

FORCED MIGRATION review

Issue 62
October 2019

Return

*voluntary, safe, dignified
and durable?*



plus mini-feature on:

**Towards understanding and addressing
the root causes of displacement**



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Forced Migration Review

(FMR) provides a forum for the regular exchange of practical experience, information and ideas between researchers, refugees and internally displaced people, and those who work with them. It is published in English, Arabic, Spanish and French by the Refugee Studies Centre of the Oxford Department of International Development, University of Oxford.

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From the editors

Voluntary return in safety and with dignity as a durable solution to displacement has long been a core tenet of the international refugee regime. In the 23 articles on **Return** in this issue of FMR, authors explore various obstacles to achieving sustainable return, some of which are common to diverse situations of displacement while others are specific to certain contexts. Many of the authors discuss the need to guard against premature or forced return, and the risks that such return may entail. They also debate the assumptions and perceptions that influence policy and practice. The examples of good practice and the reflections on research findings presented in this issue are drawn from around the world.

The issue also contains a mini-feature on **Towards understanding and addressing the root causes of displacement** which has been prepared to inform discussions at the first Global Refugee Forum in December 2019. This collection of articles written by authors from the UN, NGOs and academia aims to enhance collective understanding of some of the root causes of displacement.

We would like to thank Jeff Crisp (Refugee Studies Centre, University of Oxford) and Sarah Wansa (Rosa Luxemburg Stiftung, Beirut) for their assistance as advisors to the feature theme, and Perveen Ali, Annabel Mwangi and Emilie Wiinblad Mathez (UNHCR) for their assistance with the mini-feature. We would also like to thank Act Church of Sweden, Refugees International, Rosa Luxemburg Stiftung and UNHCR for their generous funding support for this particular issue.

FMR 62 formats online at www.fmreview.org/return

- Full magazine including mini-feature
- **Editors' briefing** (headline analysis of the content)
- **Digest** (expanded contents list with QR codes/web links)
- **Root causes mini-feature** (separate booklet)

All individual articles are available in PDF, HTML and podcast formats. This issue will be available in **English, Arabic and Spanish**. (Unfortunately we have not been able to secure sufficient funding to publish it in French as well.) For printed copies, please email us at fmr@qeh.ox.ac.uk.

Forthcoming feature themes in 2020 (see www.fmreview.org/forthcoming):

- Cities and towns (February)
- Trafficking and smuggling / Climate crisis and local communities (double feature, June)
- Recognising refugees / mini-feature on Missing migrants (October)

Marion Coudrey and Jenny Peebles
Editors, Forced Migration Review



Front cover image:

Somali refugees in Dadaab, Kenya, setting out to return to Somalia, 2016.

UNHCR/Assadullah Nasrullah

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Shared obstacles to return: Rohingya and South Sudanese

Daniel P Sullivan

The common barriers to return in the cases of Rohingya refugees and South Sudanese IDPs prompt serious questions about how to ensure the safety and voluntariness of returns.

On 15 November 2018, several buses pulled up at the Unchiprang camp for Rohingya refugees in Bangladesh, organised as part of a repatriation agreement between the governments of Bangladesh and Myanmar. The buses remained in the camps all day but left empty. Not a single Rohingya refugee volunteered to return to Myanmar. The exercise was spoken of by Bangladesh and UN officials as a successful demonstration of their commitment to voluntary return, even though it resulted in a spike in mental health difficulties among an already highly traumatised population.

Around the same time, political pressure was building in South Sudan in favour of the return of internally displaced people (IDPs), despite serious concerns about ongoing insecurity and the ability to provide services safely in the proposed areas of return. The seriousness of these concerns was highlighted in late November when 125 women, many of them IDPs, were sexually assaulted over a period of just 10 days on their way to gather supplies or to reach food distributions near the town of Bentiu.

These are just two of a growing number of countries where political pressure for forced or premature returns is growing. Similar dynamics are at play in Afghanistan, the Central African Republic, Ethiopia, Iraq, Syria and Venezuela. With shrinking space for traditional solutions to displacement (resettlement, integration and voluntary repatriation), there is an increasing risk of forced returns – returns that fall short of international standards of safety, voluntariness and dignity.

Rohingya refugees and South Sudanese IDPs

Today approximately one million Rohingya refugees live in camps in Bangladesh, the vast

majority having been forced to flee a campaign of ethnic cleansing in Myanmar since August 2017. Several hundred thousand Rohingya remain in Myanmar's Rakhine State with heavily restricted rights and restricted access to outside aid. Among these, more than 120,000 internally displaced Rohingya have been living in displacement camps in Rakhine State since 2012 in what the UN has described as deplorable conditions. While it is noteworthy that, as of the time of writing, the Government of Bangladesh has not forced any Rohingya to return to Myanmar, the pressure for such returns is building. The events of 15 November 2018, and a similar exercise with similar results in August 2019, showed a willingness to push returns to the brink, without regard to its damaging effect on the population in question.

Similar pressure for returns is playing out in South Sudan, particularly for the nearly 200,000 IDPs living in Protection of Civilians (PoC) sites overseen by the United Nations Mission in South Sudan (UNMISS). The PoC sites have been described as both the UN's best idea and its worst idea in South Sudan. On the one hand, they undoubtedly saved tens of thousands of lives as UN peacekeepers offered refuge to fleeing civilians in the midst of violence. On the other hand, the PoC sites were only meant to provide refuge for a few days; more than five years later, they are rife with crime, services are strained, and the population is largely idle and frustrated. A peace agreement signed in September 2018 reduced violence in South Sudan and sparked increased discussions of returns not only for those in PoC sites but also for the rest of the 1.5 million IDPs and some 2.3 million South Sudanese refugees who have fled to neighbouring countries. In the PoC sites, in particular, discussions have shifted from caution to – as one observer told the

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author – stepped-up efforts toward closure of PoC sites being the “accepted reality”.¹

Common obstacles to return

Ongoing insecurity: Interviews with recently arrived Rohingya refugees in Bangladesh in February and April 2019 highlighted continuing harassment, arbitrary arrest and forced labour in Myanmar, and revealed that the Government of Myanmar is not only failing to create conditions conducive to return but is actively pursuing policies that are making the situation more dangerous. These policies include restrictions on freedom of movement, limiting of access to aid, and building over former Rohingya villages. Fighting has broken out between a non-Rohingya ethnic armed group and the Myanmar military in northern Rakhine State where Rohingya refugees would be likely to return.² Similarly, for South Sudanese in PoC sites, ongoing insecurity is among the most cited reasons given for not returning. Pockets of instability remain and many people in the PoC sites fear ethnic targeting if they attempt to return to the areas from which they were forced to flee. Finally, sexual violence remains a widespread risk in South Sudan.

Destruction and confiscation of homes and property:

Even if relative security and safety

are established, displaced people often have no homes to return to. Nearly 400 Rohingya villages were damaged or destroyed during military ‘clearance operations’. Scores of remaining homes, mosques and other buildings have been bulldozed, and non-Rohingya have been moved into former Rohingya villages.³ Likewise, in South Sudan many homes were destroyed in the fighting, and housing, land and property concerns are among the most common barriers to return cited by IDPs. As one IDP said, “If I was told to go home now, I could not. My home has collapsed [after being damaged] and been looted.” As in Myanmar, there is an ethnic element in some cases, with homes that have been abandoned by ethnic minorities in Malakal and Juba being taken over by members of the dominant Dinka tribe.

Absence of services and livelihood opportunities:

A third common barrier to returns is the absence of services and livelihood opportunities in proposed areas of return. With Rohingya in Rakhine State (particularly the north) still facing heavy restrictions on freedom of movement and access to aid, refugees recently arrived in Bangladesh from Myanmar describe having been unable to leave their villages to access fields, fish in rivers or go to nearby markets. Rohingya in Bangladesh understandably ask if



Rainy season in Rohingya camp, Bangladesh.

their lives upon return would be any different from those of Rohingya who have been living in camps in Rakhine State. The World Bank has proposed a US\$100 million development project in Rakhine State to increase livelihood opportunities but funding development without addressing ongoing discrimination and movement restrictions risks reinforcing the results of ethnic cleansing.

In South Sudan, a similar lack of services or livelihood opportunities in places of return is preventing people in PoC sites from returning to their homes. UNMISS and humanitarian actors have attempted to move services outside PoC sites in Bentiu and Wau, but with mixed results; such moves will only be successful when combined with enhanced security in the area. Finally, as in Rakhine State, efforts to provide services and livelihood opportunities in South Sudan must be done carefully to avoid reinforcing population shifts that have resulted from ethnic targeted violence and to avoid further disenfranchisement of ethnic minorities.

Failure to include and inform potential returnees: Government and UN plans for returns too often lack transparency and leave out the people most affected. This calls into question the true voluntariness of returns and raises serious concerns about the imperative to 'do no harm'. The events of 15 November 2018 highlighted this. With no knowledge of who was included on the list of approved Rohingya returnees and no details about how the returns would take place, the exercise resulted in general panic in the camps and even suicide attempts. Far from being a successful demonstration of commitment to voluntary return, the exercise was a dangerous warning about the consequences of failing to involve and inform a refugee population. More broadly, Rohingya have not been included in agreements on repatriation between Bangladesh, Myanmar and the UN, nor have the contents of those agreements been released publicly.

In South Sudan, efforts have been made to address the barrier of lack of information but a lack of transparency remains a challenge. UNMISS has carried out some successful

'go-and-see' visits and has helped to facilitate flights to places of return for some IDPs but information about the potential closure of PoC sites and IDP camps has been lacking. Humanitarian workers in South Sudan have raised concerns including inconsistent use of intention surveys, lack of sufficient security- and conflict-sensitivity assessments and general lack of information sharing between UNMISS and humanitarian actors providing services in PoC sites. Updates to UNMISS's mandate in March 2019 included a call for close collaboration with NGOs on the future of PoC sites but how this will be implemented remains to be seen.

Root causes: At the risk of overgeneralising, a final key barrier to returns is the failure to address root causes. In the case of the Rohingya this includes systemic discrimination and the fundamental denial of citizenship and basic rights, rendering the Rohingya effectively stateless. In South Sudan, a governing kleptocracy has fuelled ethnic divisions for personal gain, exacerbating underdevelopment. In both cases impunity for mass atrocities are holding back safe and voluntary returns. Failure to recognise and address these root causes will foil efforts to address any of the barriers identified above.

Recommendations

An essential first step is to acknowledge ongoing insecurity where it exists and to take specific steps to address it before returns begin. Safety of returns must be better assured, whether through improved security assessments and conflict sensitivity assessments or closer engagement with displaced communities, including through expanded use of 'go-and-see' visits.

The common challenge posed by homes having been destroyed or occupied could be better addressed by drawing on existing broader research and practice on housing, land and property and applying it to the specific context of returns. This could include ensuring housing, land and property laws and specialised courts are in place or included as part of peace agreements.

Provision of services and support for livelihood opportunities in areas of return will also be an important part of ensuring sustainable returns but such efforts must be underpinned by assessments of ongoing insecurity and discrimination. Providing services without security puts lives at risk and development without addressing ethnic dislocation and restricted movement risks stoking social tensions and reinforcing the discrimination that leads to violence and displacement in the first place.

Finally, no return can be truly voluntary unless the potential returnees are sufficiently informed. Further, even when forced returns do not ultimately take place, lack of transparency in the process can cause grave harm. Efforts should be made to ensure that return plans are transparent and that potential returnees are included in planning.

Failure to focus on the barriers to returns and how to overcome them, and on the root causes of displacement, not only risks causing harm to forcibly displaced populations but also risks setting up the conditions for future displacement and additional suffering.

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South Sudanese returns: perceptions and responses

Catherine Huser, Andrew Cunningham, Christine Kamau and Mary Obara

Gaining insight into the experiences and perceptions of refugees can help ensure programming is better able to support refugees' durable return and reintegration.

Between December 2018 and April 2019, Act Church of Sweden and the Lutheran World Federation conducted a perceptions-focused study with South Sudanese refugees in northern Uganda (Moyo, Adjumani and Lamwo), in Kenya (Kakuma) and in Ethiopia (Gambella). Despite refugees' widespread scepticism regarding the revitalised peace process in South Sudan, and the position of the UN Refugee Agency (UNHCR) that the conditions for returns were not yet in place, the study indicated a strong desire among these refugees to return to South Sudan.

South Sudanese refugees are carefully watching the situation within South Sudan. They pointed to several indicators they are monitoring to determine when return might be feasible. The peace process is key, with the return of former Vice-President Riek Machar to South Sudan (planned for May 2019 but eventually delayed) having been the most immediate indicator. The

national elections, originally scheduled for 2021, were also seen as an event that would trigger returns. However, there were a number of other elements as well.

Refugees were intently monitoring the more immediate security situation, with scepticism about the peace process being partly due to the exclusion of some armed groups, which have continued their campaigns of violence. Thus, the cantonment of armed actors (that is, their relocation into military garrisons) was an important indicator. With many refugees complaining that their properties had been forcibly occupied by armed actors, the demilitarisation of civilian spaces and properties was also highlighted.

They were additionally monitoring the status of the Protection of Civilians (PoC) sites within South Sudan. Under protection by the UN Mission in South Sudan, these PoC sites were hosting some 190,000 internally

displaced people (IDPs) as of early 2019. In assuming that those inside were there because they were unable to leave safely, refugees connected the continued presence of the PoC sites with continuing high levels of risk. Furthermore, few believe that the ethnic fracturing that has occurred within the nation has been addressed. As such, many raised ethnicity-based concerns, especially relating to the freedom to move safely throughout their country. Others emphasised the importance of developmental indicators, including access to good education, health care and livelihoods.

Refugees are meanwhile also weighing the uncertainty about life back in South Sudan against the violence, stresses and economic challenges they face in their current refugee settings. Refugees were generally convinced that if they were in their original home environment, they could better meet at least the essential needs of their families.

In many cases, economic concerns over-rode perceptions of security risk. Refugees – particularly those with formal education and professional skills – emphasised the strong pull of employment opportunities in South Sudan (for example with non-governmental organisations – NGOs – and the Government of South Sudan), especially in urban centres, although these possibilities were again weighed against strong security concerns.

At the same time, the lack of viable livelihoods within the refugee setting is fostering a sense of hopelessness and apathy, especially among adult men and disenfranchised youth. This is reportedly fuelling a growing substance-abuse problem and even criminal behaviour. Some young people are also allegedly returning to South Sudan to join armed groups, which risks propagating further cycles of violence.

Refugee youth see education and employment opportunities as providing



UNHCR/Catianne Tjerina

Gatdet, aged 11, ran from his home in South Sudan and hid in a river as armed men killed his classmates and relatives while others drowned. After fire destroyed his family's tent in Kule refugee camp, in Gambella, Ethiopia, he now owns only this metal plane he made out of disused oil cans. "All my clothes were burned, the food, the cooking oil, the mattress, sheets, blankets, all gone. I am sad about everything we lost. I was going to school but all my books were burnt. I like planes as they move from place to place. I would like to go to many places, like America. I hope to go to South Sudan too because that is my country, but we left because the men with guns came."

direction, without which they are more prone to the above 'distractions'. More broadly, refugees in both Kakuma and Gambella were adamant that their children will not return to South Sudan until good education is available there. While refugees in northern Uganda placed an equal value on education, some complained about school-related costs and low-quality education services in the camps. This led them to consider returning as the more likely means of guaranteeing good education for their children.

Go-and-see visits versus permanent return

Refugees talked about quite significant 'yo-yo' movements back to South Sudan, often for information gathering. For example, some undertook 'go-and-see' visits to monitor the security situation first-hand. Others periodically returned to check on their property, assets and family members. Others were occasionally going back to collect assets (such as a cow) which they could sell to support their family in the camp. This begins to reflect an interim stage or 'grey' period in which refugees move increasingly fluidly between the camp/settlement and their places of return. Such movements were expected to become gradually more permanent, depending on the circumstances within South Sudan.

However, spontaneous 'permanent' returns were indeed happening at the time of the study. The first wave of returnees included those with employable skills returning especially to urban centres. Similarly, many male youth returned to protect family homesteads. The planting season was expected to spark even wider returns to rural areas. As mentioned, children and youth attending school are expected to be the last to return. People with special needs are likely to move according to where they can get the best support.

Such movements were expected to differ according to the circumstances in the place of refuge. For example, in anticipation of a relatively positive peace trajectory, those in northern Uganda saw return as relatively imminent, while those in Kakuma and Gambella more typically estimated a three-

to-five-year period before significant returns would occur (linked to the forthcoming elections in South Sudan). Those returning to areas that saw heavy fighting (such as Upper Nile) expected to return more slowly, probably initially to rural areas, with movement to urban areas increasing only as security and their confidence stabilised.

Programming for durable returns

Insight into the refugees' micro-level experiences, perceptions and analysis can be used to ensure that programming more effectively supports durable returns and integration. There is, for example, a dogged determination among refugees to educate their children. The need to engage youth and foster a sense of hope, whether through formal education, vocational training or employment opportunities, is also a well recognised priority. Indeed, the stark consequences of failing to do so are easy to imagine. Similarly, the need to foster viable livelihoods and economic security for the refugees is also not a new idea. Nevertheless, refugees repeatedly stated that the magnitude and aims of NGO-supported income-generating activities continue to be too small scale. Given that the return process is widely expected to unfold over the next three to five years, there is scope and need for more substantive engagement (for example in vocational training) at the camp/settlement level to better prepare these refugees for return to South Sudan as productive citizens ready to rebuild the nation.

Responses should also incorporate a more substantial cross-border or regional dimension. From the perspective of programming in camps/settlements, responses should be informed by the realities of refugees' places of origin. For example, efforts to tackle sexual and gender-based violence (SGBV) in the camps/settlements should be informed by an understanding of SGBV causes and attitudes in South Sudan, which differ from the Ugandan context.

Moreover, as many of the complex return strategies that refugees are devising involve the splitting of families between country of refuge and return locations, it is important

that international actors ensure that their programmes in the refugee settlements/camps are well harmonised with responses in the places to which the refugees are expected to return in South Sudan; these responses should be strongly developmental in approach. Efforts should be made to ensure maximum cross-border synchronisation. This can be done in the education sector with curricula, standards, teacher training, inclusion policies and so on. Vocational training provided in refugee settings should be informed by market studies conducted in the places of origin. For example, refugees in Gambella are calling for construction, plumbing and electrical training so they can play a role in rebuilding their damaged cities. Such training should also include regionally recognised certification, thus ensuring that graduates are able to market their skills in other locations. While access to credit and savings institutions has long been identified as a challenge, mobile financial institutions are beginning to function. These institutions, that currently provide essential services to camp-based refugees, should be supported to operate across borders to ensure continuity. Such mobility is extremely relevant in this grey period.

However, a stronger commitment within South Sudan to restore the conditions that allow for returns (for example, as stated in the Global Compact on Refugees), including security conditions and essential services at the very least, must be taken on immediately. Indeed, these are the indicators that refugees are monitoring in order to inform their return decisions.

Moreover, especially during this 'grey' period, responses in the return locations should reflect a community-based approach that includes local residents and returning refugees and IDPs, working holistically in order to rebuild a sense of community. Any such approach should also focus on restoring the psychosocial well-being of individuals and their communities, recognising the detrimental impact not only of their displacement but also of their doubts about the feasibility of peaceful co-existence among South Sudan's multi-ethnic

society. This underlines the need for a peace agenda that starts at the individual level. The refugees across the region then need to be drawn into the wider national peace process, because many viewed themselves as being outside the South Sudan peace process.

Indeed, such social change objectives should be more proactively and deliberately pursued. For example, schools can provide an important platform for facilitating attitudinal shifts and promoting a sense of compassionate social responsibility. Community-based structures designed to facilitate support for the most vulnerable in society, and to offer space for reflective discussion, have also proven effective in fostering empathy and compassion, which are essential for rebuilding social cohesion and a sense of social responsibility.

In all this, the restoration of individual agency is critical. Many refugee respondents alluded to a loss of confidence, doubting their own agency and capabilities as a result of both the daily stresses of refugee life and their experience of war. Ensuring meaningful participation in refugee responses, however difficult this might be, can both reduce dependency and help to reconnect people with this sense of agency. Proactive efforts to foster a sense of well-being among individuals and their communities is fundamental to supporting conflict-affected populations in re-learning peaceful behaviour, in collectively envisioning a peaceful future, and in taking the necessary steps towards creating a different kind of future for themselves.

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Return decision making by refugees

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There are multiple factors influencing refugees' decisions to return to their country of origin, not all of which reflect conventional wisdom.

The principle of voluntariness is a cornerstone of refugee return. At times narrowly interpreted to signify consent, voluntariness in fact implies a degree of autonomy in decision making – that is, the ability of refugees to freely choose when, and whether, to return. However, there is only limited understanding of what actually influences refugees' decision. Primary data collected among 393 refugees and returnees from Iraq, Colombia and Myanmar, complemented by quantitative analysis of refugee returns worldwide between 1995 and 2015, allow for an examination of what drives refugees' decision to return, or not, to their country of origin.¹

Security

Existing literature almost unanimously contends that security in countries of origin is a paramount precondition for refugee return, and indeed the role of security is particularly apparent in current discussions of returns to Syria. A quantitative analysis of refugee returns in the period 1995–2015 tentatively suggests that conflict-related deaths in countries of origin may indeed be negatively correlated with the proportion of returns to that country. Reflecting this trend, most of the refugees who wish to return to their countries of origin say they will only do so when there is peace. Yet while security may well **enable** return, it is not necessarily a motivating factor; among people surveyed, only 16.5% of returning refugees and 19.6% of refugees wishing to return to their countries of origin cited security improvements as the primary reason for return.

Willingness to return does appear to be correlated with refugees' trust in their country of origin's security forces. 67.9% of refugees who do not wish to return do not trust the security forces, and a further 20.6% feel actively threatened; in

contrast, only 53.9% of the refugees who do wish to return experience mistrust, and none report feeling threatened.

Socio-economic factors

Alongside physical security, a second piece of conventional wisdom dictates that socio-economic conditions in both host countries and countries of origin play an important role in refugees' decision to return. Results of the study seem to corroborate this. Quantitative analysis reveals that the proportion of returns is negatively correlated with life expectancy and GDP per capita in the host country, suggesting that the likelihood of refugee returns decreases as life expectancy and GDP increase, and vice versa.

However, lived experiences of refugees may differ significantly from national averages of socio-economic well-being, and returns can also take place from host countries with higher standards of living if refugees are marginalised and excluded from their host community, unable to work, and faced with an uncertain future due to lengthy refugee status determination procedures. Among returnees surveyed, poor living conditions in their host country were the most common motivation for return (30.4%).

According to community leaders in Jordan, returns to Iraq are predominantly motivated by lack of income-generating opportunities in Jordan. Meanwhile, Iraqi refugees returning from camps in Syria report particularly difficult hosting conditions. "We lived in a prison, not a camp. They treated us like animals," reported Dilshad, a returning Iraqi refugee. Staff of non-governmental organisations in Syria made similar observations: "People are returning because of course they want to go home, but also because they are not happy with the services and, perhaps more

importantly, because of the fact that they are virtual prisoners in the camps here.”

Attachment and reunification

Conventional wisdom assumes that patterns of return mirror security and socio-economic well-being in host countries and countries of origin. However, evidence suggests that refugees’ decision making may also be influenced by their attachment to their countries of origin even in the face of socio-economic challenges and ongoing insecurity. For example, following the peace agreement in Angola in 2002, rapid spontaneous returns took place. The international community thought these returns premature. According to one Angolan returnee, “UNHCR explained that there would be no food, houses or schools, and they also told us there would be a lot of mines. But even if we don’t have houses, and we don’t have food, and we don’t have schools, we wanted to return to our country because it’s our country.”²

Among the Iraqis, Colombians and Burmese surveyed, missing home was reported as the main driver of return by 28.7% of returnees and 23.2% of the refugees who wished to return. Beyond attachment to country, family reunification is a key driver of return. The most common motivation cited by refugees wishing to return to their country of origin was reunification with family and friends (33.9%).

Implications for policy and practice

Most discussions of refugee returns focus on the importance of restoring security in countries of origin. Often, this is indeed a precondition for return – but security improvements do not automatically result in returns. The international community should not expect perceived milestone achievements towards peace and security to result in large-scale returns but should rather plan for continued support and assistance to refugees abroad.

Myanmar is a case in point. Following the nationwide ceasefire agreement and electoral success of the National League for Democracy in 2015, it was widely assumed that refugees on the Thai–Myanmar border would return

to their country of origin.³ These assumptions resulted in a reduction in support from the international donor community, and therefore a decrease in food rations. In practice, however, the refugees have only limited confidence in the peace process, and the pace of returns has been slow.

Returns prompted by the pressures of unmet basic needs are likely to prove unsustainable. If refugees are returning to their country of origin despite security concerns because they are unable to sustain themselves in their host countries, there is a strong likelihood that these returning refugees will find themselves further displaced. Host States should ensure that refugees have sufficient access to livelihoods and assistance to prevent premature returns from contributing to vicious cycles of displacement. Some host States may believe it is in their interest to encourage rapid return – but if premature returns lead to further displacement, they are not the solution.

Finally, there is a need to better acknowledge the role of intangible factors including attachment to people and place. Understanding the complexity of decision making would improve stakeholders’ ability to plan for return, support refugees and returnees, and safeguard voluntariness.

