provide protection to civilians and the displaced who are directly targeted by the state. This problem can extend to peacekeepers- in Bosnia for example, the peacekeeping mission was hobbled by its rules of engagement including impartiality and non-use of force except for self-defence. The UN Security Council's efforts to protect the population through safe areas in Srebrenica and four other towns was catastrophic, leading to the genocidal massacre of 8,000 Muslims.

What alternatives exist?

Two alternatives exist: the Protection of Civilians (PoC) agenda provides peacekeeping forces with a mandate to protect civilians from such actions, while extreme cases of RID fall within the R2P doctrine. All new peacekeeping missions have been mandated protect civilians under imminent threat of physical violence. But, these missions tend to be limited. As Victoria Holt and Tobias Berkman have argued, all too often they cannot take immediate action either because they have limited or unclear authority to act, or they may lack the capacity to act. In Darfur, for example, the African Union

Protection Force had been deployed for over a year before it was given a mandate to protect civilians, and the follow-on UN mission was delayed for over three years by the Sudanese government.

Interventions and RID

The first case of intervention in response to RID was in Northern Iraq in 1991. Uprisings among the Kurdish and Shiite populations of Iraq were crushed by Saddam Hussein, which caused 1.5 million refugees fled Iraq and sought asylum in Iran and Turkey and an additional 1 million IDPs were created after Turkey closed its borders with Iraq. A coalition lead by the United States and Great Britain intervened to create a safe area by deploying some 17,000 troops. While the intervention was not supported by the UN Security Council, American President George H.W. Bush argued that "some might argue that this is an intervention into the internal affairs of Iraq...I think the humanitarian concern, the refugee concern, is so overwhelming that there will be a lot of understanding about this." Following the deployment, by June 1991 600,000 refugees had returned.

A contrasting example occurred in East Timor. Following a successful autonomy referendum, Indonesian security forces engaged in widespread forcible displacement of the population, displacing 500,000 IDPs within East Timor and driving a further 250,000 refugees into neighbouring West Timor. Here, the UN Security Council supported an Australian-led intervention following Indonesia's consent to the operation after widespread political pressure was applied. The mission succeeded in quickly re-establishing security in East Timor, and within a year two-thirds of the refugees and most of the IDPs had been able to return home.

The R2P doctrine provides a clear alternative: intervention for human protection purposes. Even here, however, the record is mixed. When NATO intervened in Kosovo to protect the Albanian Kosovar population from Serbian aggression, they actually made the displacement crisis worse. In the months of the air campaign, Serb forces were able to displace some 1.3 million Kosovars.

In addition, this presumes the UN Security Council will take action. The Council has been active at using resolutions to protect the displaced, practice that has lead Gil Loescher to suggest that armed interventions against states where refugee flows

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are generated “is becoming a norm.” But, in most cases Loescher notes that the Council has taken action only “after the damage has been done.” Further, consent remains a major hurdle: only in the case of Libya in March 2011 have we seen explicit Council support for an intervention without the consent of the concerned state. Even outside of the Council, the record of state acting unilaterally to deal with RID is limited to two cases: in Northern Iraq in 1991 and in Kosovo in 1999.

Conclusions

As this briefing has shown, RID introduces difficult policy challenges for the international community: not only does it necessitate more involvement by a plethora of international and non-governmental organizations within countries experiencing mass displacement, but attempts to provide these victims with protection have been used in an ad hoc manner and are rarely successful in the long term. Current responses to situations of RID are ad hoc and remain based on a set of international law and actors ill-suited to provide protection. Further development, however, of both the PoC agenda and of the R2P provide mechanisms to ameliorate these issues.

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For further reading:

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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), 2008

Charles T. Hunt and Alex J. Bellamy, "Mainstreaming the Responsibility to Protect in Peace Operations," *Civil Wars* 13, no. 1 (2011)

Victoria K. Holt and Tobias C. Berkman, *The Impossible Mandate?: Military Preparedness, the Responsibility to Protect and Modern Peace Operations* (The Henry L. Stimson Center, 2006)

Gil Loescher, "Refugees as Grounds for International Action," in *Refugees and Forced Displacement: International Security, Human Vulnerability, and the State*, ed. Edward Newman and Joanne van Selm (Tokyo: United Nations University Press, 2003)

Benjamin Valentino, Paul Huth, and Dylan Balch-Lindsay, "'Draining the Sea': Mass Killing and Guerrilla Warfare," *International Organization* 58(2004)

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This brief, which is based on an ongoing project, draws on and updates material from a previous article, Phil Orchard “The Perils of Humanitarianism: Refugee and IDP Protection in Situations of Regime-Induced Displacement” *Refugee Studies Quarterly* 29 (1) 2010, 38-60. This work has been funded with support from the Canadian Department of National Defence’s Security and Defence Forum and from the University of Queensland. My thanks to Vickie Frater for research assistance.

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