

# The reality of return: IDPs in Darfur

by Mathijs Le Rutte

*Despite continuing insecurity, IDPs in Darfur are starting to return home. UNHCR and other agencies involved in their assistance and protection must ensure that the principles of voluntariness, safety and dignity are adhered to.*

**O**n 5 July 2005, a Declaration of Principles for the Resolution of the Sudanese Conflict in Darfur was signed in Abuja by the Sudanese government, the Sudan Liberation Movement and the smaller Justice and Equality Movement.<sup>1</sup> Although this is unquestionably the most concrete step towards peace so far, doubts remain as to how this commitment in principle will be translated into reality. IDPs in Darfur continue to suffer violence and rape, forced recruitment and abuse of children, banditry and tension over scarce resources. The presence of

African Union civilian police appears to have contributed to a relative improvement in security but the situation remains unpredictable and volatile. The Secretary-General's report on Darfur of 18 July<sup>2</sup> states that "Darfur may be a less active war zone than it was a year ago, but violations of human rights continue to occur frequently, and active combat has been replaced by a suffocating environment of intimidation and fear, perpetuated by ever-present militias." Even if the commitment to peace of the parties involved is genuine and fighting subsidies, reconcili-

ation and reconstruction will be a lengthy process.

Nevertheless, a small number of people are returning home to their villages, often in precarious circumstances, hoping to rebuild their lives. Some of these return movements are of a local nature, from village centre to outlying settlements, while others are over longer distances, within and between the three Darfur regions.<sup>3</sup> Some movements have also taken place from the Chadian border area. As far as UNHCR has been able to monitor, most of these returns are proving successful.

Those who return are in dire need of humanitarian assistance. UNHCR's decision to assist those returning initially provoked criticism as it was feared that this would create false

expectations among IDPs about the feasibility of return. This concern is not wholly unjustified and it is consequently all the more important that UNHCR strictly applies the principles of voluntariness, safety and dignity, maintaining a strict division between facilitation and promotion and insisting on complete transparency.

UNHCR has extensive experience with respect to voluntary repatriation and has developed a basic framework of standards for all repatriation operations.<sup>4</sup> Adhering to these standards has been a challenge, not because of the principles themselves – which are clear and firmly rooted in human rights law – but because repatriation movements are inevitably influenced by political forces. Repatriation is seen as evidence of political stability of the areas of origin. It lessens the burden on the hosting areas and may simply be a cheaper option than continuing to provide assistance at the place of refuge. Repatriation is therefore likely to be seen as the best possible solution by both countries of origin and asylum, as well as donor countries.

The Guiding Principles on Internal Displacement, if properly applied, will protect individuals against hasty, badly organised or even forced repatriation. Principle 28 reiterates key standards used in refugee repatriation: voluntariness of return, and in conditions of safety and dignity. A major challenge is to make these standards operational.

### The Principles in operation

In refugee protection, ‘voluntariness’ is widely regarded as the fundamental basis of repatriation and the best assurance against *refoulement*. Far from being merely the opposite of ‘forced’, voluntariness represents the individual’s ability to decide that the conditions that made him/her leave no longer exist, or at least not to the extent that warrants protection elsewhere. It is also a pragmatic requirement, as voluntary return is far more likely to be sustainable.

Access to the internally displaced is a primary requirement for ensuring voluntariness. Although decisions to flee can be taken in response to a mass movement, and return can also be decided as a group, it is important to consider the individual when

assessing voluntariness. The individual’s initial reason for flight needs to be understood in order to verify to what extent the reasons have ceased to exist or at least have evolved sufficiently to warrant return. For the condition of voluntariness to be met, the deciding factor for return needs to be the positive pull factor of the place of origin, rather than pressure from the area of refuge. This would usually entail an improvement in conditions in the area of origin, although there may be other reasons why an individual wants to return, such as family reunion. UNHCR considers the core of voluntary repatriation to be return – with dignity – in and to conditions of physical, legal and material safety.

Where hostilities are ongoing or a general breakdown in law and order persists, return would normally not be facilitated. Physical safety would require some form of assurances from the authorities, supported by the international community where necessary. Legal safety involves the removal of legal and administrative barriers to return. This could include the declaration of amnesties and assistance in the restoration of housing, land and property rights. Material safety implies availability of the means of survival and basic services, such as potable water, health and education.

In order to be able to make a free choice, IDPs must have access to accurate, objective and up-to-date information on the situation in areas of return. Ideally, return monitoring will be established as soon as returns commence in order to collect information for potential returnees and to assess the needs and protect the rights of returnees. Factors pushing – rather than pulling – IDPs to return may involve intimidation, incentives to encourage departure or other undue pressure. Among the most important elements in the verification of voluntariness are the status and condition of the person in the area of refuge. If the person has found no protection, if his/her rights are not respected, the person may decide to return but it will not be a free choice. Furthermore, the level of pressure that collective intent may place on an individual should be considered.

The concept of ‘dignity’ in return has not been clearly defined. The

concept will vary between different cultures and assumptions should not be made. An approach that ensures the effective participation of the internally displaced will go a long way towards meeting the requirement of dignity.

### Stages of repatriation

UNHCR makes a distinction between different phases of return: spontaneous, facilitated and promoted. It is important that UNHCR – and any other humanitarian actors involved in return – determine explicitly under what conditions they will be involved in the different stages of return and what activities will constitute such involvement. For each stage there needs to be a list of benchmarks to be met before supporting return. Such benchmarks need to be guided by the degree to which conditions conducive for return – i.e. physical, legal and material safety – have been met. Where IDPs return spontaneously, UNHCR can assist in the areas of return, if access exists. Facilitation can occur upon the specific and fully informed request of IDPs, even if UNHCR does not consider that, objectively, it is safe for most to return. Promotion of return will only occur if and when conditions are considered conducive for return in safety and dignity.

Decisions by the international community to facilitate or promote return must not only be taken with due consideration of all relevant factors but must also be clearly explained and communicated to all actors, including IDPs themselves. Failure to do so may create false impressions about the conditions for return, which in turn risks jeopardising its voluntary nature.

**Mathijs Le Rutte is a Senior Legal Officer with the Department of International Protection, UNHCR, Geneva. The views expressed in this article are personal and do not necessarily reflect the views of UNHCR or the UN. Email: lerutte@unhcr.org**

1. [www.africa-union.org/DARFUR/DOP%205-7-05%20new.pdf](http://www.africa-union.org/DARFUR/DOP%205-7-05%20new.pdf)

2. <http://daccessdds.un.org/doc/UNDOC/GEN/N05/423/17/PDF/N0542317.pdf?OpenElement>

3. The states of West, North and South Darfur.

4. *UNHCR Handbook on Voluntary Repatriation: International Protection* [www.unhcr.ch/cgi-bin/texis/vtx/publ/opendoc.pdf?tbl=PUBL&id=3bfe68d32](http://www.unhcr.ch/cgi-bin/texis/vtx/publ/opendoc.pdf?tbl=PUBL&id=3bfe68d32) Global Consultations Third Track ExCom Meetings, EC/GC/02/5 of 25 April 2002 [www.unhcr.ch/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=PROTECTION&id=3ccfe52c4](http://www.unhcr.ch/cgi-bin/texis/vtx/home/opendoc.pdf?tbl=PROTECTION&id=3ccfe52c4)