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1. All primary data collected by IDMC. Myanmar report forthcoming. Reports on Iraq and Colombia online at: bit.ly/IDMC-Sydney-Iraq-2018 bit.ly/IDMC-Sydney-Colombia-2019
2. Harild N, Christiansen A and Zetter R (2015) *Sustainable Refugee Return: Triggers, constraints, and lessons on addressing the development challenges of forced displacement*, Global Program on Forced Displacement, p70–74. bit.ly/WorldBank-RefugeeReturn-2015
3. See Hasegawa Y ‘Forced to return? Facilitated return of refugees to Myanmar’ in this issue.

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Sri Lankan Tamil refugees in India: return or integration?

Amaya Valcárcel Silvela

For Tamil refugees, considerations of sustainability affect their decision to remain in India or return to Sri Lanka. Their views and aspirations must inform planning for both integration and repatriation.

Sri Lankan Tamil refugees have arrived in the southern Indian state of Tamil Nadu at various times. Some arrived 30 years ago, others at the peak of the Sri Lankan civil war in the mid-2000s. Currently more than 62,000 Tamil refugees live in 107 camps spread throughout Tamil Nadu, and just under 37,000 refugees live outside the camps. Although refugees are entitled to residence visas and work permits, prolonged life in the camps does not lead to resilience and empowerment, and these refugees consider themselves in limbo, belonging neither to Sri Lanka nor to India and unable to get on with their lives. Tamil refugees – especially youth – wish to be disassociated with the label of ‘refugee’, which they feel would improve quality of life for them, their families and their communities.

There are two sustainable long-term options available to Tamil refugees in India: repatriation or local integration. Resettlement is no longer an option since the UN Refugee Agency (UNHCR) appears now to prioritise other groups of refugees with greater protection needs. Some refugees wish to stay in India in order to try to secure citizenship there; others express the desire to return to Sri Lanka – but only when conditions improve. In Sri Lanka, divisions and resentment between the two main ethnic communities have their roots in discrimination and some of these discriminatory practices are still prevalent. Tamil refugees express uncertainty and fear regarding their ability to earn a living, access land and find security if they return to Sri Lanka.

Since 2014, in the absence of a tripartite agreement between UNHCR and the governments of India and Sri Lanka, and at the request of the refugees, UNHCR has been facilitating – but not actively encouraging – the voluntary repatriation of refugees from Tamil Nadu to Sri Lanka.¹ The

decision about whether to return or remain, however, depends on a number of factors.

Access to information: It is vital that return decisions are well-informed. At present the Indian government shies away from informing refugees about the situation in Sri Lanka. Meanwhile, however, some Sri Lankan organisations put forward excessively optimistic information for their own political purposes. The most accurate information for refugees may come from their relatives who remain in Sri Lanka. One refugee described how: “We are connected to our relatives; some are internally displaced persons. My son is telling me to come back but not now, after some time.”²

There is also a paucity of credible research on the aspirations of the different populations who live in the camps. For example, it is thought that the so-called Plantation Tamils – descendants of tea plantation labourers in the central hill areas of Sri Lanka – would mostly like to stay in India, although more research is needed on this topic. A survey of the different populations, who were displaced at different times, combined with more consultation with refugee leaders in the camps, would enhance researchers’ understanding of the aspirations and intentions of these different groups.

Return of belongings: Currently, the repatriation offered by UNHCR is by air and includes a baggage allowance of only 60kg. For some, this alone is a reason not to return since they have accumulated many belongings after years in exile. Many refugees would be ready to return to Sri Lanka if a ship could be provided to carry their belongings as part of the repatriation process.

Access to land: Some refugees find upon their return that their land has been



UNHCR/Gemunu Amarasinghe

Sri Lankan Tamil returnee clears the plot of land that she received from the government on her return.

occupied by others, including by the Sri Lankan government and military, as in Mullaitivu where returnees from India as well as internally displaced people are struggling to reclaim their land from armed forces, and in 2017 protested for three months against this occupation.

Access to livelihoods: Refugees who have undertaken skills trainings programmes while in displacement recount how this has helped them to become self-reliant, courageous, confident and collaborative, and some indicate that these trainings motivate them to help others. Many refugee women report that skills training has enabled them to escape the cultural expectation that women will remain in the home. One woman explains how she broke with this tradition:

"I borrowed 200 rupees from my neighbour and started a small shop with four glasses and a block of stone which served as a table. In one day I earned 400 rupees, and so I started re-investing. I now have a grocery shop at the entrance of the camp, which is worth 80,000 rupees. The greatest challenge for me has been to become, and to be accepted as, an independent woman."

But refugees also share their fears about returning with no prospects for earning a livelihood. They have been warned by other

returnees that unless they have sufficient capital and the capacity to start a business, it would be better to delay their return.

Access to education: Another concern is the uncertainty refugees have about the prospects for their children's education. For example, refugees would like their children to finish their education in India, since opportunities for access to higher education in Sri Lanka seem unfavourable for Tamils. There are three universities in the north of Sri Lanka, which are far away from the homes of many returnees and, while many Sinhalese Sri Lankans are admitted, Tamils face ethnic discrimination. Only those Tamil returnees who can secure support from abroad are able to access higher education for their children in private institutions.

Security and the monitoring of safety conditions: According to UNHCR, every refugee who returns through facilitated repatriation, as well as those who go back spontaneously but who register with UNHCR, should receive one year of protection monitoring.³ Despite this, returning refugees – particularly those who fled the atrocities towards the end of the war in 2009 – have expressed fear for their safety, including fear of being seen as having connections to the Liberation Tigers of Tamil Eelam (LTTE).

Recommendations

There are many subtleties that need to be considered in either a repatriation or an integration plan. For these to be understood, the actors involved must listen more closely to the refugees' hopes, fears and aspirations which, alongside international standards governing return, can then help shape a framework of response and principles of action. Only then will the refugees be able to return in dignity and safety. The following recommendations summarise some of the actions that would contribute to this.

UNHCR should act as a consultant to the Indian government to assist it in formulating a strategic plan to grant citizenship to those refugees who wish to remain and integrate in India. Many of the refugees, particularly the Plantation refugees, wish to become Indian citizens in order to avoid becoming stateless. By granting citizenship, the Indian central and state governments could close the refugee camps in Tamil Nadu, saving the government US\$17 million annually – money that could be invested in helping refugees to set up small businesses in order to facilitate their integration, and these development schemes could also benefit local Indian communities.

In collaboration with the Sri Lankan government and the NGO community, UNHCR should also create a responsible repatriation plan that addresses physical security and access to land and livelihoods opportunities, and facilitates reintegration into and continuity of education (including higher education). This would include the recognition of qualifications and accreditation of teachers and students who have been educated in India. Skills training opportunities for youth, including boys, need to be increased. Young refugees need information on employment opportunities in Sri Lanka, and skills training programmes need to be reoriented from traditional skills to build competency in computing, health, education and other such sectors. And those refugees who are planning to return should be helped to identify where they can access good training opportunities in Sri Lanka.

The need for reconciliation should be integrated into all programmes and activities undertaken in Sri Lanka through peace

education in formal or informal settings. Local and international organisations, in collaboration with religious and community leaders, can build trust and promote reconciliation not only between Tamil and Sinhalese communities but also between returnees and host communities. The issue of land ownership should also be given priority. A supranational body – bringing together donors and UN agencies – needs to persuade the Sri Lankan government to give land back to returnees in order to avoid tension and potential conflict.⁴

The security situation for Tamils in Sri Lanka has certainly improved but the Indian government and donor governments should encourage the Sri Lankan government to further improve security conditions and reduce discriminatory practices. UNHCR should systematically monitor the protection of returnees, including their access to land and livelihoods – which if unaddressed can be a source of potential tension and yet has the potential to be the basis for a real and sustainable solution. It should also ensure that the rights of returnees are respected and that safety and non-discrimination are assured when accessing social services.

If coordination is made a priority and these multiple viewpoints are considered, then refugees will be able to build a better life for themselves and their families, whether they choose to remain in India or opt to return.

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1. UNHCR (2016) *Sri Lankan Refugee Returnees in 2015* www.unhcr.org/en-lk/5bbb31064.pdf

2. All quotes come from interviews conducted by the author with refugees (not named, for security reasons).

3. UNHCR (2016) *Sri Lankan Refugee Returnees in 2015* www.unhcr.org/en-lk/5bbb31064.pdf

4. As was done in Rwanda. See Bruce J (2007) *Drawing a line under the crisis: Reconciling returnee land access and security in postconflict Rwanda*, HPG bit.ly/ODI-Bruce-2007

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Syrians in Germany: individuals' reasons for returning or remaining

Ahmad Al Ajlan

Syrian refugees in Europe are not one homogenous group but are individuals and families from different parts of Syria who have different experiences in exile and different expectations around return.

Research undertaken with Syrian refugees in Germany suggests that those refugees who were employed in Syria – particularly by the government – are more likely to return than others.¹ This is particularly so for those who are older than 40, because they tend to have more difficulty than younger refugees in learning the language of their host society and finding a job to match their level of education. Furthermore, those who are able to return to their former jobs can more easily resume their lives in their home countries. This group of refugees also feels more uprooted from their culture and yearns to regain their former lives.

However, it may be harder for other Syrian refugee groups to return voluntarily and with dignity. For instance, according to the Federal Office for Migration and Refugees in Germany almost three quarters (73.8%, 532,799 persons) of asylum seekers in Germany in 2016 – including Syrians – are younger than 30. Most of them have received education and training in Germany and have learned German; many are earning good salaries and feel integrated into German society. Yet none of their qualifications will be of use to them in Syria. This group of refugees is therefore unlikely to want to return. Many of these young Syrian refugees who are now earning in Germany would, by Syrian standards, have been considered to be poorly educated, and would have had very difficult lives even before the war, often doing hard physical work in construction or agriculture. After enjoying safety, social and health insurance, and – most importantly – dignity in Germany, they are unlikely to choose to return to Syria.

In terms of voluntary return with dignity, the situation of refugee children – especially those born in Germany or who were younger

than seven when they arrived – seems to be the most difficult. These children have integrated fully into the host education system and cannot read or write Arabic. In some cases, refugee children can only speak the dialect of their parents (and not the standard Arabic language used in Syrian schools) while others cannot even speak their parents' dialect. In reality, many of them identify more as citizens of the countries where they now live, not of the country where their parents came from. It will be difficult for them to return to Syrian society and its education system. If categorised simplistically as Syrians due to the citizenship of their parents, they are likely on return to Syria to struggle with their studies and feel alienated. This will be in contravention of the Convention on the Rights of the Child, especially General Comment 6: "States shall not return a child to a country where there are substantial grounds for believing that there is a real risk of irreparable harm to the child."²

Syrian refugees in Europe are not one homogenous community, and applying one undifferentiated return policy to them all will be harmful to many, especially children and less educated younger refugees. Considerations of people's life stage and circumstances in exile need to be better understood and taken into account in order to ensure appropriate, voluntary, sustainable solutions to their displacement.

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1. See Al Ajlan A (2019) 'Older Refugees in Germany: What Are the Reasons for the Difficulties in Language-learning?', *Journal of Refugee Studies* [bit.ly/JRS-AIAjlan-2019](https://doi.org/10.1080/0898/1919)

2. Convention on the Rights of the Child, General Comment No 6 (2005) www.ohchr.org/en/professionalinterest/pages/crc.aspx

Working with ‘stayee’ communities: learning from Eritrea

Georgia Cole

Better understanding of the perceptions and living conditions of the communities into which returnees will arrive may facilitate better integration of those returning from displacement.

In the Eritrean context international organisations, governments and academics have placed increasing emphasis on the importance of diaspora engagement in peace- and State-building operations, and on population return as a catalyst for development. The prevailing economic and political situation at the point of return is seen as a critical determinant of whether diaspora groups can return and successfully re-engage in home country politics. UN documents championing the return of qualified nationals to Eritrea, and as revealed by my own conversations with staff promoting such projects within the country, have thus prioritised approaches that maximise diaspora satisfaction and ensure that State-run institutions can absorb these individuals. What these documents rarely consider, however, are how the approaches they advocate might affect the population resident in Eritrea – or how the social landscapes into which individuals will arrive, and the nature of relations between citizens inside and outside Eritrea, might shape the efficacy of return operations.

These resident communities are often viewed in purely instrumental ways. How, for example, can they be encouraged to facilitate the smooth reintegration of returnees? How can they be incentivised to make space for returning refugees and internally displaced people (IDPs) to engage in processes of peace building, national reconstruction and reconciliation? And how can they be sensitised to see returnees’ success as positively correlated with their own?

Bringing this population back into the picture first requires the adoption of frameworks that acknowledge the full array of actors involved in return processes. Empirical work has highlighted that

returnees’ reintegration often rests on whether they successfully negotiate with ‘local power holders’ for legitimacy, rights, opportunities and acceptance.¹ The ability and willingness of all citizens to positively engage with this process are critical.

Furthermore, research on how and why to support refugee host communities indicates that humanitarian concerns around displacement and mobility must not be considered in isolation from broader development agendas, which have traditionally provided more space for social and societal perspectives. Within this sphere, host communities are a vital constituency in their own right.

Political, practical and ethical challenges

Eritrean ‘stayees’ did draw considerable attention in the 1990s and early 2000s when hundreds of thousands of refugees who had fled during the country’s liberation struggle and its 1998–2000 border conflict with Ethiopia returned, the majority without international assistance. They returned to areas where the violence and destruction had been most acute, and where the local population was surviving amid unexploded ordnance, razed farmland and decimated infrastructure. Nonetheless, the returnees’ reintegration progressed without significant tensions.² Key to this was that neither the returnees nor the stayees criticised the others’ conduct, either during the fighting or upon return. Mutual bonds of solidarity and goodwill were strong, as were perceptions of each group as bringing opportunity. There was also a strong focus on meeting the needs of the population that had remained in Eritrea, due to both the post-liberation government’s commitment to ensuring human security for all Eritreans

and an intellectual community whose work on Eritrea drew significant attention to this frequently overlooked dynamic.

Recent research with Eritreans in its capital Asmara and in the diaspora, however, reveals a host of factors that may complicate future return, and that highlight the political, practical and ethical reasons for placing greater emphasis on the situation of the 'stayee' communities.³ First, the population that now resides outside Eritrea is composed of groups with very different histories, including refugees and migrants who did not return to Eritrea when it gained independence, second- and third-generation Eritreans, and individuals who have claimed asylum in the post-independence period. Their differing political sympathies have a considerable impact on their relationship with Eritrea and its government, and on how the population within the country – in itself politically heterogeneous – relates to them.

The majority of people in Asmara harbour deep disappointment with the country's ruling party and those individuals who continue to support it. They consider that actions by members of the diaspora who support the government – actions such as staging international rallies in praise of the People's Front for Democracy and Justice (PFDJ), Eritrea's ruling political party, and sending money to the government through its diaspora tax⁴ – have helped to sustain this regime. Interviews in Asmara have revealed that individuals are concerned about the return of the pro-government diaspora because of the returnees' political views and the perceived inflexibility with which their views are held.

Second, although people in Asmara noted that the return of the diaspora might give rise to certain economic, political and emotional benefits, there was some trepidation that these would be at the expense of the country's current entrepreneurial class. Given restrictions on freedom of movement for those who remain in Eritrea (including difficulties in gaining the exit visas needed to capitalise on scholarships and jobs abroad), clear hierarchies of access exist between those within and outside the country. My

respondents felt that the opportunities and resources accorded to the diaspora – including savings, business connections, work experience and good-quality higher education – may allow the population in exile to monopolise the most lucrative jobs and opportunities in a liberalised Eritrea.

An opposing but parallel concern related to how the country will economically and socially assimilate some of the new generation of Eritrean refugees if they choose to return. Many left to avoid national service, which meant leaving Eritrea before completing school. Even those with professional skills have struggled to find work that has matched their qualifications due to restrictive migration and asylum policies in exile. It is unclear how the country will accommodate this population, whose wealth and educational profiles have been stunted by exile.

Peacebuilding and reconciliation

Additionally, opposition factions within the population in exile appear to have developed ideas about the country's political future that support but do not necessarily include the diverse views and experiences of those within the country. Following the 2018 peace deal between Eritrea and Ethiopia, and its failure to translate into substantive political reform, there has been a renewed fervour among the opposition diaspora to begin planning for a post-PFDJ Eritrea. These groups have discussed how to expedite the ruling party's decline and how to prepare for the period of political transition that would follow. Calls have been made to organise professional associations, to write legal codes to anchor the country during transition and then serve as antecedents for a new legal system, and to identify individuals in the diaspora who could assume leading roles in a post-PFDJ political system.

The challenge nonetheless lies in how to reconcile the aspirations of these diasporic opposition groups with those who remain inside the State's borders. Dominant representations of Eritrean citizens as being cut off from political debate and good-quality higher education have

contributed to a sense that the population within the country can agitate politically but not necessarily articulate an alternative political programme. The result has been that certain diaspora initiatives appear distanced from the ideas and aspirations of citizens within Eritrea about political change and the parts they wish to play in that. Processes of return have tended to focus on supporting and ensuring the political enfranchisement of repatriating populations, while taking for granted that the 'stayees' enjoy a degree of political representation. In places like Eritrea, this approach may compound the marginalisation already experienced by those within the country.

Prioritising the views and experiences of returnees over those of the population who have remained does little to establish the conditions of dialogue, inclusion and mutual respect that are integral to successful peacebuilding and reconciliation. Programmes of return should ensure that they do not create hierarchies by assigning resources to either group based solely on institutionalised categories of vulnerability – such as refugee or returnee. Practically, 'whole-of-society' approaches are increasingly

embraced by international organisations and donors because of a recognition that the impacts of displacement are not only felt by those on the move. Assistance and support are therefore being made available to host communities as well as to displaced persons in the hope of boosting general development opportunities, reducing possible friction and expediting integration. Adopting such models in the country of origin may yield similar benefits at the point of return.

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Repatriation principles under pressure

Jeff Crisp

The laws and norms established by the international community to ensure that organised repatriation takes place in a way that protects the rights of refugees are increasingly being violated.

In June 2019, the Associated Press news agency reported that "the Lebanese authorities are making their most aggressive campaign yet for Syrian refugees to return home.... they have had enough of the burden of hosting the highest concentration of refugees per capita in the world."¹ Explaining the country's position, Foreign Minister Gebran Bassil has argued that most Syrians remain in Lebanon for economic rather than protection reasons, noting that there are half a million Syrians working in Lebanon in breach of labour laws who are not being repatriated.

While Bassil went on to say that there should be a gradual return for those willing to go back, just two days later the Lebanese army threatened to destroy the homes of some 25,000 refugees living near the border town of Aarsal, ostensibly because they were in violation of government regulations that forbid Syrians from erecting concrete structures. Responding to these events, a UNHCR spokesperson stated that "this situation adds to the financial burden of refugees, at a time when we know most of them live in

poverty”, and said that the agency would provide those affected with new building materials such as tarpaulins and wood.²

Such disturbing developments are by no means confined to Lebanon. The international community has established a longstanding set of laws and norms that are intended to ensure that repatriation takes place in a way that protects the rights of refugees. In practice, however, host and donor States, sometimes with the involvement of the UN, have increasingly acted in ways that violate those rights.

Laws and norms

Over the past 70 years the international community’s approach to refugee repatriation has been codified in a number of documents. These include: the 1951 Refugee Convention; regional instruments such as the 1969 Organization of African Unity (OAU) Refugee Convention; a series of Conclusions on International Protection from the UN Refugee Agency (UNHCR) Executive Committee (known as ExCom Conclusions); and UNHCR’s *Voluntary Repatriation: International Protection* handbook.³ These documents set forth a series of underlining principles.

First, the OAU Convention states that “the essentially voluntary character of repatriation shall be respected in all cases”; in other words, refugees must be able to make a free and informed choice about returning to their country of origin, and must not be subjected to any physical, material or psychological pressure to leave their country of asylum.

Second, repatriation must take place in a safe and dignified manner. Refugees must not be coerced, physically forced to move or have their security threatened. They must be able to return at their own pace, without being separated from family members and, as the UNHCR handbook states, should be “treated with respect and full acceptance by their national authorities”.

A third repatriation principle concerns the need for repatriation movements to be effectively coordinated, usually through the establishment of Tripartite Commissions involving the host State, country of origin and UNHCR. In this context, UNHCR is

charged with representing the interests and concerns of the refugees and with ensuring that the process of return is conducted with full respect for their human rights.

Fourth, the international community has agreed that UNHCR should actively promote and encourage the return of refugees only in situations where fundamental changes have taken place in their countries of origin. This would normally be signified by, for example, a change of government, democratic elections, the presence of a UN peacebuilding operation and the restoration of the rule of law.

Fifth, over the past three decades the international refugee regime has assumed much greater responsibility for refugees once they have returned. According to UNHCR, repatriation must be linked to reintegration and be sustainable in nature, meaning that returnees should be able to exercise their full range of economic, social, civil and political rights, including that of establishing secure livelihoods.⁴

Finally, States and UNHCR have agreed on the need to pursue a comprehensive approach to durable solutions, involving a combination of voluntary repatriation, local integration and third-country resettlement. In any refugee situation, all three solutions should be pursued, the balance between them being determined on a case-by-case basis.

Repatriation realities

The principles of refugee repatriation are thus quite clear. But to what extent have the standards agreed by the international community been respected in practice? Regrettably, the historical record has been patchy, and in the contemporary context these standards are coming under mounting pressure.

Despite its declared commitment to a comprehensive approach with respect to durable solutions, the international refugee regime has increasingly regarded repatriation (normally but not necessarily on a voluntary basis) as the optimal and preferred outcome. It is not difficult to explain why. Host States in developing regions of the world do not want the indefinite presence of refugees on their territory, and in most cases are

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adamant that refugees should not be given the option of local integration. Donor countries are keen to bring an end to protracted refugee situations and expensive long-term assistance programmes, while countries of origin are often eager to bolster their legitimacy by demonstrating that their exiled citizens are prepared to vote with their feet by returning to their homeland.

As for UNHCR – an agency funded and governed by States, and thus highly sensitive to their concerns – it became a prime objective to get as many refugees home as possible, thereby demonstrating the organisation’s usefulness to its primary stakeholders. Thus the 1990s were declared by High Commissioner for Refugees Sadako Ogata to be “the decade of repatriation”, while in the 2000s the organisation began setting annual and even monthly repatriation targets for some of its larger country programmes.

In this context, the notion that repatriation should be strictly voluntary, safe and dignified in nature has been increasingly set aside by actors in the international refugee regime, with varying forms and degrees of coercion being used to trigger and sustain mass repatriation movements. Such was the case with respect to the return of 200,000 Rohingya refugees from Bangladesh to Myanmar in the early 1990s, the repatriation of some 350,000 Rwandan refugees from Tanzania in 1996, and the so-called ‘orderly return’ of 40,000 Burundian refugees from Tanzania in 2012. More recently, the repatriation of Afghan refugees from Pakistan and Iran and of Somali refugees from Kenya have all entailed various types of intimidation and coercion. These include reductions in assistance levels, the threat of camp closures, and day-to-day harassment by government officials.

The last decade has also witnessed mounting efforts on the part of industrialised States to return refugees and asylum seekers to their countries of origin, either by means of deportation or through Assisted



UNHCR/Andrew McConnell
Afghan refugees at a UNHCR repatriation centre in Nowshera, near Peshawar, Pakistan, in 2018.

Voluntary Return programmes in which they are provided with financial incentives to go home. Needless to say, this has sent a strong message of support to host countries in developing regions that wish to ensure the departure of the refugees on their territory.

States now insist that repatriation should take place much more quickly after refugees have arrived in a country of asylum, even if there has not been a fundamental change of circumstances in their country of origin. In November 2017, for example, Bangladesh, Myanmar and key UNHCR donors such as the European Union began to examine the options for repatriating 700,000 Rohingya refugees, just four months after they fled atrocities in their homeland and at a time when large-scale displacement was still taking place.

Similarly, the last two years have witnessed a growing international effort to plan and prepare for large-scale refugee returns to Syria, despite the Assad regime remaining in power, the continued presence of its Russian and Iranian allies in the country, and the widespread prevalence of violence and human rights abuses.

Serious questions have been raised with respect to UNHCR’s role as an intermediary in repatriation negotiations and as the guardian of refugee rights. Under pressure from host and donor States, the organisation has looked for new ways to encourage and promote returns, including the payment of sizeable repatriation grants to refugees who receive only limited amounts of assistance and many of whom have accumulated substantial debts.

There is also evidence to suggest that UNHCR has failed to sufficiently engage with and understand the concerns of refugees in the context of return. This was demonstrated most starkly in November 2017, when the organisation signed a secret Rohingya repatriation agreement with the government of Myanmar.⁵ More generally, the 2018 Global Compact on Refugees makes clear UNHCR's position that "voluntary repatriation is not necessarily conditioned on the accomplishment of political solutions in the country of origin".⁶ Given all these developments, it is therefore not surprising that Lebanon feels free to engage in bilateral discussions with Damascus and Moscow about the return of refugees to Syria, and to complain about UNHCR obstructiveness when the organisation suggests that conditions in Syria might not yet be amenable to large-scale repatriation.

Policy and programme responses

The forces that have undermined the established principles of refugee repatriation are deeply entrenched and seem highly unlikely to disappear in the foreseeable future. There are a number of steps, however, that could be taken to halt (and hopefully even reverse) the deterioration in repatriation standards that has been witnessed in recent years.

First, UNHCR should uphold the principle that repatriation must be voluntary, safe and dignified, and based on the premise of fundamental and lasting changes in the country of origin. The organisation has a clear responsibility in this respect, and must do so even if this complicates its relationship with host and donor States. If the organisation is put under pressure to engage in a repatriation operation which does not meet the standards set out in its own voluntary repatriation handbook, it must either decline to do so or be completely transparent about the nature of and rationale behind its involvement.

Second (and in this respect the Global Compact on Refugees might have a valuable role to play), there is a need to move away from the notion of repatriation as the preferred outcome and to revert to a more

comprehensive and diversified approach to durable solutions. This will entail the more systematic identification of situations in which at least part of the refugee population might benefit from local integration. It will also require an effort to find new resettlement places to fill the gap left by the significant cuts recently made by the US government to its quota. New solutions will need to be devised and alternative pathways established. These may include self-reliance initiatives that fall short of full local integration; humanitarian visas and corridors; family reunion and labour mobility programmes; educational scholarships; and regional freedom of movement arrangements.

Third, the repatriation process should become much more participatory and inclusive. While it is unlikely to be an easy task, UNHCR should try to convince States of the need to establish Quadripartite Commissions, in which refugees are granted a form of structured representation. To facilitate this approach, which has never been tried in the past, the agency should also examine the ways in which such representation might be most effectively and equitably organised.

Fourth, after decades of discussion, the World Bank and other development and financial actors have recently become much more enthusiastically engaged with refugee issues – initially in those countries neighbouring Syria but now also in other locations such as Bangladesh and Ethiopia. This involvement is not without danger. On one hand, there is a risk that the involvement of development actors will not be as extensive or sustained as many other stakeholders currently hope and expect it to be; on the other hand, there is a risk that the humanitarian sector will regard the engagement of development actors as a panacea to its chronic difficulties, especially funding gaps and short-term programme cycles.

However, at the same time the shift towards a more developmental approach promises to have several important advantages. It could reduce the economic and environmental pressures felt by countries and communities that host large numbers of

refugees, thereby reducing their propensity to press for involuntary and premature repatriations. It could provide refugees with more secure livelihoods and better living standards in their countries of asylum, enabling them to plan and prepare for their eventual repatriation, should they choose that option. And if applied to countries of origin where a fundamental change of circumstances has taken place or is in progress, a developmental approach could provide returnees and resident populations alike with an opportunity to rebuild their lives and re-establish their relationships, thereby ensuring that repatriation is sustainable in nature.

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Durable solutions for returnee children

Stefanie Barratt, Marion Guillaume and Josiah Kaplan

Durable solutions frameworks for measuring progress towards sustainable return and reintegration fail to specifically consider children's different needs and experiences.

In 2017, over 68 million people were forcibly displaced, over half of whom were below 18 years of age; in that same year, close to 670,000 refugees and 4.2 million IDPs returned to their places of origin. Despite robust legal conventions and frameworks protecting children's rights during and after return, it is clear that countries around the world are failing to uphold them. Furthermore, few actors gather child-specific data or follow up on child returnees, which makes it difficult to understand how – and where – returnee children are being failed, and how to address these failures.

Children have distinct vulnerabilities both physically and in terms of their psychosocial well-being, and often have less opportunity to express their own agency in decision making around migration choices. These age-specific vulnerabilities can compound the already considerable risks faced by all returnees. In recognition of their particular needs, and complementing Article 33 of the 1951 Refugee Convention regarding *non-refoulement*, the Convention on the Rights of the Child (CRC) indicates: "States shall not

return a child to a country where there are substantial grounds for believing that there is a real risk of irreparable harm to the child."¹

Returnee children should enjoy, among other factors and without discrimination, access to safety, an adequate standard of living, livelihoods, housing, documentation and access to justice as part of any durable solutions and sustainable reintegration. Commitments made by the international community towards enabling such rights, however, are only as good as the ability to verify progress towards achieving such conditions. Tools to measure and analyse progress towards sustainable return and reintegration have been developed, with common criteria defined by the Inter-Agency Standing Committee (IASC), but existing guidelines and frameworks do not contain indicators specifically tailored to measure the needs of children.

To address this gap, Save the Children has developed a new set of child-specific indicators to complement existing return and reintegration frameworks including, importantly, a new mental health and

psychosocial safety dimension, focusing on children's rights to play and socialise, their agency, their mental health and the availability of professional support.² Applying this framework, Save the Children and Samuel Hall conducted research in 2018–19 to ascertain the situation faced by children returned to four contexts: Syria, Iraq, Somalia and Afghanistan.³ What emerges is a somewhat bleak picture: returnee children are slipping through the cracks, with little attention paid to their needs and little information collected about them.

Data and gaps

In the four return contexts examined, the lack of physical safety that was a root cause of people's initial displacement remains largely unchanged. Syria, Iraq, Somalia and Afghanistan are marked by indiscriminate violence, and physical abuse of children is common. Available evidence reviewed in our research indicates that returnee children are more likely than non-displaced children to experience detention and trafficking – particularly in Syria and Iraq. Data disaggregated by age and migration background do not exist regarding key indicators for physical safety, including child marriage and child labour.

Children who are unable to return to their original dwellings and are forced instead to live in temporary shelters or urban slums often struggle to access safe water and sanitation compared with non-displaced children. Comparatively lower nutrition indicators (among all returnees) are frequently a result of returnees' inability to access agricultural land. Health care is in a dire state across all four return contexts, with high infant mortality and low vaccination rates, but health-related data disaggregated by age and migration status are not routinely collected. In contexts where access to education is generally low, returnees face added difficulties such as their inability to cover school fees or their lack of identification documents.

In all four locations, returnee children appear to suffer clear comparative disadvantages in access to legal safety, legal

identity, a functional judiciary, and freedom of movement. Compared with non-displaced children, they also experience higher levels of separation from families or guardians.

Returnee children also face comparative disadvantages in the provision of mental health support, although the impact of this gap on their psychological development is insufficiently measured or understood at present. Returnee children are consistently unable to access a nurturing and supportive social network or safe play environment. Many child returnees face psychosocial challenges which pose fundamental risks to their well-being, and professional support for these challenges is scarce to non-existent.

Implications

Knowledge and evidence gaps: Our research highlighted the pervasive lack of data and standards regarding return and reintegration conditions for children worldwide, and an urgent need for investment in improved data collection systems. In particular, we found a dearth of age-disaggregated data. Existing research on returned children is generally limited and anecdotal. The absence of such reliable data makes it impossible to establish baselines and measure progress in determining when and where children and their families have successfully reintegrated in their countries of origin. This in turn limits accountability, and poses challenges for those actors, including non-governmental organisations (NGOs) and government ministries, who should act as duty bearers for children. Without better data, designing and implementing effective programming for the safe return and, in particular, the sustainable reintegration of children is difficult. Conversely, the evidence gap challenges the ability of governments and other stakeholders to credibly claim that conditions for the safe and dignified return of children are, in fact, in place.

Basic protection standards are not in place: We see children returning to environments that do not enable them to fully access rights guaranteed in the CRC, including the right to

protection, education and health care. In other domains such as physical and material safety, available data point to many similarities between returnee and host children. This lack of differences, however, cannot be invoked to justify the return of children if a return context remains unsafe in the first place.

Lack of sustainable support post-return:

Many returning countries perceive their legal responsibility as ending when children arrive in their country of origin. There is limited communication between actors involved in returns, such as migration agencies, embassies, government authorities and NGOs in countries of return. Finally, benefits provided to voluntary returnees (such as in-kind support) are often given at the family level, not necessarily benefiting children.

Lack of pre- and post-return support: Our findings also draw attention to a broader lack of focus and investment of resources for both pre-return support and longer-term post-return reintegration support within the broader returns debate. This gap is manifested, in part, by a widespread lack of accountability relating to the absence of adequate measurement of reintegration outcomes, and by the insufficiency of existing standards to guide rights-based returns and reintegration work.

Recommendations

Children should not return until the standards for their safe and dignified returns can be met. Mechanisms must be in place to set standards and measure progress, to ensure that children and their families are achieving durable solutions following their return.

Migration-mandated actors and child protection agencies must work together in establishing minimum standards for rights-based child returns and reintegration. Moving beyond recognition of this point, however, the real work involves addressing practical, technical questions of how to further develop and gain support for implementation of indicators for measuring progress towards child-friendly returns environments. These indicators must relate

to data that can realistically be collected in challenging real-world displacement contexts. This methodological discussion requires collaborative engagement between displacement-mandated stakeholders, academia and the wider research community.

It is essential to view returns as a process, not a single event, and to guarantee the rights of children through the entire return journey. A lack of adequate support can have impacts measured not just in years but in decades, which in turn has substantial long-term implications for the wider country, regional and even global contexts. Framed in this sense, supporting preparation before and sustainable reintegration after return is a necessity – not just an ‘add-on’ to established returns programming.

At the same time, we must recognise that millions of displaced people routinely self-organise their returns – and that such returns often take place before safe and conducive reintegration conditions exist on the ground. The decisions made by these ‘spontaneous’ returnees are driven by a complex mix of inter-related motivations. A clear research priority here is understanding the role of children in complex collective decision-making processes, and the impact these decisions have on their well-being.

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Syrian refugees' return from Lebanon

Tamirace Fakhoury and Derya Ozkul

Analysis of return practices in Lebanon reveal challenges to voluntary, safe and dignified return.

As the Assad regime regains control in most parts of Syria, Syrian refugees are under increasing pressure to return from neighbouring countries including Lebanon. Analysis of the complex political landscape and of current return practices, however, shows that much needs to be done to ensure Syrians can return voluntarily in safety and dignity.

Although Lebanon continued its visa-free policy for Syrians in the initial stages of the war, the tension between political parties and between Syrians and the local population rapidly intensified. Some municipalities began imposing curfews on Syrians as early as 2014 and Lebanon has increasingly applied harsher border management policies. In January 2015, Lebanon terminated its visa-free policy and instructed the UN Refugee Agency (UNHCR) to stop registering Syrian refugees. The government's General Security Offices (GSO) largely continued to allow women and children to obtain residency permits free of charge if they had UNHCR refugee certificates but required men to sign a pledge not to work in Lebanon. The GSO has applied these practices inconsistently but in general the only way for men to obtain a residency permit has been to have a Lebanese sponsor (*kafeel*). Applying for a residency permit through a sponsor costs US\$200 per year for each person over 15 years old in the family.¹ Difficulties in obtaining documents and paying fees have pushed the majority of Syrians residing in Lebanon into illegality.

Displacement from Syria has upset Lebanon's multi-sectarian political system which governs its 18 different communities. Political parties have not been able to develop a unified response either in relation to Syria's conflict or to asylum policy making. Some Lebanese factions have stressed that the presence of Syrian refugees, who are mostly Sunni, changes Lebanon's demographics and threatens the fragile power-sharing

equilibrium between Muslims and Christians. As soon as the Assad regime seemed to have gained the upper hand in Syria's war, Lebanon's key political figures rushed to call for the return of Syrian refugees and promoted return by applying harsher containment measures. Municipalities and the GSO started enforcing stricter laws that have significantly restricted Syrians' access to employment and housing, and have reduced their livelihood opportunities.

Lebanon's political parties agree that displaced Syrians should return but there is no consensus around which actors should facilitate the process, the timing of such a process, and under what conditions return ought to take place. In recent years, a deep division regarding whether or not the government should facilitate returns while normalising its ties with the Syrian regime has paralysed negotiations over a unified refugee return plan. Competing positions are largely the result of Lebanese actors' varied geopolitical agendas relating to the war in Syria. Parties that have seen the 2011 uprisings as an opportunity to dismantle the Assad regime perceive coordination with the regime on refugee return as bolstering its position, while those Lebanese actors that have sided with the Syrian regime perceive coordination with Syrian authorities as a signal to the international community that the regime has indeed regained control over its territory.

Channels for return

Within this climate, small-scale returns to Syria have been taking place through a variety of channels, facilitated by a proliferation of formal and informal Lebanese actors. Syrians can apply for return – pending approval from the Syrian government – at registration centres across Lebanon that are coordinated by the GSO. As criteria for approving pending applications remain mostly opaque, however, human rights organisations have

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www.fmreview.org/return

decried the secrecy under which such claims are processed. To encourage applications for return, the GSO has formulated some incentives such as revoking the 'exit' fees that potential returnees must pay if they previously had any period in which they did not have residency permits in Lebanon. According to the GSO, around 170,000 Syrian refugees have so far 'voluntarily' returned.² At the border, the GSO stamps each passport to state that its owner is banned from returning to Lebanon for a period of time that is often unknown to refugees.

Some political parties have also set up their own committees to study refugee return conditions and process applications. Although these committees may coordinate with the GSO, they form networks which offer alternative pathways to repatriation. In July 2018 Hezbollah (a Shia political party that had already in 2017 coordinated the repatriation of thousands of Syrian refugees) established a return programme with contact centres and task forces across Lebanon where return procedures were explained to refugees and their cases studied. In 2018 the Free Patriotic Movement, the largest Christian party in parliament, created its own local refugee return committee to inform refugees about return pathways and facilitate returns to

Syria's so-called safe zones in coordination with the GSO and municipalities.

Informal actors such as local committees and religious actors close to the Syria–Lebanon border have also initiated small-scale returns, liaising with Lebanese political parties and networks on both sides of the border. The European Union and UNHCR have warned against all return operations, noting that conditions in Syria are still not conducive to return, and insisting that returns must be voluntary and take place in safety and dignity. However, they have not been able to influence realities on the ground. In 2018, Lebanon's Ministry of Foreign Affairs accused UNHCR of seeking to dissuade refugees from returning and of encroaching on Lebanon's sovereign decision making. UNHCR has been informally monitoring returns at border crossings although it has no authority to intervene. There is no other independent monitoring at borders to ensure that returns are indeed voluntary.

Prospects for return

On 13 May 2019 the GSO issued a statement that all Syrians who entered Lebanon irregularly after 24 April 2019 would be deported, in contravention of the principle of *non-refoulement*. Recent reports show

that Syrian refugees registered with UNHCR were forced to sign voluntary return forms, and at least three returnees were detained upon arrival in Syria.³ Moreover, the 13 May decision imperils those refugees who were already living in Lebanon and who had entered the country irregularly. Those who do not have official proof of entry before April 2019 are at risk of being deported at any time.

Despite the myriad challenges that Syrian



Syrian refugees inspect the flooding in Dalhamiya informal settlement camp in Lebanon following heavy storms in January 2019. More than 150 informal sites were affected, putting 70,000 refugees at risk. "We cannot sleep at night. It has been three days like this," said one woman.

refugees face in Lebanon, their imminent return still appears unlikely. In a recent study conducted in various parts of the country,⁴ none of the interviewees was planning to return. The most cited reasons were military conscription for men in the family, lack of housing and employment in places of origin, feelings of being settled and/or invested in Lebanon, single women's lack of child custody rights in Syria, and refusal to live under the Assad regime. Lebanon needs to devise longer-term protection mechanisms for Syrian refugees; the current push for their return will only increase the deprivation suffered by refugees and compromise Lebanon's adherence to human rights instruments.

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Encouraging Syrian return: Turkey's fragmented approach

Zeynep Sahin Mencutek

Turkey's approach to encouraging refugees to return to Syria risks jeopardising the safety and voluntariness of such returns.

Turkey's initially welcoming approach when the first Syrian refugees began arriving in early 2011 was justified by the government as a temporary emergency response to a humanitarian crisis. From mid-2014, however, as the numbers continued to rise, and with no apparent end in sight to the Syrian crisis, the Turkish government adopted a more restrictive approach. This includes a temporary protection status for Syrians that permits access to education, health and social services, and the labour market, and – since mid-2016 – some support for limited integration and voluntary return. Research shows, however, that its fragmented returns framework calls into question the safety and voluntariness of such returns.¹

The returns framework

Although Turkey has put in place formal means by which Syrians can apply to return, the approach as a whole is fragmented. Its Directorate General of Migration Management (DGMM), the principal national

migration agency, cites Turkey's 2013 Law on Foreigners and International Protection and the Temporary Protection Directive of 2014 – both of which state that DGMM will provide in-kind and monetary support to those who apply for voluntary return – as the basis for the legal framework around returns. Legally speaking, the DGMM is expected to cooperate with the authorities in countries of origin, as well as with other public institutions and agencies in Turkey, international organisations and civil society. In practice, the only cooperation DGMM has formalised is with other Turkish State actors. It has signed no bilateral or multilateral readmission or tripartite agreements to facilitate Syrian returns, which would require the involvement of the UN Refugee Agency (UNHCR) and Syria's current government.

DGMM is legally required to seek a formal application from returnees, via provincial branches, and the voluntary return paperwork must have four signatures: from the returnee, a State officer, a translator

and a UNHCR officer – or, if the latter is unavailable, a representative from an authorised non-governmental organisation (NGO). Currently, UNHCR has elected not to be involved in returns and so Turkish Red Crescent representatives are signing voluntary return paperwork.²

In the densely Syrian-populated Esenyurt municipality in Istanbul, the municipal authorities organised a return campaign in 2018 whereby 3,724 Syrians returned. For 2019, the municipality has a target of returning 25,000 Syrians. After arrival at the border, returnees are assisted by two Turkish agencies working inside Syria, who escort returnees to cities under Turkey's military control.

Encouraging returns

The first tactic currently deployed to encourage returns is to facilitate temporary 'go-and-see' visits of up to three months, during religious festivals, whereby refugees can assess conditions in Syria and check on their vacated properties. If they wish, they can choose to remain in Syria. During this period, the DGMM does not cancel their protection status, only revoking their status if Syrians fail to return within the permitted period. Considerable numbers of returns occurring under this strategy indicate its efficiency. According to government sources, in 2017 40,000 Syrians – some 15% of those who made go-and-see visits – remained, and in 2018 57% of the 252,000 Syrians undertaking go-and-see visits remained.

These substantial rises in returns also reflects Turkey's north-west Syria policy. Turkey legitimised two unilateral cross-border operations: Operation Euphrates Shield (August 2016–March 2017) and Olive Branch (ongoing from 2018) on the grounds of fighting terrorism and of defence against attacks from the Syrian Kurdish People's Protection Units (YPG) and ISIS militants in Syria. The international community, however, has seen these operations as belligerent and a violation of Syrian sovereignty, although it has taken no real action to stop the military incursions and Turkey now controls the border and north-west Syria.

The Turkish government has also financed a unilateral post-conflict reconstruction agenda. Turkish agencies, cooperating with local Syrian actors, have provided services in camps for internally displaced Syrians and rebuilt hospitals, schools, mosques, universities and other infrastructure in Syrian towns. Many Turkish State agencies have established branches across the border to provide services, and the Turkish government has started to widely publicise that Syrian cities under Turkey's control are safe places for return.

Against this backdrop, in the summer of 2018 both civil society organisations and refugees from Syrian cities – mostly from Afrin – reported having received telephone calls from Turkish State agencies who informed them about the return option, the improvement of security conditions, and the reconstruction of infrastructure in cities under Turkish control. During that same summer, Turkey announced plans to close all refugee camps within a year. The refugees from the closed camps found themselves facing two options: either moving to big Turkish cities, where housing is expensive, or returning to Syria.

Turkish pro-government media outlets have widely covered Syrians returning. Each returnee trip has been the first news item, and the media – including Turkey's official news agency – has presented these returns as something to celebrate.

Challenges of the Turkish approach

There has as yet been no large number of returns from Turkey to Syria, and those returns that have taken place have been primarily on an individual case-by-case basis. However, evidence shows that the number of spontaneous returns is growing. Turkey's practice of go-and-see visits during religious festivals is welcome, as are its efforts to enhance security, stability and infrastructure in north-west Syria. Despite this, however, there are several concerns about Turkey's unilateral approach, its strategy of providing restricted protection while encouraging return, and the principles that it ignores during returns.

First, Turkey has started to encourage returns although Syria is still not safe. Despite occasional ceasefires and de-escalation zones under Turkish, Russian and Iranian control, fighting and violence continue across Syria. People lack access to basic public services and sustainable livelihood opportunities. UNHCR has asserted that Syrian conditions are not safe for returns. This is, most probably, why UNHCR has not become involved in returns from Turkey. Moreover, it is not clear whether Turkish authorities fully brief returning refugees about possible risks. Once they have returned, Syrians cannot re-enter Turkey since signing the voluntary return forms means waiving all claims for asylum protection and makes legal re-return impossible.

Second, returns do not seem fully voluntary. The precarious situation of Syrians in Turkey, marked by the lack of full-scale protection, exploitative employment conditions, and the loss of hope in their future, pushes them to return. In mid-2019, the situation deteriorated further when the provincial authorities of Istanbul – where more than half a million Syrians live – started to conduct more street and workplace raids to check people's registration. Syrians without the proper paperwork are being returned to the Turkish provinces where they are registered. Meanwhile, the international media has reported that some Syrians have been forced to sign voluntary return forms and have been deported to northern Syria. Hate speech against Syrians has increased, as local people blame them for unemployment and economic problems. It is clear that while some Syrians are excited about the voluntary return options, the return plans of the majority are contingent on the correct conditions in Syria – security, stability, a new regime, reconstruction of infrastructure, and sustainable livelihoods.

Third, Turkey operates returns unilaterally, although the DGMM asserts that it is working in collaboration with the UN and the European Union to facilitate returns. However, representatives of these organisations in Turkey appear to consider

returns premature because of conditions in Syria and instead favour local integration options. And UNHCR is not carrying out its traditional role of ascertaining the voluntary character of return and ensuring that accurate and objective information on conditions in the country of origin is communicated to refugees. This raises questions about the extent of DGMM's compliance with the voluntariness principle and the transparency of its procedures. The EU has also not funded any project for the return of Syrians, although it – along with IOM – does fund capacity building for the repatriation of non-Syrian irregular migrants.

Fourth, there is no evidence of the provision of any post-return assistance, and Turkish authorities such as DGMM have no means of tracing what is happening to returnees in Syria.

Fifth, the encouragement of returns has consequences for refugee–host community relations, creating an expectation among Turkish host communities of immediate returns. This increases locals' prejudice towards Syrians and thus threatens the already fragile protection afforded to the refugees. Moreover, government and opposition parties' heightened discourse about returns, particularly during election campaigns, is of concern to refugees because they are afraid that forced repatriations will follow.

For those convicted of crimes and anyone alleged to have any links to terror groups, individual forced returns via deportation do happen. Activists report that irregular migrants, including Syrians, who are captured by the Turkish coast guard or police forces when trying to irregularly cross into Greece are first detained in removal centres and then deported. And some Syrians apprehended by police during raids have been handed deportation orders and, after signing voluntary return forms under duress from State officers, are repatriated to Syria.³ NGO representatives and lawyers have confirmed that these returns have been taking place, which they deem a violation of individual rights and the voluntariness principle. The DGMM does not provide

exact numbers of non-Syrian irregular migrants, nor of Syrians deported because of criminal activity or supposed terror links.

The case of Turkey demonstrates that what is needed is a multi-actor, collaborative approach to return that complies with internationally agreed principles. Host countries like Turkey cannot be permitted to adopt their own interpretation of what voluntariness, safety and dignity mean. Host States should be warned when they do not comply with legal and normative provisions concerning refugee returns, and stability and safety should be at the forefront of decisions about returns. Further, UNHCR should not disassociate itself from ongoing premature return practices. Instead, the approach of a host country should be refugee-centred, evidence-based and effective. Moreover, careful preparation for reintegration in the home country, and

coordination among all stakeholders, should be undertaken well before returns begin.

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The politics of return from Jordan to Syria

Julia Morris

Return preparedness of Syrian refugees has become a prominent issue in Jordan, but the prospect of return raises numerous concerns.

An estimated 1.4 million Syrian refugees currently live in Jordan, of whom three quarters are calculated by non-governmental organisations (NGOs) to plan to return to Syria at some point in the future. Repatriation should be based on a free and informed decision with the full commitment of the country of origin to the reintegration process. Syrian returnees, however, face the prospect of returning to an authoritarian regime that has little interest in supporting their reintegration. Moreover, given the continued active conflict, guaranteeing any measure of security for returning refugees is difficult.

There have been significant numbers of spontaneous returns since the beginning of the conflict. However, the Jordanian government and affiliated agencies have so far taken no measures to facilitate large-scale formal voluntary returns. On the contrary, despite the reopening of the Jaber–Nasib

border crossing in October 2018, the Jordanian government has publicly announced that it does not support Syrians returning at the present time.¹ But while no formal returns programmes have been initiated between the two countries, return preparedness has become a prominent issue in Jordan.²

Barriers to return from Jordan

Unlike in other host countries from which Syrian refugees are returning, 'go-and-see' visits are not possible for refugees in Jordan. In the case of Jordan, UNHCR does not have the infrastructure in place, nor the arrangements with the Syrian and Jordanian governments, to facilitate the trips. The Jordanian government has maintained a semblance of diplomatic relations with Syria but not when it comes to arranging go-and-see visits. Furthermore, the very idea of a go-and-see visit is questionable given the continuing

insecurity inside Syria, and whether in fact refugees would be able to visit **and** return.

Under Syrian law, Syrian men between the ages of 18 and 42 must serve in the military or risk imprisonment or forcible conscription. Most conscripts have been kept in the army indefinitely since the conflict began, and raids by the authorities on neighbourhoods and homes in search of wanted conscripts and reservists have become common. The Assad regime has also utilised State media and religious leaders to promote the image of those serving in the army and their families as honourable, while depicting deserters in pejorative terms. A similarly negative image is projected of Syrians who left the country during the conflict, and many fear reprisals due to perceived cowardice or disloyalty to the regime.

Since the start of the conflict, rape and sexual violence have become a widespread tactic used by the Assad regime and rebel factions. Sexual violence in the Syrian conflict has been faced by both women and men alike. While women and girls often bear the burden of greater sexual violence, substantial evidence has also come to light of the systematic use of sexual violence and torture on adult men and boys, particularly in Syrian detention centres.³ For women and men, sexual violence is often made invisible, partially from a deep social stigma of speaking out about it, which obfuscates accountability. In other post-conflict situations, restorative justice methods have been used to hold actors accountable and to promote long-term reconciliation. If accountability and reconciliation strategies are to take root in Syria, they must take these factors into account.

LGBTIQ+ refugees also face specific barriers to return. Many have encountered levels of persecution within and outside Syria that are higher than those they experienced pre-conflict. Under Syrian law, engaging in homosexual activities carries a sentence of up to three years' imprisonment. LGBTIQ+ refugees also frequently have more difficulty in finding work and accessing familial and social networks – both in and outside their home regions – which can support

their sustainable integration or return.

While Jordan is a relatively liberal country, LGBTIQ+ refugees have still been found to face protection risks, discrimination and abuse.⁴ Understanding these contexts is essential when planning voluntary returns strategies, if return is to be a durable solution.

A culture of disorientation

The success of a formal returns project depends on refugees having complete information about the situation but rumours hamper the ability of many to make informed decisions. Social media platforms such as WhatsApp and Facebook have enabled people to find out the extent of devastation from family, friends and neighbours. However, the constant barrage of information about the situation and whether or not it is advisable to return led many refugees to speak to me of overwhelming feelings of disorientation.

For example, in April 2018 the Assad government passed a property law, Law No 10, which gave residents just 30 days to prove their property ownership in so-called redevelopment zones that are largely in the areas of the country which rebelled against the Syrian government after 2011. The law enables authorities to confiscate property without compensating the owners or giving them an opportunity to appeal. In November 2018, following international pressure, President Assad issued an amendment giving Syrians a year to return and claim their property. However, many refugees are unclear as to which is the real deadline, and the majority lack identification or property registration documents to make the claims in the first place. Another widespread claim – so far unfounded – is that Law No 10 allows Iranian companies (which have financial aspirations in Syria) to expropriate the property of Syrians in exile.

These chaotic conditions, frequent policy changes, and circulation of misinformation on social media have created a high level of anxiety and uncertainty. This is one area where humanitarian organisations have focused their energies, working to monitor the returns situation, reduce information gaps, and advocate to encourage the Assad regime

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to take these concerns into account. The International Rescue Committee, for example, has been developing its staff's social listening and social media management skills in order to be able to identify misinformation and support effective communication for refugees planning to return.

At the same time, humanitarian organisations face challenges in implementing formal voluntary returns. UN agencies and some civil society actors are active in Syria but, even though the border is open, no cross-border service work is permitted at the present time for organisations providing pre-existing services to Syrian refugees in Jordan. Instead, humanitarians will probably be negotiating with the Assad regime and Russian private sector actors to facilitate repatriation support.

The politics of 'voluntary' return

The Jordanian government has received immense financial aid from the European Union since the start of large-scale displacement to Jordan. Humanitarian practitioners I spoke with report that the reason why Jordanian officials have not publicly lobbied for a returns project as government policy is partially as a result of this aid funding tied to refugee integration in Jordan. However, as the conflict has continued, Jordan has encountered donor fatigue, and international investments have begun to drop. With these possible threats to funding, many humanitarian practitioners are questioning whether the Jordanian government might indeed soon consider encouraging returns.

Lebanon, like other major host States in the region, has already taken questionable steps to promote return to Syrian refugees. Portable displays explaining the logistics and benefits of returning to Syria have cropped up across the country in an effort to encourage refugees' return. Meanwhile, a generally oppressive culture towards refugees makes sustaining a decent livelihood next to impossible. In these circumstances, the idea of return being voluntary is difficult to take seriously. These developments have sparked new debates in Jordan with respect to its own Syrian refugee population. Social

attitudes towards refugees have altered over the years, as the Syrian population has added to substantial numbers of Palestinians, Iraqis, Yemenis, Sudanese and Somalis from earlier displacements. In public discourse, Syrians are often scapegoated for the scarcity of resources and are consequently increasingly being regarded as objects of blame and suspicion. The reopening of the border has coincided with the widespread sentiment among the Jordanian public that Syrians have overstayed their welcome in Jordan.

So long as there remains a question mark over return in safety, host countries should not provide push factors to incentivise refugee return but rather should continue with forms of local integration, such as through facilitating education, employment and training. The sectors in which Syrian refugees in Jordan can obtain employment have already been called into question as part of the much criticised Jordan Compact. By not including vital professions such as medicine, education and engineering among those sectors, the Jordan Compact prevents refugees gaining experience in such sectors, which are critical to rebuilding Syria. International and local NGOs are doing impressive work in offering university places and skills training to Syrian refugee youth, and Syrian refugees have set up a wide range of innovative businesses in Jordan. One Syrian businesswoman, for example, supports over 100 Syrian women on flexible contracts (some working from home) to produce soaps and textiles through a refugee women's cooperative, selling the products online and through social media. Yet many Syrian refugees still find their movements restricted and employment ambitions curtailed.

It is in everyone's interests that host countries make refugees welcome. Above all, the voices of refugees must be listened to if return and integration projects are to be successful. Restrictive, needlessly complicated, xenophobic policies that limit refugees' movement and access to work opportunities and basic services may drive spontaneous returns to a country that is not safe. By guaranteeing that refugees can return in safety to their host country, or move to

another country if they choose, more people might engage in sustainable and voluntary return, and help create a Syria for the future.

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Rethinking Somali refugee solutions in Kenya

Peter Kirui and Suzanne Francis

Amid uncertain return conditions, the repatriation of Somali refugees from Kenya risks leading to instances of forced return. Alternative avenues, such as local integration, should be explored.

The signing of a Tripartite Agreement (TA) on voluntary repatriation is intended to signal an end to refugees' long wait to return home. However, difficult questions surround what constitutes normality in the home country, and whether conditions have improved to allow for a dignified return. Somali refugees in Kenya have found themselves facing these questions following the signing of a TA in November 2013 between the governments of Kenya and Somalia and the UN Refugee Agency (UNHCR).¹

While Kenya leads calls for repatriation, UNHCR, Somalia and donor States also favour repatriation. Because UNHCR is often overstretched in catering for millions of refugees globally, and tends to focus on emergent refugee situations, there is a tendency to view repatriation as the best solution. For the Government of Somalia, repatriation of its citizens strengthens the legitimacy of the Somali government at home and abroad. Somalia has, however, insisted on phased returns without deadlines as it systematically builds State capacity. For other donor States, repatriation means the gradual end to providing funding.

The Government of Kenya (GoK) has cited a number of reasons behind its rationale for the repatriation of Somali refugees. The most prominent reason provided is that Somali

refugees in Dadaab pose a security threat to Kenya, through collaboration with or sympathising with Al-Shabaab. Proponents of this argument claim that the Dadaab refugee camps have become training grounds for Somali-based terrorist group Al-Shabaab, and launch pads for attacks on Kenyan soil. This claim currently lacks substance as no Somali refugee has been successfully prosecuted on terror-related charges. This allegation is further challenged by human rights organisations such as Human Rights Watch and Amnesty International who claim that this scapegoats Somali refugees.² Secondly, GoK claims that Somalia is now a safe place to which to return. This is difficult to substantiate as many parts of Somalia are still unreachable and inhospitable, and Al-Shabaab remains capable of launching massive attacks on civilians – as witnessed in the Mogadishu bombings of October 2017 that claimed more than 500 lives. Return to some parts of Somalia is therefore premature. In cases where return **has** occurred, returnees have had to negotiate new access to land, as some of it had been occupied or claimed by others since they left.

The TA has been placed under sharp scrutiny, with several questions emerging. Do returns that take place under the TA remain voluntary even when GoK threatens

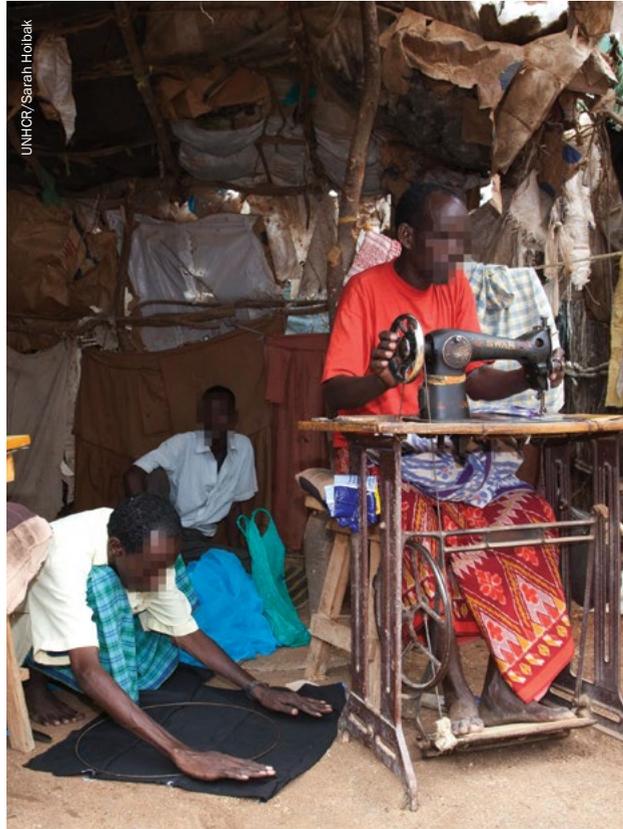
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to close the Dadaab camps, as it has done on several occasions? Does the TA represent the general feelings or thoughts of Somali refugees about return? Although refugees may not be directly involved in negotiating and writing TAs, their informal participation is critical if they are to embrace TAs and voluntarily return. The question of whether the State of origin is capable and willing to handle the mass return of Somali refugees is also important. Establishing the answers to these questions will determine whether repatriation is likely to be a success and will help safeguard against premature return. Premature and involuntary returns are by no means confined to Kenya. Syrian refugees in Europe, for example, all face the possibility of premature and involuntary return.

Only 1% of Somali refugees have access to resettlement to a third country, making this an option with very limited viability. Local integration could, however, potentially complement return and resettlement and may be particularly effective for Somali refugees who have been living in the Dadaab camps for more than two decades – and who may therefore find it easier to integrate in Kenya than in Somalia. It may also be a better option for young adults who have been educated and socialised in Kenya and have probably known no other place as home. If permitted by the government, local integration could enable Somali refugees to establish productive livelihoods. The protracted refugee situation and the reliance of the Dadaab camps on humanitarian assistance could be alienating a potentially productive refugee population from meaningful participation in the socio-economic development of Kenya. And while local integration may be a source of potential conflict with local populations (especially when resources are limited), careful planning and progressive introduction could offer an alternative to Somali refugees.

Of the three durable solutions – repatriation, local integration and resettlement



In Ifo Camp, Dadaab, a tailor has a thriving business altering rectangular mosquito nets into conical nets, the preferred shape in the camp.

– none alone is adequate to address the Somali refugee situation but instead they must be pursued concurrently, not least in order to guard against the threat of forced return.

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1. www.refworld.org/pdfid/5285e0294.pdf

2. See for example

www.amnesty.org/download/Documents/4000/afr520032014en.pdf

Educating for return: Somali refugees in Dadaab

Ochan Leomoi, Abdikadir Abikar and HaEun Kim

Finding a ‘durable’ solution for Somali refugees in Dadaab means ensuring they have the knowledge, capacity, confidence and qualifications required for meaningful, lasting return.

In 1991, with the outbreak of civil war in Somalia, refugee camps were established around the small border town of Dadaab in north-eastern Kenya. Since then, Dadaab has become the location of one of the world’s largest and longest-standing protracted refugee situations. At their peak the camps hosted over half a million refugees. As of July 2019, there are over 211,000 refugees, of whom 96% are Somali, the majority of whom were born or grew up in the camps.¹

As ‘non-citizens’ the Somali refugees do not have State protection, and their mobility and employment rights are constrained. Threats, kidnappings and violent attacks perpetrated in Kenya by the Somalia-based militant group Al-Shabaab has fostered an attitude of distrust and fear towards these refugees, whom the Kenyan government accuse of being infiltrated by the group. Caught between the violence and instability of their homeland and a host nation unwilling to integrate them, refugees in Dadaab have been compelled by lack of other options to remain in the camps.

Kenya’s repatriation programme

In November 2013, a Tripartite Agreement was signed between the governments of Kenya and Somalia and the UN Refugee Agency (UNHCR). Using the Tripartite Agreement as the legal framework, a voluntary repatriation programme was established in December 2014 which took an incremental approach to return, beginning by providing funds and resources to support those who choose to return, and progressing to formal returns supported by UNHCR.²

However, although the programme is in place, there are few incentives to return to Somalia.

Refugees who did return reported that lack of food and basic services made it nearly impossible to survive or to re-establish their lives. They also found that the quality of shelter and education was not as high as they had anticipated. In areas controlled by Al-Shabaab, movement was restricted, and the general insecurity created fear.³ Despite these reports, in May 2016 the Kenyan government announced plans to expedite the repatriation of Somali refugees and to close down the camps. Two months after this announcement, UNHCR made an appeal for funds to relocate all non-Somali refugees – and those who were in the course of the resettlement process – from the Dadaab camps to Kakuma refugee camp in the north-west of Kenya, as well as to support voluntary returns from Dadaab to Somalia. While UNHCR and the Government of Kenya insisted that returns would be voluntary, the mass relocation of non-Somali refugees sent a clear message to the Somali refugees who remained in camps that were soon to be closed.



Somali refugee students in Dadaab, Kenya. To understand why we have pixellated part of this image, please see www.fmreview.org/photo-policy.

Although voluntary repatriation may be a desirable solution to displacement, there are questions as to how durable return could be under these conditions. The cash incentives offered through the repatriation programme have led to many members of the host community (who may not be refugees but are ethnically Somali) obtaining the US\$200 offered and then returning to Kenya, often using the funds to establish small-scale businesses. More significantly, Kenya's push for repatriation of refugees to a post-conflict nation that is still affected by violence, forced recruitment, and weak education and health infrastructure has resulted in refugees returning to the Dadaab camps or becoming internally displaced within Somalia.

Following the push for voluntary repatriation, the Kenyan government closed its Department of Refugee Affairs, which oversaw the registration of new refugees. The current government entity charged with displaced persons – the Refugee Affairs Secretariat – is not authorised to register people in Dadaab, and new arrivals and returnees are also no longer registered by UNHCR. As a result they cannot access ration cards and other resources and services. Unregistered asylum seekers are even more vulnerable when they lack access to food and lack status and while such an approach may reduce official numbers it ignores the reality of people's needs.

Education: cultivating capacity for return

To rebuild conditions for peace in a post-conflict society, the best investment is in the people who are seeking to return to rebuild their nation. Since December 2014, there have been over 84,000 refugees from all walks of life who have returned to Somalia under UNHCR's repatriation programme.⁴ The majority of those refugees who have worked in Dadaab schools as teachers and those who have earned scholarships and degrees wish to return to Somalia in order to rebuild their lives and serve their home countries. We have seen several graduates of the Borderless Higher Education for Refugees Project return to Somalia to find work they could not obtain in Kenya – in finance or government, with

international NGOs, or starting their own schools. The opportunities they are able to find in Somalia enable them to build skills to become civil servants and future leaders of the nation while enjoying sustainable livelihoods. With education, refugees are able to see themselves as agents of change. By investing in the minds and capacities of refugees, we are investing in individuals who will return to rebuild and transform civil society in a post-conflict nation.

There is a generation of youth who have grown up in the camps, attended school and, through programmes and scholarships run by non-governmental organisations, earned academic qualifications at primary, secondary and post-secondary levels. With their academic qualifications, they see opportunities for meaningful and sustainable employment with international NGOs and a re-established government to rebuild civil society – employment that would not be possible in Kenya.⁵ In order to facilitate long-term, safe and dignified return, we propose that, rather than repatriation programmes, what is needed is the investment in meaningful capacity building of refugees through education and recognised qualifications.

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1. UNHCR Kenya (2019) 'Operational Update: Dadaab, Kenya July 2019' bit.ly/UNHCR-Dadaab-July2019

2. UNHCR 'New procedures set for Somali refugees to return home voluntarily from Kenya', 11 November 2013 bit.ly/UNHCR-Somali-return-2013

3. Human Rights Watch 'Kenya: Involuntary Refugee Returns to Somalia', 14 Sept 2016 bit.ly/HRW-involuntary-Kenya-2016

4. bit.ly/UNHCR-Somali-volrep-July2019

5. As refugees do not have the right to work in Kenya, they can only work as 'incentive workers', who are paid a fixed low wage, typically a fraction of what a Kenyan national would be given for working in the same position.

Forced to return? Facilitated return of refugees to Myanmar

Yuka Hasegawa

Despite recent political developments in Myanmar and difficult conditions in Thailand, there has been widespread and deep-seated reluctance among refugees to participate in the official facilitated return mechanism.

In early 2016, the conflict in Myanmar appeared to be in a state of transformation. The Nationwide Ceasefire Agreement was signed in October 2015 and the new government came into power in April 2016. The areas of return in the south-east of the country were enjoying a period of relative stability. It was presumed, therefore, that refugees in nine refugee settlements in Thailand would be anxious to return home. In 2016, the governments of Myanmar and Thailand put in place a facilitated return mechanism, with the support of the UN Refugee Agency (UNHCR), but it has failed to generate any significant return momentum, and only 729 refugees out of a population of 100,000 have opted to participate so far.¹

Stakeholder attitudes

One could argue that the return of refugees would have signified peace and the genuine political will of the authorities and the ethnic armed organisations (EAOs) to move beyond conflict. This could also have been an opportunity for the government to demonstrate its ability to provide protection to minority groups. However, the government, military and EAOs did not necessarily consider the official return of refugees as an immediate priority. Many stakeholders were sceptical of the speed of the political negotiation process, through which the return of refugees may eventually be realised.

The Nationwide Ceasefire Agreement was signed by only eight of the 15 EAOs. As such, this Agreement and the subsequent Pyidaungsu Accord (which laid out 37 agreed points towards a peace process) did not provide a solid platform for a return process. With the inauguration of the new government, Myanmar entered a new phase

of the State-building process, not the end of it. There were many reforms needed and meanwhile the delicate balance of power between the civilian government and the military had to be negotiated at all levels. On a day-to-day basis, there was some confusion over how authorities' decision-making processes functioned. In the face of these complexities, the authorities and the EAOs did not prevent the return of refugees but nor were they ready to actively promote it.

The refugees themselves – who are from Karen and other ethnic groups from south-east Myanmar – did not push to return, either. There was some excitement over the political changes happening in Myanmar but, for many refugees, the prospect of return was vague and they were reluctant to give up the limited freedoms available to them in the temporary shelters in Thailand without more concrete evidence of the benefits of return. Many refugees had been resettled from Thailand to a third country, and hope persisted among those who remained – even though resettlement had been phased out – that they too would be resettled.

The refugees made major decisions collectively, rather than individually; there was a general tendency to follow their leaders who, in turn, were usually influenced by the political positions of the EAOs. The refugees in general had little motivation to participate and take a role in State development and peace building. Many thought that the authorities in Myanmar had not demonstrated sufficiently that they would welcome their return. The refugee leaders were hesitant to fully shift their advocacy activities into Myanmar, and some of them were not willing to lead the return but wanted rather to be the

last people to return. The refugees also envisioned return in groups, which had the effect of inhibiting individual decisions to return. Overall, the refugees showed no urgency to return to Myanmar.

The role of the international community

The main stakeholders – the refugees, the authorities in Myanmar and EAOs – did not think that the time was ripe for return in 2016 and 2017 but some in the international community thought that it was indeed the right time to develop and foster a return momentum among the refugees. At that time, there was no particular pressure from the Government of Thailand, which was instead ready to respect a transitional period in politics, State structure and peace in Myanmar before refugees would be expected to return. Significantly, however, key donors began expressing their intention to curtail funding for NGOs providing assistance in the temporary shelters in Thailand.² This became a cause for major concern among both the refugees and the NGOs, threatening their very survival. Some NGOs voiced their concerns about the pressure placed on the refugees to return through the cutting of assistance. Others thought that the shifting of assistance from the shelters in Thailand to the return areas of Myanmar was legitimate, especially given that some organisations based in Thailand regularly supported the areas of potential return across the border.

The overall context in Myanmar was not conducive to the full-fledged promotion of return with safety and dignity, especially in light of the Rohingya crisis in 2017, but those external actors who favoured repatriation argued that there should, at least, be a mechanism to accommodate those refugees who wished to return voluntarily.

UNHCR took on responsibility for the preparations for facilitated returns, and the first facilitated return took place in October 2016. However, even given the reduced assistance in the shelters and the cash incentives provided, only a small number of refugees have opted to return, indicating that the refugees' concerns are not all about assistance.

The real obstacles to return

Focus group discussions on return and reintegration conducted in Myanmar in 2016³ highlighted five areas of deep-seated concern among refugees (and other stakeholders) about the refugees' potential return:

- **Physical safety and security:** With no progress in the peace process, returning refugees could still be caught up in violence in the areas of return, while the return of refugees could trigger an increase in crime and unrest. Refugees also expressed concern about the dangers posed by unmarked and uncleared landmines.
- **Citizenship documents:** For those who do not possess such documents (especially those with 'problematic profiles', such as those who had been, or were suspected of having been, engaged in rebel or criminal activities, and those of ethnic and religious minorities), it takes a considerable leap of faith to place sufficient trust in the authorities to apply for them, especially as the authorities or others could use the citizenship documents or the process of obtaining them as a tool for discrimination.
- **Land tenure:** The refugees' homes may have been destroyed or confiscated. New houses will need to be built (and land found for this) for returning refugees, and rebuilding and restitution will also be required. Ownership of land in Myanmar in general is complex and is becoming a cause of new conflicts.
- **Basic services:** Much of the rural returnee areas are conflict-affected and have suffered long years of neglect and underdevelopment; return areas lack basic services, such as health, education, electricity and roads. Refugees also express concerns linked to broader minority rights issues, for example the limited use of minority languages in education.
- **Livelihood opportunities:** New jobs or industries are needed in the returnee areas. The economy of south-east Myanmar relies heavily on remittances from those working abroad, mainly in Thailand.

Many of these concerns were discussed in the focus groups but they reflect the main challenge of reintegration – human security. Addressing this needs to be part of a longer-term State- and peace-building strategy, but no visible roadmap for reintegration has emerged and the enormity of the task ahead may explain why many refugees cannot see return as a reality.

Trust underlies human security. The facilitated return mechanism requires a returning refugee to deregister from the refugee database and the assistance lists in the shelters; his/her name is then submitted to the Governments of Myanmar and Thailand for clearance. With little trust in the authorities, the refugees consider official return risky and prefer anonymity. Between 2012 and 2017, an estimated 18,000 refugees⁴ have returned unofficially to Myanmar. Some of those who signed up for facilitated return also chose ultimately to return unaided.

In order to help trust be built, the refugees called for goodwill gestures from the authorities and EAOs to demonstrate their commitment to peace, to reducing tensions, and to mitigating community-level prejudice. Instead, there were significant delays in the Myanmar government's processing of the list of refugees' names submitted for facilitated return, which has not helped to reduce the mistrust.

Several points can be learned from this case-study of facilitated return. First, the facilitated return mechanism was neither part of the peace process framework nor did it reflect refugees' strong will to return; it had more to do with responding to externally generated pressure for the return of the refugees.

Second, the decision to return was not simply a question of assistance and incentives (even though there was some demand for larger return packages and for assistance in the returnee areas). Much of the refugees' concern was, in fact, around the need for human security – from physical security to access to citizenship documents and livelihoods.

Third, the decision to return may be linked to the potential contribution that

refugees can make to State- and peace-building but more could have been done to enable refugees to trust the authorities and to cultivate refugees' awareness of their role in the State- and peace-building processes.

Fourth, the international community needs to consider a more comprehensive approach that places return within the context of peace and development. The international community played a role in encouraging the return and helping to establish the facilitated return mechanism, in accordance with the principle of assisting refugees who voluntarily wish to return with safety and dignity. Given the importance refugees place on human security and peace building, however, there is a need for longer-term development in order to improve the conditions in return areas.

The decision to return is complex, influenced by both push and pull factors. The slowness to return in the case of refugees from Myanmar suggests that certain political and human security conditions and progress in peace building must be in place to generate a return momentum. The international community may help maximise the existing momentum but cannot create it.

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The views expressed here are the author's own and do not necessarily represent those of UNHCR.

1. According to UNHCR, 71 people were facilitated in their return to Myanmar in October 2016, another 93 in 2018 and 565 in 2019.

2. The Border Consortium (2017) *2017 Annual Report* bit.ly/BorderConsortium-AnnualReport-2017

3. UNHCR (2017) 'UNHCR Report on Return and Reintegration Workshops in Southeast Myanmar', January 2017. About 500 people from different stakeholder groups and the international community participated in the discussions.

4. See endnote 2.

thematic listings

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A premature attempt at cessation

Hamsa Vijayaraghavan and Pallavi Saxena

There are many lessons to be learned from UNHCR's controversial – and ultimately reversed – decision to end refugee status for Burmese Chins in India and Malaysia.

Ethnic minority groups, including the Chin, Shan and Karen, have been fleeing Myanmar since at least as early as 1988 because of severe oppression and persecution. Those fleeing had been subjected by the Burmese national military to forced labour, arbitrary arrest/detention, custodial torture, extrajudicial deaths and sexual slavery.

The Chin in particular arrived in India and Malaysia in large numbers and, while the vast majority have since been resettled to third countries (including Australia and the US), around 35,000 Chin refugees remain in these two countries. Given that neither country has signed the 1951 Refugee Convention and neither has a formalised refugee protection regime, this group of refugees has relied on the UN Refugee Agency (UNHCR) to provide legal status and documentation, and health and education services. However, UNHCR announced in June 2018 that it would be ending the refugee status of Chin refugees in India and Malaysia with effect from 31 December 2019, citing as a reason the “improvement in conditions” in Chin State since the installation of a nominally civilian national government in 2010.

Cessation guidelines

In making this announcement UNHCR referred to the policy as “ending refugee status” and facilitating “voluntary repatriation”; the term ‘cessation’ was not used. However, the policy clearly drew upon Article 1C of the 1951 Refugee Convention, which defines the circumstances under which refugee status will cease to apply and, by so doing, the announcement amounted effectively to a declaration of a cessation of refugee status. That being said, however, the policy did not meet the requirements relating to cessation as outlined by UNHCR itself.¹ International law requires that certain

standards are met when a cessation procedure is initiated; in this instance, there were glaring substantive as well as procedural errors.

One of the guiding principles which determine the application of the cessation clause is that the developments in the country of nationality or origin which purport to evidence change of a fundamental nature must “be given time to consolidate before any decision on cessation is made”. A situation that – as in Myanmar – continues to show signs of volatility is not by definition stable, and cannot be described as durable. In fact, this clause should only (as noted in the guidelines) come into play when changes have taken place that address the causes of displacement.

Moreover, peace agreements following conflicts that have involved different ethnic groups need enhanced scrutiny, since progress towards genuine reconciliation can prove difficult in such cases. Further, in assessing the potential durability of the change, the success of practical developments such as voluntary repatriation, and the experience of returnees, should be given considerable weight, as should reports from independent observers.

In this case, UNHCR did not provide any evidence that any of the aforementioned criteria had been met. As a new democracy, the political changes Myanmar has undergone cannot be described as enduring. The Burmese national military continues to enjoy unhindered access to Chin State and to the neighbouring Sagaing Region (where Chin minorities also come from) and recent reports indicate that there are continued clashes between it and the Arakan Army (a non-State armed group) in the southern part of Chin State. In fact, the UN's own human rights expert on Myanmar has expressed alarm at the escalating violence in northern and central Rakhine State and Chin State.²

The UNHCR guidelines also state that “Cessation should ... not result in persons residing in a host State with an uncertain status”. However, in this case the governments of Myanmar, India and Malaysia offered no confirmation about documentation for the Chin community and nor did UNHCR intimate what documents the community would receive once their refugee status ceased.

The guidelines also state that: “[C]hanges in the refugee’s country of origin affecting only part of the territory should not, in principle, lead to cessation of refugee status”. Given the state of affairs in neighbouring Rakhine State, which continues to produce a steady exodus of Rohingya refugees, and in Kachin State where conflict is ongoing, UNHCR’s decision that it would be safe for Chins to return is particularly perplexing. Furthermore, UNHCR refused to comment on the safety of return to areas other than Chin State (even to Yangon), disregarding the fact that a lack of freedom of movement in the country of origin demonstrates that the changes are neither fundamental nor durable.

The guidelines indicate the critical factor as to whether the refugee can “effectively re-avail him- or herself of the protection of his or her own country”, clearly highlighting that access to basic infrastructure and livelihoods are essential constituent parts of restoring effective protection. Such effective protection, they go on to acknowledge, is more than physical security or safety; it must also encompass effective governance, a functioning law and justice system, and sufficient infrastructure to enable rights to be exercised. The guidelines point out that an important indicator of the protection situation is the general human rights situation in the country of origin – and the Myanmar government’s recent human rights record leaves much to be desired.³

Furthermore, UNHCR’s policy failed to meet a number of the necessary procedural elements required for the declaration of cessation, as outlined in these guidelines. For example, although the guidelines state that non-governmental organisations (NGOs) and refugees should be included in the

consultative process, NGOs working with Chins in India were not consulted before the policy was announced, and its announcement came as a surprise and a shock to both the community and all those working with them.

In other such situations, UNHCR has organised ‘go-and-see’ visits to allow refugees the opportunity to verify for themselves that the situation in their home country makes return viable. While UNHCR eventually indicated that such a visit was being explored in the Chin context, it never materialised and, in any event, would not have been useful since travel documentation issues mean Chin refugees could not have participated. Further, the focus of the visit was stated as being limited; conditions of safety, security and human rights – which are of primary concern to refugees – would not be covered. Moreover, notification interviews (in which refugees were asked to indicate whether they would accept or challenge the decision to cease their refugee status) had already commenced, and the outcome of any go-and-see visit could not have been made available to refugees in time to inform their decision.

Lack of information

UNHCR’s messaging to the community indicated that the repatriation policy was based on an improvement in conditions in Chin State, conditions that had been “carefully assessed” by UNHCR. However, UNHCR made no move to share information on how this conclusion had been reached. The little material that was eventually provided was on general access to health, education and documentation, without mention of other relevant elements such as safety, security, infrastructure and extent of military/paramilitary activity in returnee areas.

Chin refugees were also given negligible information about the return support UNHCR would provide. UNHCR gave no indication that it would offer an enhanced package for vulnerable groups, and also categorically stated that it would be unable to provide continued assistance to refugees upon their return and that they would have to contact local NGOs in Myanmar. This runs counter to the agency’s own guidelines and

practice on repatriation and reintegration, which stress the importance of continued UNHCR involvement in the longer term.

Lessons from the attempt

UNHCR persisted in the implementation of the policy for nine months, expending considerable time and resources and causing much anxiety. In March 2019, however, and not least as a result of months of tireless advocacy by the Chin community, civil society and others, UNHCR finally agreed that Chin refugees require continued international protection, and withdrew the policy.⁴

The abandonment of the attempt to strip a group of its already fragile status, in a climate that is already hostile to refugees, holds many valuable lessons. First, it is imperative to remember that the cessation clause is meant to guide host States who decide to repatriate a refugee group to do so in a manner that is humane and responsible, and that ensures their dignity. For UNHCR to set this process in motion is unprecedented and, in this case, fundamentally uncalled for, given that neither of the host countries' governments nor the government of Myanmar called for such action. Second, to propose withdrawing protection in a

situation where there are no viable options for repatriation, integration or resettlement – as is the case for the vast majority of Chins in India and Malaysia – goes against the protection mandate of UNHCR. Finally, UNHCR-led repatriation must be voluntary rather than mandated; to say that return is the only option, and that those choosing to remain would face the loss of UNHCR protection, is inimical to giving refugees a choice and, had the policy gone ahead, would surely have constituted *refoulement*.

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Repatriation with dignity

Kerrie Holloway

The Rohingya in Bangladesh and Syrians in Lebanon have different expectations of what repatriation 'with dignity' would entail.

The requirement for voluntary repatriation to be conducted 'with dignity' has appeared consistently in humanitarian policies and guidelines since the late 1980s. The Guiding Principles on Internal Displacement launched in 1998, for example, state that internally displaced persons (IDPs) should be allowed 'to return voluntarily, in safety and with dignity, to their homes or places of habitual residence'. In its 2004 *Handbook for repatriation and reintegration activities*, the UN Refugee Agency (UNHCR) gives the definition of voluntary

repatriation as 'the free and voluntary return of refugees to their country of origin in safety and dignity'. Neither document, however, explicitly states what repatriation with dignity means in practice, and debates continue over the conditions needed for a dignified return.

Dignity is shaped not only by culture but also by people's experiences and expectations both prior to and during displacement. Repatriation of affected populations who fled warfare, such as Syrians in Lebanon, and those who fled persecution and

discrimination, such as the Rohingya in Bangladesh, will necessarily look different.

Over the past year, repatriation has been increasingly promoted as a solution to the refugee situations of both Rohingya and Syrians. Based on fieldwork undertaken in two principal host countries, Bangladesh and Lebanon, between March and August 2018,¹ it would appear that there are four main conditions that need to be in place for repatriation to take place in dignity. Repatriation must be culturally and contextually specific; it must not be the result of a false choice between an undignified displacement or an undignified return; it must not lead to further internal displacement once people return; and it must involve the displaced in every stage of the process. Research by the ODI found that all four conditions are currently lacking in the proposed repatriations of the Rohingya and Syrians.

Culturally and contextually specific

For the Rohingya in Bangladesh, dignity was overwhelmingly a social concept grounded in mutual respect, whereas for Syrians in Lebanon dignity was more often an individual concept centred on individual rights.

For Rohingya interviewees in Bangladesh, repatriation with dignity must include citizenship and mean having the same rights as other citizens in Myanmar – neither of which they had previously enjoyed. As a 40-year-old man stated: “Our dignity is our ability to be free in our home and have the citizenship card. Without it, how can we feel dignity?”

Displaced Syrians in Lebanon who fled civil war, however, rarely mentioned citizenship, rights or access to services. Many of the Syrians interviewed said that prior to their displacement they had led comfortable lives enjoying political participation and free health care and education. Despite currently being denied the same rights as Lebanese citizens and having no access to free health care or education, these issues were rarely mentioned when speaking about repatriation. Instead, the aspect that mattered the most to them was security, with more than four



Rohingya refugees make their way down a footpath during a heavy monsoon downpour in Kutupalong refugee settlement, Cox's Bazar district, Bangladesh.

out of five people saying they would not return until it was safe to do so. Many also mentioned the need for guarantees that returnees would not face retribution for fleeing, for refusing to fight, or for failing to support the winning side. As one man explained: “The most important condition for dignified repatriation is security. I want to see security for me and my family.”

Dignified repatriation, then, must be highly contextualised. Indeed, in these two cases, Rohingya interviewees often stated that they felt dignified repatriation did not exist, as they did not expect Myanmar would ever agree to give them citizenship, whereas Syrian interviewees were more hopeful and anticipated returning to their country of origin – but only once the war is over and it is safe to do so.

Dignified displacement

People should not face the false choice of ‘choosing’ to return home as their only escape from an undignified situation. Many Syrians described this dilemma, noting that their dignity would be reinstated only when they return home. One man explained that if there



was safety in Syria, he would be “ready to live in a tent on the dirt” in order to leave Lebanon and no longer be treated unjustly.

By contrast, although they do not have freedom of movement, education or work, a number of Rohingya in Bangladesh explained that they preferred to live in camps in Bangladesh instead of returning to Myanmar because they are free to practise their religion – one of the main ways they conceptualise dignity.

At least in Bangladesh, they said, they are safe from religious persecution and would get a Muslim burial. However, if the Bangladesh government’s proposal to relocate them to Bhasan Char (a small silt island off the coast of Bangladesh) goes ahead, the Rohingya, like the Syrians, will also be presented with a false choice; neither return to Myanmar nor relocation to an isolated island will uphold their dignity.

Aid agencies and human rights advocates must strive to create and maintain dignified conditions in displacement, through listening to what displaced people need and want and through partnering with others in the development, peacebuilding and advocacy sectors to encourage host governments to create and maintain an enabling environment for refugees.

Further displacement

For repatriation to be dignified, acceptable social, political and economic conditions must exist in the country of origin, and the status of IDPs from these populations should be resolved. Otherwise, those returning to destroyed homes or to continued persecution, for example, may find themselves internally displaced and thus unable to secure the

desired return with dignity. In Myanmar, approximately 125,000 Rohingya IDPs remain in Central Rakhine, displaced since fleeing violence in 2012 and forced to live in 36 camps or camp-like settings, surrounded by barbed-wire fences with no freedom of movement or access to basic services. In Syria, there are approximately 6.2 million IDPs living in collective sites and makeshift settlements.

Understanding the conditions of IDPs in the country of origin and communicating those conditions accurately and impartially to refugees contemplating return would allow them to make a more informed decision about the likelihood of being able to return in dignity.

Involving the displaced

Finally, and most importantly, the affected population must be consulted and involved in their own repatriation. Rather than the current tripartite commissions involving UNHCR and the governments of the countries of refuge and origin, there are those who advocate for quadripartite commissions, which would also include representatives from the displaced population to help judge whether return is both safe and voluntary.² In the case of both Rohingya and Syrians, the necessary conditions for repatriation, as expressed by the displaced population, are inherently political. For the Rohingya, meeting those conditions would require changes to citizenship laws; for the Syrians, it would involve a peace process and, for many of them, changing the political regime. Quadripartite commissions could communicate with the displaced populations, confirming the conditions necessary for dignified return, and work with the government in the country of origin to ensure these conditions are in place.

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Minority return: the way home

Djordje Stefanovic and Neophytos Loizides

Studying cases of successful minority return may help determine what policies could help other potential returnees.

Displaced people may return home after long periods of absence despite the presence of hostile local authorities and opposition from new occupants or settlers in their old homes. What underlies these difficult decisions? Studying cases of successful voluntary return might lead to a better understanding of which institutional arrangements and policies could help potential voluntary return as well as how to help communities in displacement. With this possibility in mind, we analysed several cases of forced migration followed by large-scale voluntary minority returns (or intentions to return) among Bosnians, Cypriots and ethnic Kurds in Turkey. Our research combined qualitative fieldwork with large-scale surveys focusing on ‘minority returnees’ (that is, displaced persons returning to an area now under the political control of another ethnic group). Our research has been driven by an attempt to understand how, in the wake of ethnic cleansing and genocide, communities struggle to restore a multi-ethnic environment and reintroduce positive majority–minority relations.

What minority returnees share

Our findings suggest that gender, age and education are the principal factors that affect the likelihood of individual return of minority returnees. In Bosnia and in Turkey’s Kurdish region, those with a high level of education and permanent employment in the place of exile are less likely than others to return.¹ For example, while young, educated women are very unlikely to return, elderly men with a low level of education are very likely to do so. Forced migrants are also more likely to return if they have memories of positive pre-conflict inter-ethnic relations and if they still see their pre-conflict residence as ‘home’. Data from Bosnia and Cyprus also show that internally displaced persons (IDPs) who are less nationalistic are more likely to

return and live as a minority in their former place of residence. Finally, the informal association of neighbours in exile can have a key role in organising and facilitating rural returns, and displaced people from areas which experience high rates of return are more likely to return themselves.²

Even after decades have passed and people have re-established their lives elsewhere, a significant percentage of people aspire to return, especially to areas in which there are many people of the same ethnicity. In Cyprus, about a third of Greek Cypriot IDPs surveyed in 2016 said they never thought of returning, even in the case of a negotiated peace settlement; another third said they only rarely or sometimes thought about it; and another third said they were always thinking about it. Given that a reunited Cyprus will be a federation with Greek and Turkish Cypriot constituent states, we presented two scenarios to potential returnees. When asked how likely it was for them to return and live in their pre-1974 home under Greek Cypriot administration in the next three years, nearly 60% said it was likely or very likely. When asked the same question but under Turkish Cypriot administration, numbers dropped to just over 22%.³

How to support returnees

Based on our research, we have some suggestions about the kind of policies and institutional arrangements that are most likely to facilitate return, especially among those who are less inclined to return. The presence of international security forces and the removal of war criminals from positions of power have certainly helped to facilitate return in Bosnia. Furthermore, in Bosnia and in Turkey’s Kurdish region, the return of property (houses and land) or compensation for its loss or destruction definitely facilitated returns: for example, Kurdish returnees

who receive State compensation are three times more likely to return, after taking other factors into account. And allowing displaced people to vote remotely in the local elections in their pre-war place of residence was a very important facilitator of the revival of local political power in several Bosnian cases of successful mass minority return, such as Kozarac and Drvar.

In addition, well-organised associations of neighbours in exile have clearly provided coordination, enhanced a sense of security, and recreated some sense of community after return in Kozarac and Drvar.⁴ As the differences in the experiences and the minority return rates of Bosniacs and Bosnian Serbs imply, if the political leaders of an ethnic/religious community openly and consistently support the return as 'patriotic', displaced people are more likely to return and reintegrate successfully. The case of Bulgaria is particularly instructive (and counterintuitive) following the voluntary return of approximately 40% of displaced Turks in the post-Zhivkov era. Their return was encouraged by the European Union during Bulgaria's accession talks but it was also Bulgaria's inclusive political institutions (specifically its use of proportional representation in national elections) which incentivised coalitions and allowed the Movement for Rights and Freedoms – the political party formed by the Turkish community following Bulgaria's transition to democracy – to become pivotal in elections and to play an active role in all critical legislative processes in parliament.⁵

Finally, to ensure returns are sustainable, local economic development and economic opportunities for the returnees need to be planned well in advance and provide support after return. In addition, potential returnees seem to be more likely to support peace agreements if those agreements ensure their property rights and/or access to fair compensation in accordance with international standards such as the Pinheiro Principles or precedents set by the European Court of Human Rights. More importantly, the general portrayal of IDPs and refugees as radicalised groups needs to be challenged.

In Cyprus, contrary to received wisdom, almost twice as many non-displaced Greek Cypriots as IDPs were absolutely determined to reject a future peace plan, despite the IDPs often being portrayed as less willing to reach a compromise. Similar research among Palestinians suggests that refugees are more likely to accept a peace plan than non-displaced Palestinians, indicating similar trends even in more polarised environments.⁶

A future research agenda

While our research on minority return has produced several important findings, we have so far failed to answer some key questions that might inspire future research.

First, our individual-level findings indicate elderly family members (especially men) are most in favour of return while younger family members (especially women) are most opposed to it. However, we do not have the data necessary to understand how and why family members with divergent views arrive at a certain collective return decision, hopefully without a painful split in the family.

Second, while we know young educated women are the least likely to return, we are unable to tell whether this preference is the result of greater educational and paid employment opportunities in the place of exile or may be a consequence of the desire to avoid returning to a patriarchal rural community.

Third, as the majority of successful cases of mass return have been to mono-ethnic villages and townships, it is unclear what policies are needed to facilitate mass minority returns to urban areas, and thus to recreate multicultural cities. Evidence on the small number of urban minority returns suggests the importance of creating a multi-ethnic police force and enforcing non-discriminatory hiring practices; rural returnees are more self-sufficient, for example by relying on their own land to produce food, while urban returnees may depend on the willingness of others (i.e. the ethnic majority) in order to get jobs and secure a livelihood.

Fourth, our research has so far failed to measure the impact of different war-time contexts (such as the regional intensity of violence, local mortality rates and the level

of housing destruction) or to collect time-specific data (such as completion of education) that would explain why return might take place at an early rather than late stage.

While we now understand what worked in some cases of difficult minority returns, we advise against generalising our findings to other post-conflict contexts without first testing them through similar surveys. For a voluntary, sustainable and successful return process, it is crucial to allow displaced people to voice their key concerns, trade-offs, priorities and intentions. They are the ones who have to find the strength and the courage to face the difficult path back home.

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Legal preparedness for return to Syria

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Preparation in terms of legal rights is crucial for Syrian refugees who are planning to return.

There can be few more difficult and complex decisions for refugees than if and when to return home after a long period in exile. When such a decision is taken, however, refugees should be supported to ensure that they are 'legally prepared' for return. This means being aware of their rights, obligations and entitlements in both host country and country of origin and having the necessary support and documentation to be able to claim their rights and navigate the challenging road home. This is a fundamental component of any returns framework, as set out in the Comprehensive Protection and Solutions Strategy for Syria drawn up by the UN Refugee Agency (UNHCR), which highlights the need for physical, material and legal safety as an integral aspect of any durable return.¹

The experiences of the Norwegian Refugee Council (NRC) in its work on durable solutions options for Syrian

refugees in Jordan and Lebanon suggest that the following elements are key to protecting the legal rights of returnees.

Legal identity and civil documentation:

Returnees need to be able to prove their legal identity, status, nationality and family lineage. Lack of legal and civil documentation may directly hamper the possibility of crossing the border and will affect returnees' enjoyment of a number of human rights. It also increases their exposure to protection threats upon return, including restrictions on freedom of movement, risk of arrest, detention, trafficking, sexual exploitation, child marriage, family separation and statelessness. Under- or undocumented refugees face significant hurdles to accessing education, health services and humanitarian and development assistance. Examples from Syria discussed

in a previous issue of *Forced Migration Review* show the importance of knowledge of the different laws and procedures for obtaining documents in both the country of origin and in different countries.²

Authorities in host countries have demonstrated some flexibility in simplifying these civil documentation issues. For example, Jordanian authorities have declared amnesties under which informal marriages have been formalised without penalty, while courts have accepted proof of parental identity via alternative documentation such as a UNHCR asylum-seeker certificate or residency card, or have accepted photocopied rather than original documents.³ Similarly, Lebanon has shown some degree of responsiveness through time-limited amnesties on late birth registration. However, major gaps remain in access to documentation.

Border crossing: In order to return home, refugees require a valid passport, travel document or accepted form of identification. Syrian refugees can use their national identification card for travel between Syria and Lebanon but legal exit from Lebanon requires legal residency – something only approximately one quarter of Syrian refugees have because of the prohibitive cost and complex procedures involved. Furthermore, an estimated 100,000 Syrian refugee youth in Lebanon aged 15–18 are unable to apply for legal residency because they do not have a Syrian national identification card or personal civil extract, such as written confirmation of their legal identity and status, both of which must be obtained from Syria.⁴ While Lebanese authorities have exempted some categories of returnees from paying the fines associated with irregular stay, this does not apply to all and some may receive a re-entry ban.⁵ Others exiting without proof of formal residency may be detained or face problems at the border. Seventy-five per cent of Syrian refugees in Jordan do not hold a passport, although a *laissez-passer* authorising one-way return to Syria can be obtained for US\$25 from the Syrian embassy. Nevertheless, an estimated 7% of Syrian refugees in Jordan are completely undocumented and may be

unable to obtain a travel document. Moreover, even once across the border, refugees may be prevented from returning to their former host countries to complete required birth or marriage registration procedures.

Family separation: Most refugee crises give rise to a variety of complex family unification issues as families are separated and split across countries. Complicating factors include when family members go missing, marry in host countries or have children born in different countries. Over 10,000 Syrian children are estimated to have fled the country as unaccompanied minors. Refugee women whose husbands are missing and presumed dead in Syria face uncertainty as to whether or not they can legally re-marry in host countries, or claim inheritance rights, without having formal proof of their husband's death that is recognised under Syrian law. Child marriage is used by many Syrian parents of teenage daughters as a negative coping mechanism. However any children of such underage marriages cannot be registered in Jordan or Lebanon in the absence of a formal marriage certificate, regardless of where the marriage took place. Depending on when refugees left Syria as well as their age when arriving in Jordan or Lebanon, individual members of the same household may possess varying forms of identification and face different hurdles in obtaining their documents, all of which may increase the likelihood of family separation, including across borders. Patterns are emerging of some family members returning to Syria, with others staying behind in host countries.

Housing, land and property (HLP) rights: As housing has often been damaged or destroyed during conflict, finding shelter and ensuring security of tenure are key considerations for refugees contemplating return.⁶ Surveys conducted in Syria highlight that the protection of property, assets or land is a key motivating factor for return. The lack of adequate housing, and other housing-related concerns such as disputed property ownership, are cited by large numbers of



Mohammed lives in Irbid in Jordan, in a rent-free apartment provided by the Norwegian Refugee Council's Urban Shelter project. Here he is talking with NRC staff about the process of acquiring civil documentation: "I had to get a new marriage certificate issued, after 17 years of being married, in order to process documents for my children and be able to register them in schools."

Syrians living in Jordan as obstacles to their return.⁷ NRC surveys conducted in Jordan indicate that only 20% of refugees possess HLP documentation for Syria such as land titles and deeds. Syrian women face particular challenges in protecting their HLP rights because of a discriminatory legal framework which limits their inheritance rights, and because of historical and traditional roles related to ownership rights – which can be further complicated by a lack of marriage, divorce and death documentation.

Roughly one third of all Syria's current legislation and regulations relevant to HLP rights have been passed by Syrian authorities since the start of the conflict, so it is of vital importance that Syrian refugees are kept up to date with developments that may affect their property rights. They should also retain copies of their HLP documentation both in hard copy and in digital form in order to safeguard against future loss of

documents – and be aware that even leases, utilities bills, building permits or court orders may be of important evidentiary value in protecting rights. Finally, Syrian refugees in Jordan and Lebanon should be informed about the procedures for obtaining a power of attorney from outside Syria, which may be necessary if selling or leasing property in Syria or if claiming inheritance rights.

Settling legal and administrative matters in host countries: Following an extended period in a host country, refugees must resolve a range of associated legal and administrative issues before they can return home. They must finalise housing arrangements, terminate leases, retrieve bonds and deal with any disputes. Employment relationships must be terminated and outstanding wages and entitlements (such as social security payments) recovered. Parents must obtain educational certificates for their

children to facilitate school enrolment in Syria. Syrian refugees typically have high levels of household debt, which may also need to be dealt with prior to return.

Access to rights and entitlements in the country of origin: Refugees' knowledge of procedures in their country of origin may be limited, particularly in a rapidly changing context such as Syria and given their often long absence. Positive recent changes by the Syrian government to raise the legal age of marriage from 15 to 16 years, for example, may have consequences for the validity of marriages of those under 16 which were entered into under Lebanese law. Some refugees will require assistance to access humanitarian assistance and government services, schools, health care and other rights and entitlements. They must be able to apply for lost or missing civil documentation from government registries and have the chance to correct wrong information. And, as returnee legal issues will often straddle borders, cooperation agreements between host countries and countries of origin (with the necessary resources to support them) will be critical.

Providing legal support to returnees

The cumulative effect of the civil documentation gap means that Syrians are growing increasingly reliant on dangerous coping mechanisms, including the use of fraudulent documents, adoption of false identities and payment of bribes. More must be done by authorities to facilitate access to documentation and to provide the necessary, updated information they require. Host countries and countries of origin should prioritise the issuance of documents, ensure the existence of effective and accessible procedures, and make available legal support. Legal aid providers can play a complementary role by advising refugees of their options, helping them access documentation, and advising them on laws, procedures and requirements on both sides of the border.

In order to ensure that refugees are in a position to make the best-informed decision about their options, they must have access

to a complete package of information and assistance, including about their legal rights and responsibilities when returning. NRC's experience in refugee movements in other contexts, such as Kenya/Somalia, the Great Lakes and Lake Chad Basin, highlights the importance of providing accurate information, legal support in obtaining documentation, and contact details of organisations who may be able to assist in both host and country of origin. Such an approach can prevent premature returns and ensure that refugees are able to access assistance and mitigate risks upon return.

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Return to Syria after evading conscription

Ahmad Araman and Shaza Loutfi

Syrian refugees who have evaded military service face barriers to return which call into question the viability and sustainability of other refugee returns.

The evasion of conscription has emerged as one of the primary reasons for which young men over the age of 18 have fled Syria. It is also one of the primary reasons they cannot return. With the Syrian government promoting instances of return as a validation of its stability and authority, and with increasing international pressure for refugees to return, this issue could be a useful angle through which to assess the readiness of Syria to offer its people sustainable return. It begs the question: if these men cannot return safely, should the international community encourage others to do so?

A 2014 decree stipulates that military-aged men (including the growing number of young men who have reached the age of service outside Syria) who are unwilling to serve but who wish to return to Syria must remain outside the country for at least four years and pay an exemption fee of US\$8,000. The same decree also requires men over 42 years old (that is, who are above the age of military service) who have not served to pay an exemption fee of the same amount – in general, an impossible sum for refugees. Estimates indicate that up to 75% of Syrian refugees wish to return¹ but issues around military conscription prevent a sizeable group of refugees who would otherwise voluntarily return from doing so. The numbers are indeed considerable: as of 19 September 2019, UNHCR had registered 1,866,881 male Syrian refugees aged between 18 and 59.²

Evasion of military conscription interacts with other factors that affect decisions both to flee and to return. Numerous studies identify family, friends and social networks to come second only to safety and security – which includes the risks of military conscription and risks faced on return following evasion – in such decisions. Although it is difficult to confirm numbers, reports estimate that thousands of refugees returned to Syria in 2018 and early 2019. There are no concrete numbers of how many military-aged men returned,

but there are numerous stories of such men choosing to return to Syria, despite great risk, because they have been unable to secure family reunification in countries of asylum. Decisions around return pose other dilemmas that affect the whole family. For example, refugee women and children may either choose to stay displaced with their husband/father/son or to return to Syria without them, which – quite apart from the emotional impact of separation – may expose them to greater risk on their journey and even when back in Syria.

A number of countries do not consider evasion of military conscription alone to be grounds for granting refugee status for Syrians, despite the overwhelming evidence of risk upon return for this group and an analogous case in Eritrea. There, a 2016 UK appellate tribunal found that refugees of conscription age would face persecution and abuse if returned to Eritrea. This ruling led to an amendment to the UK's immigration policy and provided further evidence that the treatment of men who return having evaded conscription prevents them returning in safety and therefore gives grounds for their continued asylum.

Granting amnesty

In an attempt to address such concerns, in October 2018 Syria issued an unprecedented decree granting amnesty to all military service violators, on the condition of their physical surrender to a military office – within four months for those inside the country and six months for those outside. Although many expressed distrust of the decree, a great number of people submitted their names. However, they then found themselves back on conscription lists in as little as seven days, after the government exploited a loophole in the decree. This reflects the perpetuation of the status quo not only of the last eight years of conflict but also of the conditions that precipitated and triggered the crisis in 2011.

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To avoid this happening again, and to support sustainable return, a successful, comprehensive amnesty in the Syrian context would need to include:

- dismissal of past crimes related to military service evasion and desertion
- exemption from future military service (including any civil alternative), either unconditionally or by instituting a reasonable exemption fee
- a 'grace period' that is long enough to ensure true voluntary return in conditions of security and dignity – or no period specified at all
- release of all individuals currently under investigation or imprisoned as a result of military service evasion and desertion
- permission for international authorities to observe and document returnee situations

across Syria in order to determine national compliance with the amnesty

- a targeted strategy of State-sponsored community cohesion activities to mitigate possible backlash against those who did not serve
- a gradual discharge of those who have served their required term, alongside a range of benefit levels for the men and their families to honour those who served.

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1. UNHCR (March 2019) *Fifth Regional Survey on Syrian Refugees' Perceptions and Intentions on Return to Syria*
<https://reliefweb.int/sites/reliefweb.int/files/resources/68443.pdf>
2. <https://data2.unhcr.org/en/situations/syria>

IDPs of East Beirut versus the Lebanese State

Diala Lteif

This year marks the thirtieth anniversary of the Taif agreement that formally ended the Lebanese Civil War of 1975–1990. Three decades later, some communities remain internally displaced because of the actions of the State.

The eastern tip of Beirut, commonly known as Quarantina, is a lower-income neighbourhood bordered by the Beirut River to the east and encircled by the port to the west and north. During the late 19th century a nomadic Sunni tribe of Arab cattle herders settled in Quarantina and began operating a slaughterhouse along with weekly livestock and meat markets (although land ownership was only formalised under the French Mandate between 1920 and 1943). Due to their association with this trade, the residents later became known as *Arab al Maslakh* – Arabs of the Slaughterhouse.

The slaughterhouse and its by-product industries needed quick access to labourers, and migrant labourers and refugees flocked to the area in search of livelihoods. In the years leading up to the Lebanese Civil War, the neighbourhood had earned a reputation for being a slum, where an estimated 30,000

labourers lived in cramped wooden and tin shacks. The slum dwellers included a mix of Armenian, Kurdish and Palestinian refugees who lived in close proximity to rural Lebanese and Syrian migrant labourers. The addition of these new populations to the *Arab al Maslakh* had, over the years, transformed the neighbourhood into a predominantly Muslim quarter within Christian eastern Beirut.

The displacement of the population of Quarantina was the first major forced removal to take place during the Lebanese Civil War. Fuelled by confessional and political motivations, the militia of the Christian right-wing forces attacked the neighbourhood in January 1976 – part of a larger plan to divide the country and capital into distinct confessional zones. Eastern Beirut was meant to become Christian and this predominantly Muslim neighborhood stood in the way. This event, known as the

Quarantina massacre, led to 1,500 deaths and displaced those who remained. Due to its strategic location, Quarantina was turned into the military headquarters of the local militia and a large majority of the buildings owned by the original inhabitants were destroyed or repurposed by the occupying forces as bases for their operations. Locals estimate that 500–600 families were affected by the displacement.

Today, a small percentage of this population, those whose properties were not entirely destroyed or repurposed during the war, have been able to return to their homes (around 40 plots). Most of these families said the modest compensation paid by the Ministry of the Displaced was insufficient and required supplementary personal funds. The remaining 80% of the population have not been able to return due to specific State-imposed obstacles.

State-condoned protracted displacement

Despite the Taif Agreement's clear statement of the right of every citizen to return to their place of displacement, the text fails to address specific scenarios such as the Quarantina case. The complete return of the *Arab Al Maslakh* community is today prevented by, first, the continued presence of the Lebanese Armed Forces on their private property and, second, cabinet decision No 322 issued in 1994 which explicitly excludes cities from a special exception to building regulations for IDPs.

The Lebanese army, acting in the name of the State and in an effort to reassert its sovereignty over the territory, took over the different Quarantina bases but showed no intention, as time passed, of relocating its troops. The local population was then faced with the difficult task of negotiating property reclamation with a State entity. In the words of one of their spokespersons: "We shifted from a scenario of illegal occupation by militiamen to a legal one imposed by the State."¹ Three decades later, the army still operates bases on around 75 plots of privately owned property, preventing these individuals from claiming their land.

At the conclusion of the war, the Ministry of the Displaced dealt with civilian/private squatting by paying a relocation fee to families in return for vacating private property and

allowing their rightful owners to return.² But no such measures have been adopted to address the occupation by the armed forces. No politician or public figure has dared to take an official stand, and the *Arab Al Maslakh* have thus had to attempt the delicate task of negotiating with an apparatus of the Lebanese State on their own, to no avail.

Cabinet decision No 322 was meant to regulate the process of reconstruction but also make it more accessible by reducing building permit fees and other legal costs – but the first clause of the decree excludes city dwellers from these new facilities.³ This has affected all IDPs in Beirut and more particularly the remaining *Arab Al Maslakh*. Faced with the high cost of building permits and other related fees, those whose buildings had not been destroyed by shelling and fighting have had to resettle in substandard conditions (40 land plots) while many others have not been able to return at all due to the irreparable damage done to their property or its complete destruction (50 land plots).

The longer this status quo is maintained, the greater the challenges. Since the situation arose more than 30 years ago, the affected families have grown and multiplied, creating a more complex web of claimants. Today, many of Quarantina's original land owners have died, leaving several dozen heirs to share ownership of one parcel or split the increasingly smaller portion of the value of the property.

Reasons for the dispossession of Quarantina's refugees and migrant workers are multiple, and are compounded by economic interests in prime property. Together they are responsible for the deplorable current situation of the *Arab Al Maslakh* community which exists in a state of protracted internal displacement with long-frustrated hopes of return.

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2. Assaf G and El-Fil R (2000) 'Resolving the issue of war displacement in Lebanon', *Forced Migration Review* issue 7, 31–33 www.fmreview.org/land-and-property-issues/assaf-elfil

3. Law 322, issued on 24/3/1994, Section 1. The Arabic text of the law can be found at bit.ly/Lebanon-Law322.

Emerging options for durable solutions in Darfur

Zurab Elzarov

IDPs in Darfur continue to face difficulties in securing a durable solution to their displacement. Recent developments may offer new hope for some, but complex challenges remain.

The conflict in Darfur, which erupted in 2003, resulted in widespread human rights violations and the displacement of a large number of people throughout the region. The conflict has destroyed infrastructure, damaged social cohesion and community stability, and seriously curtailed employment and livelihood security. As confidence was eroded, investment in much-needed development of the region also diminished. According to the Sudan 2018 Humanitarian Needs Overview,¹ some 1.6 million internally displaced people (IDPs) in Darfur are registered as living in camps. The UN and partners estimate that a further 500,000 displaced people live in host communities and settlements.

Political progress was made with the signing of the Doha Document for Peace in Darfur (DDPD)² in May 2011 between the Government of Sudan (GoS) and some of the armed opposition groups. Progress regarding return and other durable solutions across Darfur, however, remains limited, given continuing hostilities and insecurity; the resulting protracted displacement of large numbers of IDPs poses a continuous challenge to satisfying their basic needs and maintaining an adequate standard of living, and puts significant pressure on urban infrastructure. Durable solutions to displacement need increasingly to be explored – solutions based on the principles of voluntariness, safety and dignity, and which focus on enhancing communities' capacity for self-reliance, supporting livelihood opportunities in areas of voluntary return, and addressing the burden on urban and rural absorptive capacity.

National authorities have primary responsibility for developing and implementing a durable solutions strategy. In December 2015, Sudan's Vice-President

Hassabo Abdelrahman announced the government's determination to put an end to displacement in Darfur before 2017, suggesting that IDPs choose between two options: either to return to their places of origin or to settle in their area of displacement, with IDP camps to be converted into residential areas. Similar announcements were made by other high-level politicians, including President Omar al-Bashir in November 2017. In August 2016, there had been reports of an intention survey having been distributed by the Humanitarian Aid Commission (part of the government's Ministry of Humanitarian Affairs) among the displaced, providing them with a third option, that of resettling in a third location.³

IDPs across Darfur voiced their rejection of the government's plans regarding the closure of IDP camps, arguing that no voluntary return to their places of origin would be possible in the absence of a comprehensive peace agreement that provides for security, stability, justice and access to basic services, compensation and land rights. IDPs have maintained that the conditions are not in place for them to begin a new life in their areas of origin or to settle sustainably elsewhere. Furthermore, many of the IDPs are now accustomed to living in an urban environment and would expect a similar level of services in their places of origin.

It is important to understand in this context that working towards durable solutions means diminishing gradually the needs and vulnerabilities of displacement-affected communities, while strengthening their capacities, skills and resilience. The Inter-Agency Standing Committee (IASC) Framework on Durable Solutions for IDPs identifies three options to achieve this goal, which are underpinned by the principles of voluntariness, safety, dignity and non-

discrimination: 1) return of displaced persons to their place of origin or habitual residence; 2) local integration in areas where displaced persons have sought refuge; and 3) settlement elsewhere in the country.⁴ However, the mere return, local integration or settlement of IDPs elsewhere in the country are not necessarily durable solutions. The options must be feasible, viable and enduring.

The role of the UN–African Union Mission in Darfur (UNAMID) and the humanitarian community in the first instance is likely to be to support IDPs to make a voluntary and informed decision about their future. However, displaced people cannot make a voluntary and informed choice unless they have an accurate understanding of the conditions on the ground and understand the implications of each option. Similarly, UNAMID and humanitarian organisations cannot plan for and support IDPs effectively without having some understanding of their intentions. Gaining more information on displaced people's intentions is therefore a key first step in delivering effective support for durable solutions.

Option 1: Return

According to the Humanitarian Needs Overview, about 386,000 returnees have voluntarily returned to their places of origin across Sudan, including Darfur. These returns have been a mixture of permanent and seasonal movements, with some people moving back to areas of origin temporarily for livelihoods purposes.

The experience of those who have returned permanently so far, however, calls into question the overall sustainability of returns. Many people have reported facing significant challenges in rebuilding their lives, including a lack of adequate basic services and livelihoods opportunities. Moreover, for some people, disputes over land ownership have been a critical issue; in some returns areas, land has been settled by others since the original displacement took place.

Option 2: Local integration

The majority of displaced people have resided in peri-urban or urban camps or

camp-like settings since the outbreak of the conflict, and the majority of displaced people (especially young people) have become increasingly urbanised. Local integration has been occurring over the last few years despite the lack of direct external support. Although people continue to receive humanitarian assistance, they also participate in the local labour market, trade in local commercial markets and access basic services such as education or health care for themselves or their children, and use other community infrastructure, such as legal courts. This has prompted local authorities in several locations to include displaced populations in their urban planning, as for example in Nyala, South Darfur.

Despite the political focus on returns, local integration is the reality for many displaced people, with evidence indicating that families will continue to integrate further into local communities as they aspire to urban livelihoods and to living nearer to basic services compared with those available in areas of origin. That said, there is likely to be some fluidity between returns and local integration; families may decide to pursue both at the same time. Better information and up-to-date profiling of IDP camps and residents will help to predict future trends and to inform programming.

Option 3: Resettlement

There have been fewer cases of recorded resettlement in Darfur than of either return or local integration. So far, the only major resettlement initiative has been in Sakaly, South Darfur, where the State Ministry of Urban Planning and Nyala South Commissioner were planning to allocate plots of land to the Sakali IDPs currently living in the suburbs of Nyala town. They have also allocated land to 1,614 households from Al Serif IDP camp and integrated them with the Nyala community. A further 1,800 IDPs from the same camp will be given plots of land. In practice, it is probable that some portion of these cases – which on the face of it would appear to be return or local integration initiatives – involves some form of resettlement. Given the

issues over land mentioned above, some returnees have migrated to the general vicinity where they once resided but not to the original house or village. Meanwhile, those displaced people who have pursued local integration often move outside camp settings to other surrounding urban areas.

The government and some bilateral donors have built houses for returnees in what they call 'model return villages', primarily through one-off financial commitments. For example, such villages have been established in Fasha Beliel and Baba Beliel in South Darfur, funded by Kuwait and Qatar; in Karti and Aru in Central Darfur, funded by Saudi Arabia and the United Arab Emirates; and in Habila Kanari and Borta in West Darfur, funded by the League of Arab States and Saudi Arabia. However, the experience of such projects has raised questions around their sustainability, particularly regarding issues of land ownership and continuing investment and maintenance. The alternative concept of 'service hubs' is attracting attention, where common facilities or utilities are built close to several return communities, providing access to basic services in close proximity to where returnees reside, thereby benefiting from economies of scale.

Way forward

Under the 2017–19 Integrated Strategic Framework, UNAMID and the UN Country Team (UNCT) agreed that the planning of durable solutions for displaced people should be conducted through an area-based approach. At the beginning, joint work focused on three pilot areas: Abu Shouk and Al Salam in North Darfur, as a model for durable solutions for IDPs in urban areas, and Um Dukhun in Central Darfur, which has a focus on IDPs and refugee returnees in a rural context. UNAMID and the UNCT/ Humanitarian Country Team's Durable Solutions Working Group helped develop tools for monitoring durable solutions, including the gender and human rights aspects, and the sustainability of the (re) integration of displaced populations. Nevertheless, despite the efforts of UNAMID and UNCT in collaboration with relevant

national institutions, it is the Government of Sudan that has the primary responsibility to address internal displacement by protecting and assisting IDPs and by creating conditions conducive to safe, durable and voluntary solutions in Darfur.

The 2019 Humanitarian Response Plan for Sudan⁵ states that about 1.86 million people in Sudan, including Darfur, will either continue to live in a situation of protracted internal displacement or be newly displaced. As in recent years, some returns and local integration of displaced people are expected to continue. In the meantime, in August 2019 high-level officials from the UN and African Union told the UN Security Council that the installation of Sudan's new transitional government presents an opportunity to restore long-term stability in Darfur.⁶ To this end, resolving internal displacement (and preventing future displacement) is inextricably linked to achieving lasting peace and stability. On one hand, unresolved problems of displacement may cause instability and thus threaten peacebuilding efforts. On the other hand, durable solutions, particularly return, cannot be achieved for IDPs as long as there is a lack of security, property is not restored, and conditions for sustainable solutions are not in place.⁷ The new Sudanese authorities will therefore have a difficult and complex task as substantially increasing support for durable solutions in Darfur will require expanding basic services, enhancing security and rule of law in areas of return, enabling sustained access to affected people, and addressing the root causes of the conflict.

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The views expressed here are the author's own and do not necessarily represent those of UNAMID.

1. bit.ly/Sudan-HumanitarianNeeds2018

2. bit.ly/DPDD-en

3. The results of this survey have not been shared with UNAMID or the UN Country Team (UNCT).

4. www.unhcr.org/50f94cd49.pdf

5. bit.ly/Sudan-HumResp-2019

6. www.un.org/press/en/2019/sc13929.doc.htm

7. <https://brook.gs/2ktYPwZ>

Political and economic reintegration: key to successful return

Barbra N Lukunka and Peter de Clercq

Refugees and IDPs require national and international actors to make concerted efforts to ensure that they are successfully reintegrated into the economic, social and political landscapes of their countries of origin.

The triggers for displacement often reflect a rupture in the relationship between the State and its citizens, signifying the State's inability to fulfil its obligations to protect its citizens from violent conflict. Mending this relationship is crucial, and political reintegration of refugees and internally displaced persons (IDPs) is fundamental to successful reintegration. This involves including individuals in the political landscape of their countries of origin through enabling them to interact with the government, to be included in decision-making processes and not to be made invisible or be impeded from accessing local authorities.

Return is a difficult process, especially if refugees have been in exile for prolonged periods of time or were born in displacement. During their time in displacement, conditions and structures will have changed or been redrawn in the country of origin. In some cases, refugees are seen as foreigners by their home communities. IDPs, on the other hand, can face a slightly different reintegration challenge. Although they have not left their national territory, they have often been rendered invisible, or at times are seen as undesirable and have been marginalised. They live in conditions that resemble and are sometimes worse than those experienced by refugees, and live in fear of exploitation, violence and human rights abuses. Both groups often face discrimination and exclusion from host communities as well as local and national authorities.

A State's violations against its citizens, especially violations committed by its security apparatus, breed distrust among the population, including returnees. State persecution (particularly in contexts of

fragility) is often the reason why individuals, families and communities fled their homes in the first place. The successful return and reintegration of refugees and IDPs – to regain their place as full members of society with equal access to basic rights and services as other citizens – requires a re-engineering of the State–citizen relationship.

Burundi and Sudan offer good examples of addressing such challenges in refugee and IDP return processes.

Burundi

Since gaining independence in 1962, Burundi has experienced repeated episodes of ethnic violence between the majority Hutu and minority Tutsi populations. With the advent of stability following a peace agreement brokered in 2000 and the re-election in 2010 of Pierre Nkurunziza as president, Burundian refugees returned from neighbouring countries in large numbers – over half a million between 2002 and 2011. Upon their return, however, returnee refugees claimed that they felt invisible in the eyes of the authorities. They felt that they had been erased from the political landscape and that this, and the abuse of power by some in authority, was having an impact on their livelihoods and their access to land. Women in particular faced considerable challenges given that by law they could not inherit land.¹

In 2015, the situation in Burundi deteriorated and the country risked relapsing into violent conflict. President Nkurunziza indicated that he would run for a third term, which was disputed by various sections of the population. This led to government forces targeting those who opposed the president; human rights violations were widespread and more than 400,000 Burundians have

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fled the country since 2015 (mainly to Tanzania, Rwanda, Uganda and the Democratic Republic of Congo).² What the Burundian situation reveals is that, despite the elections of 2010, the political process was incomplete. Returnees expressed a sense of invisibility upon return; they felt that they were not heard or able to talk to authorities and that opportunities, especially economic opportunities, were dependent on political affiliation. These were indications that the political gains that Burundians, including returnees, and the international community believed Burundi had made were unsustainable.

Sudan

The Darfur region in western Sudan has traditionally been a vast expanse where nomadic and farming communities co-existed and interacted. As a result of population migrations and climate change, the relationship between the various groups has turned increasingly tense and prone to conflict. Over time, as a result of the increasing domination of the government in Khartoum by northern Arab tribes, native administrative mechanisms were dismantled and there was increased repression of the non-Arab tribes who engaged in agriculture.

The conflict in Darfur started in 2003 and resulted in mass internal displacement. Darfur was re-shaped into a largely urbanised context with three major cities: El Fasher, El Geneina and Nyala. Nyala, for instance, which is now the third largest city in Sudan, tripled in size as a result of the mass displacement. Some efforts were made by the Sudanese authorities – with support from the international community – to support the return and reintegration of IDPs in areas of origin but the prospects for return as a larger-scale durable solution were always limited due to changing realities linked to scarcity

of natural resources as well as changing power relations and dominance by groups supported by the government in Khartoum.

In addition, the long duration of displacement coupled with the limited prospects for return and absence of viable rural livelihoods meant displaced and returning refugees had little opportunity other than to adopt urban lifestyles and livelihoods. As very little effort was made by authorities to develop economic opportunities around the cities, most of the displaced ended up in the informal sector, at most times indistinguishable from the urban poor. Recent calls for social justice and inclusion may trigger the necessary attention by local, regional and national authorities to their situation.

Recommendations

The situations in Burundi and Sudan illustrate that refugee and IDP return is a multidimensional process requiring attention to the economic, social, political and psychological aspects of return and reintegration. The success of return is linked to political processes. The holding of elections and semblance of stability do not, however, guarantee sustainable return unless displaced people are given a voice. It is important to focus on ensuring that the political and economic reintegration of refugees and IDPs is factored into any



Burundian refugees fleeing violence in 2015 are transferred to a ferry that will bring them to Kigoma, Tanzania (and thence to Nyaragusu refugee camp).

UNHCR/Benjamin Loyseau

peace building and post-conflict State formation. The return of refugees and IDPs should be seen as fundamentally linked to the relationship between the State and its citizens and any return process should therefore be accompanied by social and national dialogue efforts to encourage reconciliation, inclusion and participation.

Individuals should be given a substantive platform to air their grievances over aspects such as the delivery of services and access to opportunities being reserved for certain political constituencies. Furthermore, confidence building between a State's security apparatus and the population should be a key and deliberate focus. Transitional justice mechanisms should be set up to ensure accountability for crimes committed, including sexual and gender-based violence. Such mechanisms should include a facility for displaced people to reclaim their rights (including to property and land). And the international community should ensure that efforts to coordinate humanitarian and development work to bring about collective

outcomes do not leave out the peace-building elements. Successful reintegration of returnees requires that peace and political processes should not only focus on formal political processes and institutions but should also include returnee and local communities.

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The views expressed are those of the authors and do not necessarily reflect the views of the authors' institutions.

1. For a more about the challenges of refugee return in Burundi see Lukunka B N (2018) "'They Call Us Witches': Exclusion and Invisibility in the Burundian Returnee Reintegration Process', *Peace and Conflict: Journal of Peace Psychology* <https://psycnet.apa.org/record/2018-39059-008> and Lukunka B N (2017) 'The Romance of Return: Post-exile Lives and Interpersonal Violence over Land in Burundi' in Buckley-Zistel S and Krause U (Eds) *Gender, Violence, Refugees* www.berghahnbooks.com/title/Buckley-ZistelGender
2. Human Rights Watch 'Burundi: Events of 2017' www.hrw.org/world-report/2018/country-chapters/burundi

Returns in complex environments: the case of South Sudan

Babette Schots and Garth Smith

Humanitarian agencies must be extremely cautious about how they support returns and relocations to ensure that they avoid causing harm or allowing humanitarian assistance to be instrumentalised by political actors.

South Sudan has been in the grip of civil war since 2013 and has witnessed instability, violence and human rights violations across the country. Many South Sudanese have fled, and there are now approximately 1.5 million internally displaced persons (IDPs) and over 2.2 million refugees in neighbouring countries. Since the signing of the peace agreement in September 2018, numbers of refugees and IDPs returning to areas of habitual residence or areas of origin have been rising. The situation remains complex, however, with multiple push and pull factors and concurrent spontaneous, facilitated and

involuntary returns, often all within the same geographic area. In addition, while some of those returning are doing so to their former homes, many are relocating to areas where they may have never previously lived or have not done so for many years.

In 2019 the Danish Refugee Council (DRC) has been analysing IDP and cross-border movement flows from Sudan. Securing quantitative data remains extremely difficult but consolidating data from various sources does highlight that numbers of persons returning are increasing, particularly within specific areas of South Sudan. Field

assessments in areas of return, however, have highlighted that some of those returning are in fact people who have been secondarily displaced – re-displaced either as a result of a lack of services in their area or country of refuge, or as a result of localised conflict in their displacement location. Significantly deteriorating conditions in Sudan and a lack of access to even basic health services, food or water, for example, have often been cited as reasons for people returning to South Sudan. Similar patterns have also been seen within the country, with IDPs being displaced due to a lack of access to services and returning to their areas of former residence in search of services, rather than because they believe it is safe to do so.

Such instances generally cannot be considered to meet the international definitions of fully informed and voluntary returns. However, it is important to note that international humanitarian and South Sudanese understandings of voluntariness and safety may differ significantly; in recent field research in areas of high returns and population movement, the majority of returnees considered themselves to have returned voluntarily, yet over 80% indicated that their transport was provided by a political actor and many cited push factors in their displacement location as the primary reason for return. Moreover, over half immediately entered displacement camps in search of services rather than returning to their former area of residence. Crucially, dynamics differ significantly by location, and it is essential that generalised analysis is not applied to all areas of the country as this will undermine contextualised provision of assistance.

In addition to ‘spontaneous’ (that is, unassisted) return, some of these movements are being facilitated – some on a voluntary basis, some with a risk of coercion, further complicating the situation. Since late 2018 and 2019, humanitarian UN agencies and the UN Mission in South Sudan (UNMISS) have facilitated returns from Protection of Civilians (PoC) sites¹ in Juba, Bor and Wau. South Sudanese government or opposition groups have also facilitated returns by air

and road from neighbouring countries or IDP sites. Some repatriating South Sudanese have also reported receiving transportation assistance from international and national private sector companies operating close to the border regions. Conversely, however, some IDP leaders within PoCs have encouraged those residing in the camps to remain there and to resist returns efforts, potentially to cement the leaders’ political leverage.

To further add to the complexity, people are often moving back, or their return being facilitated, to areas where service provision or access to basic coping mechanisms is extremely limited. Discussions with returning or relocating IDPs, for example, have highlighted that movement flows (including humanitarian-facilitated returns) have been to areas where food insecurity is at emergency levels (IPC Phase 4²) or where there are significant risks of intercommunal violence or which lack basic food, water and health services. Discussions with returnees and relocated men and women have also highlighted that, while the signing of the peace agreement was a contributing factor, the main drivers for their decision to move were overwhelmingly push factors, such as inadequate living conditions, lack of access to livelihoods and limited safety and security in their area of displacement, leaving them with few options.

Applying the IASC Framework

The IASC Framework on Durable Solutions for IDPs is the widely recognised benchmark for return of IDPs, and states that return and relocation must be voluntary, safe, dignified and informed. In a context where human rights violations are continuously committed against civilians, whether displaced or not, and where service provision across the country remains almost universally below SPHERE standards, it is difficult for humanitarian and development agencies to determine the nature of the conditions in which return happens. Moreover, discussions on returns within humanitarian leadership circles and coordination bodies have often risked assuming a homogeneity among returnee populations, failing to reflect the

need for different methods and levels of assistance depending on whether return is assisted or spontaneous or on the push and pull factors at play. There is a risk that simplistic narratives around return ignore the realities and complexities on the ground and instead direct funding and programming to people based on their return status rather than their humanitarian needs. This is particularly true given that local actors have in some cases inflated return numbers or actively encouraged returns as a method of accessing increased international assistance.

Where returns are considered to be spontaneous, it is essential – in order not to cause harm – that any assistance is based on an analysis of the reasons and circumstances of the movement and considers the local conflict and political dynamics affecting integration into the receiving community. The UN Humanitarian Country Team (HCT) has stated that South Sudan is not yet ready for large-scale facilitated returns, and in August 2019 issued a guidance note on this matter. Humanitarian agencies must respect this, and ensure that people can return and relocate on their own, having access to relevant information to make an informed decision. Previous cases have shown that rushing assistance can create a false sense of security and optimism which exacerbates conflict drivers and undermines the potential

for stability and finding a durable solution – issues that have been seen in this particular context in previous years. Primary research has already identified, for example, reports of returning men and boys being forcibly recruited by non-State actors. In addition, the significant lack of housing and land rights for displaced populations, and particularly for women, risks significantly exacerbating inter-community tension where new populations occupy land or property that was once occupied by the returning population.

A lack of attention to such issues was recognised as a failure of previous returns and reintegration processes in 2005 and 2016. Unfortunately, the distinction between providing needs-based services and encouraging returns remains extremely difficult to identify, particularly given the pervasive lack of services in South Sudan or southern parts of Sudan. Such lack of services means that virtually any service provision risks creating a pull factor.

In instances of facilitated or assisted return, similar challenges exist in applying internationally recognised standards. PoC sites are clearly an ineffective method of providing long-term humanitarian assistance, and protracted displacement is highly undesirable. In some instances those living within PoCs have expressed a desire to return to their places of origin or residence and



Refugees returning from Sudan to northern South Sudan, June 2019.

requested assistance to do so; current returns in such instances have been facilitated by humanitarian agencies and UNMISS. Such requests for assistance to return present highly complex issues for humanitarian actors, however, particularly where IDPs actively request assistance to return to their homes but where there is evidence that such return may be unsafe or undignified or have implications that lead to harm either for the individuals or the wider population in the area. IDPs requesting to return may also lack adequate and reliable information about the safety situation and services available in their area of return. Displaced ethnic minority groups and women, meanwhile, express a particular desire to return home, due to the risks of violence, including gender-based violence, in their place of refuge. They know however that their original homes have been destroyed or occupied, that the chances of recovery and restitution are slim, and that safety risks are still prevalent; rushing to provide support to returnees therefore risks increasing the marginalisation of minority groups, particularly if conflict-sensitive gender analysis and community engagement and participation are not thoroughly applied.

Where displaced people have their own means to travel, it is easy to support the principle of their freedom of movement. Where they lack the basic resources to return, however, and assistance from humanitarian agencies is the only way that they may be able to return, there is a difficult balance to strike between supporting their choice and avoiding the potential of causing harm. Humanitarian agencies should be very wary of thinking they know better than the South Sudanese people whom they serve by choosing not to assist such return requests but evidence has also shown that some of those who have made what they consider to be an informed and voluntary decision to return and have been assisted by humanitarian agencies to do so have immediately been put at risk in their area of return, and have sought humanitarian assistance along with other displacement-affected communities. As a result, it is essential that the process for deciding when and how to assist in

such instances is agreed by the HCT in advance, that the process for assessments and decisions is transparent and fully documented to ensure accountability in the future, and that it recognises the complexity and nuances of the situation on the ground.

Within South Sudan, various agencies are working to develop an operational framework that will integrate and contextualise the IASC principles for use in South Sudan, and that all humanitarian and development actors can sign up to and – most importantly – fully adopt. The aim is that this can be applied throughout the country, led by the Advisory Group on Solutions. The operational framework provides guidance on solutions, following national and international legal frameworks and minimum standards for analysis and decision making; it also establishes an accountability mechanism around actors' responsibilities. Thorough protection and context analysis needs to be conducted both in the area of displacement and in the potential area of return prior to any decision making around solutions. The involvement of IDPs, returning refugees and other affected communities is crucial throughout this process, and must not be impeded by political, programmatic and other diverging interests. Bringing the voices of displacement-affected populations to the forefront of discussions would improve accountability and reduce the likelihood of putting people at further risk.

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The views expressed in this article are the authors' own and do not necessarily represent the views of their organisation.

1. Established by UNMISS to provide short-term protection to civilians.
2. Integrated Phase Classification (IPC) describes the severity of food insecurity on a scale of 1–5, where famine is classified as Phase 5. <http://fews.net/IPC>

Mini-feature on:

Towards understanding and addressing the root causes of displacement

Introduction from the High Commissioner for Refugees

Refugee crises today are increasingly complex; the immediate drivers – conflict, violence and persecution – are invariably underpinned by a range of deeper causes including poor governance, inequitable development outcomes, poverty and climate change. These same factors are also contributing to broader population flows. And as displacement becomes protracted, the challenges generally deepen. As a result, securing solutions to forced displacement calls not only for political efforts to prevent and resolve conflicts but also for action to tackle these complex root causes.

Efforts to understand and address these are by no means new. Yet the Global Compact on Refugees, with its emphasis on mobilising a broad range of actors and instruments, including through development and private sector engagement, provides a vital opportunity to reinvigorate these. Embedding action to address displacement in broader development efforts, and in efforts to build peace and security, is essential if we are to fully leverage opportunities for solutions, as well as to avert new displacement.

This special mini-feature will seek to enhance our collective understanding of the root causes of displacement and to inform discussions on protection and solutions at the first Global Refugee Forum in December 2019.

Filippo Grandi, High Commissioner for Refugees

Preventing displacement, addressing root causes and the promise of the Global Compact on Refugees

Volker Türk

Preventing displacement by addressing its root causes requires a holistic approach and engagement by a wide range of actors. The starting point must be a better understanding of root causes and their complexity.

In December 2015, the eighth annual High Commissioner's Dialogue on Protection Challenges focused on the theme 'Understanding and addressing root causes of displacement'.¹ Those gathered acknowledged the need for the international community to prioritise prevention and to address root causes. This would require putting displacement on the governance agenda of the UN, all international and regional organisations, and all States, in order to be better able to detect drivers and triggers of displacement, and to transform early warning mechanisms into prompt action. To do this, it was noted, we should

recognise the complexity of the phenomenon and the need for a holistic approach.

Addressing the root causes of displacement is a formidable challenge. With a record 70.8 million people around the world forcibly displaced, it is imperative to address the underlying and often overlapping factors that fuel violence and conflict, whether they emanate from serious human rights violations, the breakdown of the rule of law, the arms trade, extraction industries, severe inequality, authoritarianism, or environmental change and degradation. Where such drivers of displacement are not addressed, flight

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– including when this entails crossing international borders – is often a preventive, self-protection mechanism exercised by the individual or community. Indeed, it may be the only viable option for survival. The role of humanitarian action is not to promote or enable restrictions on these coping mechanisms but instead to advocate, with others (including States, regional organisations and bilateral donors), to address the root causes of displacement.

Preventing displacement

Many instances of displacement could be avoided, or their impacts at least minimised, if compliance with international human rights as well as international humanitarian law were to be assured. The more advances we make in this respect, the less people will be uprooted and forced to live in exile. In this regard, it would be worth examining how a lack of respect for each human right leads or could lead to displacement, and how this could be addressed. Maintaining the rule of law is essential: it separates justice, stability and preparedness from chaos, anarchy and arbitrariness.

Undeniably, climate change is also a driver of displacement, and is now firmly on the agenda of most international actors. Although definitively linking climate change to specific displacement remains difficult, the UN Refugee Agency (UNHCR) recognises the seriousness of the consequences of climate change, including for refugees and other people of concern. Recent history has borne witness to cross-border movements in situations where conflict or violence has interacted with disaster or adverse effects of climate change.

It is evident that prevention is not the sole remit of any one actor. It requires joint strategies and initiatives that contribute to social cohesion and empowerment, alongside the promotion and defence of human rights. A division of labour, in respect of mandates, expertise and comparative advantage, enhances complementarity and maximises impact. Displacement is both a humanitarian and development challenge. Enhanced coherence between

humanitarian and development actors can better position and equip refugees – most of whom would like to return to their home countries when it is safe to do so – to engage in post-conflict reconstruction.

In all our interventions, we must place as much emphasis on ‘understanding’ as we do on ‘addressing’. A recent OECD Working Paper² reviewed evaluations of stabilisation activities by international actors in fragile and conflict-affected countries like Afghanistan, one of the biggest refugee-producing countries for over 30 years. It noted that efforts often started from the assumption that joining humanitarian, development, defence and diplomatic actors through joint programming, with a focus on ‘quick wins’, would help reinforce support for the State as a legitimate actor, improve governance and help lead to stability. The report highlighted several instances where this was in fact not the case. It observed that understanding the political economy and main drivers of conflict and fragility needed much more attention in many development programmes.

Despite the challenges, we should strongly advocate for the operationalisation of the humanitarian-development-peace nexus.³ Although this is not a new discussion, the context has changed – politically, economically and socially. Contextualising displacement and its root causes, and learning through evidence, is a time- and resource-intensive process but it is a process that we must invest in and prioritise if we are to make headway in our efforts to address root causes. No less important is the need to learn from refugees, to fully comprehend the factors that forced them to flee in the first place, and to appreciate their lived experience of displacement.

The role of UNHCR

There are a number of entry points for UNHCR to support and contribute to prevention. Some are well understood and of long standing, and include promoting gender equality specifically, and the rule of law and human rights more broadly, while also investing in education and livelihoods. Engaging with affected communities

and individuals is at the very centre of UNHCR's programmes. The Age, Gender and Diversity policy promotes a community-based approach and is intended to enable the participation of displaced and stateless people in decisions that affect their lives. In addition to ensuring that the voices of displaced communities, and women in particular, are heard in peace negotiations, there are other essential elements in promoting sustainable voluntary return in post-conflict contexts, such as securing access to justice and supporting the reintegration of demobilised armed elements, thereby helping to bridge the gap towards peace.

Ending statelessness is an effective means of addressing one particular root cause of conflict and forced displacement, which UNHCR is pursuing through, for example, the #IBELONG campaign.⁴ There are many indicators of the positive momentum

that is taking place in this area, including reforms to nationality laws and further accessions to the Statelessness Conventions.

Monitoring internal displacement can help forecast potential later displacement across international borders, and early responses to internal displacement can mitigate the risk of upheaval and impoverishment from the outset. UNHCR's guidance on its engagement with IDPs (primarily within the cluster system) also outlines a number of areas where we can contribute to promoting State responsibility through supporting the development of law and policy on internal displacement, training and capacity-building projects on child protection, and strategies to prevent gender-based violence.

Alongside prevention, better preparedness through early warning systems and contingency planning can help to mitigate some of the worst humanitarian consequences



As the region of Minawao in Cameroon faces critical deforestation due to global warming and the impact of hosting 56,000 Nigerian refugees, UNHCR and its partners Land Life Company and Lutheran World Federation started a reforestation project in January 2019. Over the next two years, they expect to plant – with the refugees – 20,000 trees in and around the site.

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of conflict and violence. For example, had contingency planning and joined-up action guided European responses to the arrivals of refugees across the Mediterranean in 2015 when numbers were starting to increase, a great deal of chaos and trauma could have been avoided. Or if we had a mechanism to ensure early and predictable funding for humanitarian responses to large numbers of new arrivals, systems could be put in place from the start to prevent critical situations deteriorating into emergencies.

The Global Compact on Refugees

We have seen repeatedly how violent conflicts and other drivers of displacement have consequences that take on not only regional but global dimensions. If we are to overcome isolationism, fragmentation and toxic public debates we will need a concerted, comprehensive and proactive approach to refugee situations. The universal adoption of the New York Declaration for Refugees and Migrants by UN Member States in September 2016 was a clear acknowledgement of this imperative, as was the affirmation of the Global Compact on Refugees (GCR) in December 2018.

The GCR aims to ensure equitable and predictable responsibility sharing to address both large-scale movements of refugees and protracted refugee situations. It represents a clear commitment by States to early efforts to address the drivers and triggers of large refugee situations, and to improved cooperation among political, humanitarian, development and peace actors. It underscores the importance of international efforts to prevent and resolve conflict on the basis of the UN Charter, international law, the rule of law, human rights and fundamental freedoms, and non-discrimination. It also highlights the need to provide development assistance to countries of origin in line with the 2030 Agenda for Sustainable Development and other relevant frameworks.⁵ Indeed, the GCR provides a concrete framework for implementing the aforementioned humanitarian-development-peace nexus.

The 1951 Refugee Convention and its 1967 Protocol focus on the rights of refugees

and the obligations of States but they do not offer significant guidance on international cooperation; this is a key aspect that the GCR does address, and which we hope will chart a pathway to enhanced multilateralism.

However, as the GCR is non-binding, its successful implementation will depend on the mobilisation of political will, and UNHCR is working closely with States and other stakeholders to mobilise this in the lead-up to the first Global Refugee Forum in December 2019. We recognise the inherent challenges at a time when populist nationalism is on the rise, asylum space is being reduced, and containment has evolved into a response strategy. And yet, even in these difficult times, we continue to witness strong engagement on refugee issues from a range of new actors, including the international financial institutions, emerging donors, the private sector, civil society and private citizens – all epitomising the concept of solidarity in action. With this in mind, there is considerable scope for strong and substantive collaboration to prevent conflict and address the manifold root causes of displacement.

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2. Morrison-Métouis S (2017) *Responding to Refugee Crises: Lessons from evaluations in Afghanistan as a country of origin*, OECD Development Co-operation Working Papers, No 40 <https://doi.org/10.1787/de7e6a13-en>
3. The humanitarian-development-peace nexus – or 'triple nexus' – refers to the interlinkages between humanitarian, development and peace actors. UN humanitarian, development and peace agencies are encouraged to work together more cohesively, capitalising on the comparative advantages of each sector to reduce need, risk and vulnerability.
4. www.unhcr.org/ibelong/
5. Report of the UN High Commissioner for Refugees, Part II Global Compact on Refugees, General Assembly, Seventy-third Session, para 8–9 www.unhcr.org/gcr/GCR_English.pdf

Shifting power and changing practice to support locally led peace building

Alex Shoebridge

Building sustainable peace requires both a greater awareness of the dynamics of localised conflict and a willingness on the part of external actors to cede control to local actors.

The majority of the world's refugees are driven from their homes by conflict, often finding that the dynamics and underlying tensions from the conflict they are fleeing are transplanted into their new surroundings. More than half of all refugees come from three countries (Syria, Afghanistan and South Sudan), and most of the world's refugees are consistently hosted by 15 countries, the majority of whom share borders with the countries refugees are fleeing. In addition to geographic proximity, these countries often share ethnic or religious ties, as well as broader political, economic and social links. In many instances, private or political interests in the host country also have a stake in the conflict next door.

These dynamics are often reflected in relations between refugee and host communities at a local and regional level, which in turn can be used to reinforce certain political narratives. The interplay between these dynamics, exacerbated by the strain placed on both refugee and host communities in situations of protracted displacement, can increase the risk of tensions within refugee communities and between refugee and host populations.

In this context, development and humanitarian assistance can have an instrumental role in either effectively addressing root causes or exacerbating tensions. Peace-building efforts led by South Sudanese refugees in Uganda offer opportunities to reflect on challenges faced and good practice, on how peace-building and conflict prevention outcomes can be integrated across humanitarian and development programming, and on how the support of external actors can better enable locally led, sustained efforts. Many of the ideas discussed can be adapted to other contexts of displacement.

Going beyond the rhetoric

The concepts of Do No Harm and conflict sensitivity are often reduced to rhetorical devices. The concepts are frequently cited in project proposals, programme documents and logframes but are rarely translated into practical terms and taken to their logical conclusion in terms of the programmatic and operational adjustments required. Given the inherent nature of development/humanitarian assistance – which preferences the transfer of resources, influence and access to certain groups over others – there is no perfect conflict-sensitive intervention. However, much more can be done to grapple with these dilemmas than is currently standard practice. The lack of practical attention paid to these concepts is especially marked in humanitarian response, in part due to the sheer difficulty of balancing the complexity of conflict-affected contexts with the imperative to deliver assistance as soon as possible.

The impetus to respond to humanitarian needs means that the importance of understanding conflict dynamics as they relate to both the refugee and host community populations is either underplayed or overlooked. In Uganda, this has led to a haphazard and counterproductive approach towards addressing tensions among the South Sudanese refugee community. At first, decisions about the geographic location of refugee settlements were blind to ethnic fault lines reflected in the country's civil war. When localised violence broke out in some refugee settlements, refugees were subsequently geographically divided along community lines. Over time, this has served to harden and perpetuate community tensions. While it is critical to recognise differences between communities and act to prevent or mitigate possible violence, it is also important to

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comprehend the potential of humanitarian assistance to serve as a bridge to bring communities together and to contribute to increasing social cohesion. Such goals need to be built into programme design, and cannot simply be assumed or seen as an afterthought.

The Better Aid in Conflict initiative in South Sudan has developed a useful guiding framework called the Spectrum of Ambition.¹ This framework starts with the minimalist injunction to 'avoid harm', as required by the Fragile States Principles of the OECD's Development Assistance Committee. It progresses to the goal of contributing to peace and stability within existing operational and policy frameworks and commitments (but without any change to a programme's primary objective). And it ends with the aspiration – as outlined in SDG 16 – to directly and deliberately address drivers of conflict (where all programmes have conflict reduction as their primary objective).

A number of studies have demonstrated how humanitarian assistance to South Sudanese refugees living in northern Uganda has reinforced conflict dynamics between different elements of Ugandan society, exacerbating perceptions around inequality and the centre–periphery divide.² These tensions are then reflected in how parts of the host community leverage the refugee population in order to attract aid and preferential treatment from the central government. This increases the marginalisation and uncertainty refugees feel, which in turn compound the conflict dynamics within refugee communities themselves.

Given the nature of conflict in South Sudan, there are also both latent and manifest conflicts between refugees, often derived from real or perceived associations with the conflict parties inside South Sudan. While varying across refugee settlements in Uganda, the presence of such tensions has meant that seemingly innocuous events or disputes have quickly escalated, leading to wider unrest and/or violence and in some cases to deaths. In this context, it is critical that development and humanitarian actors have a nuanced understanding of the hyper-localised dynamics within a refugee settlement, or within a certain area of a settlement, including knowledge of how these dynamics relate to those in the wider South Sudanese conflict, and how they evolve depending on the circumstances of the refugee settlement. This must be the starting point for any assistance, not just for those efforts seeking to contribute to conflict prevention and peace building.

Unfortunately, as in many contexts, humanitarian assistance to the South Sudanese refugee population in Uganda is often blind to these dynamics. In episodes where international humanitarian actors have



A refugee from South Sudan in northern Uganda wears a T-shirt which reads: Peace, Truth, Fairness.

sought to respond to conflict within refugee communities, they have often taken the approach of separating groups, rather than seeking to bring them together to address the underlying issues triggering tension or misunderstanding. Over time, this has only served to calcify these fractures. On the other hand, efforts to bring refugees from different communities together through education or livelihoods activities are all too often based on the assumption that interaction alone will lead to peace-building outcomes. In some instances, if interventions are not appropriately designed or if the process is rushed, interaction – contact – can actually exacerbate conflict. This also overlooks the need to build trust between groups beforehand, and the need to facilitate the deepening of interactions and exchange after project activities have been concluded.

Letting local actors lead

Efforts to address root causes can only be effective and sustained if they are led by local actors from the community affected by conflict. Such efforts also require a gradual and sequenced approach beginning with engaging with communities to understand their own perceptions of conflict and, importantly, to map existing capacities, approaches or platforms for resolving disputes or conflict within the community. While external actors such as UN agencies, international non-governmental organisations (NGOs) and other donors can provide useful support, they can equally – if support is not provided in an appropriate manner – undermine and hinder the dynamism and flexibility required to advance peace-building efforts. Community-level peacebuilders, by contrast, possess legitimacy, entry points and networks that cannot be matched by external actors, even those development or humanitarian actors which have a long history of presence or engagement with a particular community.

The various locally led conflict prevention and peace building efforts among the South Sudanese refugee community in Uganda demonstrate the impact that can be achieved when external actors take a ‘back seat’.

Examples include: engaging with leaders from different communities to enhance mediation and non-violent resolution of conflicts within and between communities; supporting youth and women to serve as mediators or ‘conflict managers’ in their communities; engaging through education, shared cultural practices or sport; and creating community forums to increase awareness of peace processes.

From one perspective, the range of activities supported could appear haphazard and unstrategic but it is precisely when local peacebuilders have the freedom to identify actions which are appropriate and likely to generate community engagement that they are more likely to contribute to positive peace-building outcomes. External actors can play important roles but they should increasingly be accompanying, rather than directing, and be open to an iterative process which embraces the messiness of reality – open to learning from both ‘success’ and ‘failure’.

Another factor either enabling or constraining locally led peace-building efforts is the policy environment in a given setting. Uganda is widely recognised as perhaps the most generous refugee host country, with refugees enjoying a wide range of rights granting access to livelihoods, education and protection. This includes the right to register a community-based organisation (CBO), seen as a key step in line with global policy calls to enable refugee-led responses. While this is important for facilitating refugee-led organisations to access funding from development and humanitarian donors, it poses a conundrum in relation to community-led conflict prevention and peacebuilding efforts. Incentives to become a registered CBO/NGO may ultimately undermine capacity to engage in dynamic, fluid ways that go beyond the confines of an organisation reliant on funding for specific projects.

While the ‘NGO-isation’ of civic activism is a trend that is unlikely to wane, there are ways that external actors can provide support more conducive to truly locally led peace building. One way is through supporting networks and movements of refugees and others engaged in peacebuilding at community level, and supporting platforms

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(rather than organisations) which connect actors across community lines. In the context of the South Sudanese refugee community in Uganda, providing grants to refugee-led peace-building initiatives has been a valuable way of empowering community-led efforts to address root causes. In Rhino settlement, support to locally led peace-building initiatives helped not only to resolve deadly violence between Dinka and Nuer which erupted in June 2018 but also to ensure ongoing dialogue and reflection in the community in the aftermath. Rather than having predetermined outcomes and logframes, open-ended approaches based on broad milestones allow for iterative adjustments to be made, and for unforeseen opportunities to be seized.

It can be hard to 'unlearn' institutional practices, and it is harder still to shift community perceptions attached to an organisation's 'brand' and standard ways of working. In this way, both problems and solutions risk becoming 'projectised' – self-contained, short-term and piecemeal. This is particularly problematic when addressing root causes, with the World Bank and others

suggesting that it takes at least two decades to transform patterns of conflict.³ Short-term projects may indeed be counterproductive, given the community expectations raised and the unsustainable positioning or 'NGO-isation' of peace activists. While such practices should be avoided, there are others that should be encouraged. This includes providing sustained, predictable yet not predetermined support, including through pooled funding to individuals and movements that cuts across organisational lines, empowers community-led decision making and action, and reinforces capacities and practices that can be sustained over time. This is a long-term challenge that requires sustained, iterative and long-term engagement to put locally led efforts in the driving seat.

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2. See for example European Union (2018) *Contested Refugee: The Political Economy and Conflict Dynamics in Uganda's Bidibidi Refugee Settlements*, p5 <http://bit.ly/EU-ContestedRefugee-2018>
3. See World Bank/United Nations (2018) *Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict* www.pathwaysforpeace.org

Land and conflict: taking steps towards peace

Oumar Sylla, Ombretta Tempra, Filiep Decorte, Clarissa Augustinus and Ismael Frioud

Thousands of displaced Yazidis in Iraq have been assisted in making a safe, sustainable return through a project that addressed the complexity of issues around land tenure.

Competition over land is a common cause of conflict, one that becomes explosive when it overlaps with other causes of conflict. Some of the key contributory elements that exist in contexts where land issues cause violent conflicts (and displacement) are: weak land governance, government inability to manage land-related conflicts, corruption, power asymmetry (where a few wealthy people own most of the land), land appropriation by investors, mismanagement and illegal use of natural resources and public land, and competition based on ethnicity and identity.¹ And competition over land is likely to intensify with the growing pressures of

climate change, population growth, increased food insecurity, migration and urbanisation.²

The example of an approach taken in Yazidi villages in Iraq illustrates how addressing issues around land insecurity can be instrumental in peace building and recovery, in facilitating sustainable return, and in building trust and political will with governments.

Yazidis in northern Iraq

Many Yazidis, a minority ethnic group, experienced two recent waves of evictions. In the 1970s a large population of Yazidis living in the Iraqi governorate of Nineveh



Data collection relating to Yazidis' property claims, Sinjar, Iraq.

were forced by the regime to relocate from their ancestral land to collective townships. They did not receive compensation for the land they were forced to leave, nor were they given certificates of ownership in the new collective townships. In June 2014, ISIS fighters took over Mosul, the capital of Nineveh, and in August they attacked Sinjar district, where many Yazidis had been relocated to. Some 3,300,000 people were forced to flee, including an estimated 250,000 Yazidis. Unoccupied Yazidi settlements were systematically demolished or seized by ISIS, 6,000 homes were burned down or destroyed, and a large proportion of the public infrastructure was damaged or looted.³

Since the withdrawal of ISIS from Mosul in 2017, the situation in Sinjar remains complex. Many people are still displaced, and in the absence of a land administration system and official property documents there is continuing insecurity of tenure, risk of secondary occupation, and conflict over property.

UN-Habitat supported a project in Sinjar to address these challenges, working in 17 villages to benefit 1,312 households.⁴ The project was based on the theory that if Yazidis' homes were rehabilitated, their

property claims identified and verified, and their land rights protected, this would encourage their voluntary return to their area of origin and their return would be more sustainable; conflicts over land rights would be prevented and the risk of future displacement reduced. Due to the difficulty of obtaining formal land ownership documents in Iraq, the project's approach was an incremental one, using a continuum of land rights approach.⁵ The initial objective was therefore not to establish full property titles – a step planned for a later phase of the project – but instead to respond to immediate needs and first secure occupancy rights with land documents. In order to facilitate the sustainable return of displaced people, the immediate priority was to rehabilitate houses, map property claims and deliver initial land documents, while preparing in the longer term to strengthen the capacity of municipalities in regard to land administration.

Tools and methods

The project used two main tools: a GIS⁶ database and a housing, land and property survey. The database is based on a geo-information technology called the social

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tenure domain model (STDM)⁷ to map the land rights and claims of the Yazidis in an area lacking an operating land administration system and where land tenure is informal. The information was collected through a housing, land and property (HLP) survey undertaken with the help of community members and local authorities. Community mobilisation activities were carried out in villages and IDP camps in order to inform local people about the project, identify households whose houses had been damaged, and assess people's vulnerability. Discussions were also conducted with local authorities to help identify claimants and damaged houses, and to facilitate the follow up activities.

The project emphasised gender and the impact of inequitable access to property rights. Yazidi women have limited access to inheritance, as traditionally property is divided among the male survivors, and few female household heads gave their names as the owner of the house. Female-headed households, including those led by widows and by young pregnant women, were given priority. Further, the occupancy certificates issued included all the names of the members of the households, both male and female, including children. However, broader action is required to address women's land rights against the background of Iraq's challenging laws and cultural practices relating to inheritance and access to land and property.

The STDM was used to ascertain occupancy rights and ensure that houses planned for rehabilitation were owned by the claimants and that there were no contested land tenure claims requiring adjudication. Potential beneficiaries and community members were interviewed and asked to provide informal or alternative documents (for example, utility bills) as evidence of their previous occupancy of the land and/or buildings. Community meetings were held to verbally confirm the validity of the claims. In addition, confirmation by local authorities of the household's occupation on the plot for several years was also used as evidence. Through this process it was possible to prepare 'pre-certificates of occupancy', which were signed by the authorities.

Plot boundaries were marked and then validated by the claimants, neighbours, local authorities and UN-Habitat. The final, validated map was included on the final certificate of occupancy, which was signed by the claimants, local authorities, the municipality, two witnesses and UN-Habitat. The local authorities' signature supports and protects the claims. The information on the certificate includes a map of the plot, a photo of the family, the names of the claimants, text explaining what type of rights the occupants have, and signatures. Copies of the certificates were given to the municipality and occupants; a copy was kept by UN-Habitat.

Technical rehabilitation of houses only started once the claimants had been validated by local authorities and community members as the legal occupants. The use of over 40 private construction companies combined with the employment of returnees during the rehabilitation process supported the recovery of the local economy, created employment opportunities, and offered on-the-job skills trainings for returnees, creating greater economic security and thereby helping to prevent future displacement.

Throughout all this, local leaders were trained in land rights, including the management of property-related grievances and development of common criteria on which to base the issuing of certificates.

Engaging and building political will

Due to the complex security, political and humanitarian situation in Sinjar it was essential to coordinate closely with government counterparts (in governorates, sub-districts and local authorities). This was the first time Yazidis had been given officially recognised certificates to support their land claims, and the local government's involvement in this demonstrated political will that was important to the success of the project.

The provision of certificates, mapping and technical rehabilitation were a significant first step toward the recognition of full land titles registering legal ownership. The work undertaken strengthened local

capacity in relation to land administration, and a preliminary agreement was secured with the Ministry of Justice to eventually transform the certificates into full titles.

After the central government of Iraq took direct control of the area in October 2017 it was unclear whether they would accept the land certificates that had been issued to the Yazidis under this project. However, from 2018 onwards it became clear that the central government accepted these certificates as evidence of the Yazidis' land rights and wanted UN-Habitat to extend the certificates to the wider governorate. Negotiations are currently underway about exactly how to upgrade these certificates into the broader land registration system. UN-Habitat has funded another project to facilitate work on upgrading the certificates to full titles.

Preventing future conflict

The project had a number of results. It contributed to the prevention of land-related conflict by ensuring that returnees were acknowledged as the real owners of their houses and that their claims were officially recognised by local authorities. It enhanced the land rights of Yazidis through issuing land certificates. It supported the right to adequate housing by rehabilitating damaged houses. In essence, it fostered the voluntary, safe and dignified return to areas of origin, and prevented future evictions, secondary occupation and conflict over land.

"This was our land. We had built our house on it. UN-Habitat provided us with occupancy certificates confirming we are the residents and living here." Qunaf Qasim, returning resident.

The relationship between local leaders and the local authorities was strengthened on land tenure issues in a way that helped them to reject unsubstantiated claims and to arbitrate on overlapping claims. It helped them to advocate for the use of the STDM tool and Yazidis' land rights data with regional and national authorities.

The intervention increased community members' and local authorities' understanding of social tenure and land rights, prevention of conflict over land, and

technical standards for house rehabilitation. It supported the area's economic recovery and the economic security of the returnees.

This case study shows how political will was forged to give the Yazidis security of tenure for the first time in decades. It shows how practical land tools that support locally led and community-level activities can encourage and support voluntary returns, conflict prevention, peacebuilding and economic recovery, and build community resilience. And it demonstrates the roles of different levels of government and of multi-stakeholder partnerships in addressing a critical root cause of displacement – competition over land.

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3. Frioud I (2018) 'Iraq: Social Tenure and House Rehabilitation to Support the Return of Yazidis in Sinjar', in UN-Habitat/GLTN/IIRR (2018) *Land and Conflict: Lessons from the Field on Conflict Prevention and Peacebuilding* bit.ly/GLTN-Land-and-Conflict-2018
4. Funded by the Government of Germany through the UNDP and UN-Habitat/GLTN. The US has given further support since 2018 to upgrade the land certificates into the Mosul land registry.
5. This inclusive, pro-poor, gender-responsive approach incorporates tenure rights that are both documented and undocumented, formal and informal, for individuals and groups, including pastoralists and residents of slums and other settlements, which may be legal or not legal. The continuum approach works with what is already in place and the GIS incorporates these into a land information management system that caters for the whole spectrum of formal, informal and customary land rights in the country.
6. Geographic Information System, using information drawn from satellite technology.
7. Developed by UN-Habitat and the Global Land Tool Network www.gltln.net

Community-level conflict prevention and peace building in DRC and Somalia

Wale Osofisan and Shuna Keen

There is growing recognition of the need to address the root causes of displacement through the perspective of the humanitarian-development-peace 'triple nexus'. A locally led programme in DRC and Somalia reflects this approach and offers useful lessons and recommendations.

Over the years, the aid industry has struggled to find durable solutions to displacement, given the complex and interwoven factors that are involved. There is an emerging consensus that better coordination between humanitarian, development and peace actors (known as the 'triple nexus') could provide a framework to tackle the issues associated with protracted displacement and hence durable solutions. It is within this context that the Sida-funded¹ Conflict Prevention and Peacebuilding Programme was designed and implemented.

This programme seeks to address some of the root causes of displacement in the Democratic Republic of Congo (DRC) and Somalia. Three key concepts informed the programme's design:

Firstly, the programme focuses on understanding and tackling the structural and immediate drivers of conflict. The structural drivers contribute to conflict but do not in isolation lead to violence. In Somalia and DRC, these are associated with three crises: 1) crisis of identity (for example, the nature of ethnic/tribal composition and the nature of competition among elites); 2) crisis of representation (for example, the nature of the political system and political culture); and 3) crisis of penetration (for example, State capacity to perform its basic functions). The immediate drivers are those that transform structural causes into potentially violent conflicts. In Somalia and DRC, these include: inequality of access to information, services and other public goods; unequal participation in decision making; and the utilisation of ethnic and clan identities to serve narrow political ends.

Secondly, the programme explicitly focuses on positive peace as opposed to

negative peace. Negative peace refers to the cessation of direct, physical violence. Positive peace is about the removal of structural violence – factors such as deep-seated grievances, human rights abuses, gender-based violence, social injustices, exclusion, and weak public and conflict management institutions. Activities to build positive peace aim to remove or gradually chip away at the structural and proximate causes of violent conflict. In DRC, we use equitable access to health services for two ethnic groups (Bantu and Twa) in Tanganyika, and in Somalia we use access to justice in Karaan and Hawl Wadaag districts of Mogadishu, as entry points to promote positive peace.

Thirdly, dealing with the root causes of conflict while preventing a relapse into violence requires a Conflict Sensitivity Analysis that focuses on addressing the relationship between the programme and the conflict/displacement context. We included this analysis as part of the baseline assessment, drawing on our local partners' knowledge in order to highlight priority areas of risk and mitigation strategies. We also incorporated a Do No Harm approach by identifying specific 'dividers' and 'connectors' in project locations – that is, those elements in society that either divide people (and are sources of tension) or connect people (and can be instrumental in problem solving). The findings helped inform the design and implementation strategies of both the DRC and Somalia components.

The programme: root causes and positive peace

At the heart of the programme is an attempt to support people affected by conflict in ways that keep them safe in their communities

and empower them to influence the decisions that affect their lives. It does so by supporting the following activities that embody the spirit of the triple nexus:

- **Humanitarian action:** responding to humanitarian need through direct service delivery, providing legal assistance and improving the accountability and accessibility of health services in areas where a significant part of the population is either in need of humanitarian assistance, or risks developing that need.
- **Local peace building and social cohesion:** implementing activities that promote social cohesion such as intra/inter-community dialogues, and that include marginalised groups in decision-making processes around health and justice services.
- **Local governance and rule of law:** focusing on strengthening systems and developing the capacity of duty bearers who are responsible for providing health and justice services, while increasing the capacity and knowledge of communities (rights holders) to hold duty bearers accountable.

Local ownership is integral to the design methodology and implementation of both projects. Partnerships include community members and duty bearers, especially local government actors, and civil society. Local actors are the best positioned and most appropriate, effective and sustainable agents for improving accountability and inclusion, mitigating conflict, and identifying and solving local problems.

In **DRC**, we work with a local faith-based organisation, Commission Diocesaine de la Justice et Paix. Here the programme contributes to strengthening resilience, well-being and inclusive participation of people from Bantu and Twa ethnic groups through peace building and access to health initiatives in Nyunzu and Kalemie health zones in Tanganyika Province. It tackles the root causes of conflict between the Twa and Bantu by creating and rejuvenating community platforms that are representative of both ethnic groups.

In Nyunzu, which has experienced extreme poverty, damaged community cohesion and infrastructure, and decades of underinvestment, community volunteers have been mobilised and elected onto local peace and health committees. Through these committees, Bantu and Twa community members are collaborating to build peace and promote recovery. Having mixed committees has been essential for rebuilding trust. The committees' advocacy, including with local militias, has enabled the return of security and displaced populations to the project areas, helping to create the conditions through which health services can be reestablished and accessed.

Community health workers carry out sensitisation in their villages, building awareness of, and trust in, the local health services. Many more Twa are now using services they had previously avoided, fearing discrimination and mistreatment. Twa women are now choosing to give birth in the health centres, rather than at home, and many more are bringing their children to be vaccinated.

In Mogadishu, and across South and Central **Somalia** in general, a key cause of conflict and displacement is the lack of State capacity to provide basic services, including the management and administration of a fair and transparent justice system. The programme in Somalia is working in partnership with two districts – Hawl Wadaag and Karaan. It works to strengthen access to justice systems and the capacities of community members and local authorities to prevent and manage conflicts and disputes in a non-violent way. Specifically the project works to achieve behavioural change by justice service providers so that they protect the right to a fair trial; it also strives to increase use of safe justice services by citizens and to support communities to develop strategies for collective action that are inclusive of all voices, irrespective of clan affiliations.

The programme works closely with the two district councils, strengthening local implementation, ownership and sustainability. In addition, community

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Community meeting with local committee members, Democratic Republic of Congo, March 2019.

representatives – including from women and youth groups – were involved in the initial analysis of the nature of conflicts in Mogadishu.

Recognising Somalia's legal pluralism and the community's preference for and trust in informal traditional and customary justice systems, the project has sought to engage with and build the capacity and willingness of both formal and informal justice service providers to promote the right to a fair trial. Participatory activities such as stakeholder forums, dialogue platforms and community-based conflict mitigation action planning help generate regular communication between communities and local government on conflict management and access to justice. This promotes accountability based on agreed roles and responsibilities.

Implications for policy and practice

While still in its early stages, the programme is generating some valuable lessons for conflict prevention and peace-building practice. Learning and research are built into the programme cycle, and now, in the programme's second year, three lessons in particular are worth highlighting.

Service delivery has proven to be a useful entry point and viable platform around which to organise peacebuilding approaches and to build social cohesion between conflicting

groups. Strengthening local State and informal institutions and accountability for service delivery is essential for sustainable and locally led approaches. There is huge potential for collaboration and collective action through voluntarism at the grassroots.

Working with the volunteer committees in DRC, for example, has been a key factor in promoting women and Twa ethnic minority representation in local decision-making processes. This has helped to build trust, demonstrating cooperation between communities in solving local problems. To build social cohesion successfully, it is necessary to understand intergroup power dynamics and to address inequalities and barriers to participation for the excluded; this also requires adequate resourcing to offset costs of participation.

Identifying and supporting local institutions while maintaining impartiality requires deep understanding of local conflict dynamics. This demands regular conflict sensitivity analysis and use of Do No Harm approaches. Such processes need to be properly resourced and supported, with the capability of being adapted in response to an evolving understanding of local realities and dynamics.

The above have clear implications for donors and their implementing partners' practices and policies, of which we highlight five.

First, donors should require implementing partners to explicitly adopt context-responsive and locally led programming; donors can facilitate this by supporting more flexible approaches that build learning into the programme cycle and allow for adaptation. One challenge we faced was due to the fact that the initial design of the project was based on a generic, global theory of change. During the inception phase of the project in DRC and Somalia, and following baseline field research, the project team realised that each country project instead needed its own context-specific theory of change, which then informed adaptations to the project design. Donor flexibility and openness to such adaptive project management are vital, as exemplified in our case by Sida's approach.

Second, those within the aid community working on durable solutions to conflict-induced displacement should invest in appropriate research and analysis. For instance, to measure peace-building outcomes, it is important to recognise that not everything that counts can be counted. Rich qualitative analysis – including of storytelling and anecdotes – combined with quantitative analysis can give us deeper insight into peace-building dynamics and results than quantitative methods alone.

Third, it is important to break down the siloes between humanitarian, development and peace-building work. Grand Bargain² commitments to durable solutions and to the triple nexus are welcome to the extent that they emphasise the importance of the synergies between these areas of intervention. At the grassroots people do not live in siloes, although the aid community still tends to be organised and to operate in siloes. These siloes can be driven by donor funding streams in conflict-affected environments, which tend to deliberately separate humanitarian from development and peace-building endeavours.

Fourth, funding mechanisms should be tailored toward supporting locally driven solutions for protracted crises, using joint funding streams designed to incorporate positive peace elements with a focus on addressing some of the root causes of violent conflict and displacement.

Finally, our experience in implementing this project demonstrates that it is possible for humanitarian actors to engage in locally driven peace building, and to partner with local development and peace actors, while maintaining neutrality and impartiality. For sustainable peace-building solutions to be successful, it is incumbent on external peace-building actors to understand the role of local structures and local dynamics, and to identify ways to support inclusive participation in a way that builds trust and ensures impartiality.

Beyond the local

Linking local peace building to broader provincial and national efforts is one of the key challenges in peace-building work, not least because events, actors and interests at higher levels shape and impact on local peace-building efforts. Effective longer-term planning by international actors relies on the existence and implementation of nationally and locally owned development and conflict mitigation plans and political will. This is particularly challenging in the DRC, where there is state failure and often limited political will among national authorities and elites.

Nonetheless, there is huge potential for local community-led peace building in the DRC to have positive impact beyond the local. Initiatives like the Sida-funded project have potential to build a pro-development and peace-building dynamic to counterbalance the lack of political will among the elite, building social cohesion and political will from the grassroots upwards.

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1. Swedish International Development Cooperation Agency
2. <https://interagencystandingcommittee.org/grand-bargain-hosted-iasc/>

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Gang violence, GBV and hate crime in Central America: State response versus State responsibility

Vickie Knox

Significant displacement is caused in Central America by gang violence, gender-based violence and hate crimes against LGBT+ people but State responses have failed to address their root causes.

The Northern Triangle of Central America (NTCA)¹ continues to be affected by significant displacement. Large movements of people travelling in ‘caravans’ since October 2018 have increased visibility of the situation but responses to the root causes of mobility remain lacking. Reasons for displacement are multi-causal, with people fleeing violence perpetrated by both State and non-State actors, compounded by worsening poverty and inequality, corruption and political repression, and the effects of climate change.

Violence in the NTCA is perpetrated by a range of actors in different contexts, from megaprojects to state repression, and is perpetuated by entrenched corruption and impunity and by States’ unwillingness or inability to tackle its root causes. This article focuses on acts that would normally be considered individual acts: gang violence, gender-based violence (GBV) and violence against people because of their sexual orientation or gender identity (SOGI). Nonetheless, the root causes of impunity, inequality and discrimination no doubt extend to other manifestations of violence in the region.

Acts of violence perpetrated by non-State actors in the region are widespread and systematic. Although such violence would indeed be considered individual acts in a normally functioning state, in NTCA this violence is enabled by States’ failure to protect their citizens, prevent such crimes and address the causes. This understanding is critical in order to demonstrate the role of the State – a key factor in people’s ability to claim international protection in another country – as well as the State’s responsibility for addressing the root causes of violence and displacement.

Violence, displacement and root social causes

The NTCA suffers from endemic violence and insecurity and has some of the highest murder rates in the world and widespread GBV, sexual violence and femicide. These persistently high levels of violence, the rule of *ver, oír y callar* – see, hear and shut up – and frequent impunity have led to a situation in which violence is normalised and has become “a mode of communication”.²

Gang violence creates a ‘continuum of risk’, with some people fleeing reactively from a targeted threat and immediate risk, others fleeing as a pre-emptive measure when personal risk levels rise, and others fleeing because of a general fear of violence, the economic effects of insecurity and inequality, rising violence in their neighbourhoods and battles over territory.³

GBV is a major trigger of displacement for women and girls, both internally and across borders. This includes domestic violence, intimate partner violence, family violence and sexual violence (perpetrated by partners, family members, community members and criminal groups), as well as human trafficking, forced prostitution and the sexual abuse and exploitation of girls and adolescents. Street gangs use extreme sexual violence and femicide as vengeance against rivals, as a message to other gang members or as a punishment for people who have offended. Those forced to flee, however, may still be pursued and persecuted in displacement because their assailants have not been apprehended. The risks of being persecuted after displacement are increased if the violence is perpetrated by a gang member, especially if the victim reports the crime. This is likely to mean

the risk will extend to their whole family and may then trigger cross-border flight.

LGBT+ people flee violence and persecution perpetrated by their families and communities, gang members and State entities. Many LGBT+ people feel they have no option but to leave the country, given the lack of protection or support.

Violence against women and girls and violence on grounds of SOGI both stem from the State's failure to eliminate the patriarchal and discriminatory attitudes that drive them. These patriarchal attitudes and gender stereotypes also contribute to the extreme machoism of gangs and to the intersections of gang violence with GBV and SOGI violence.

Street gangs and the territorial control and violence they employ have deep roots in poverty, lack of opportunities, the political, economic and social marginalisation and exclusion of young people, and the absence of effective State presence and services in marginalised communities. Poverty and a lack of opportunities make people vulnerable to becoming involved in criminal activities as a survival strategy, for economic and protection reasons. This vulnerability may be heightened by family breakdown or having parents who are absent because of work or emigration.

Impunity: endemic, multi-causal and intersectional

Impunity is endemic in the region and most crimes are not prosecuted. In order to understand the role of impunity as a root cause of displacement and violence in the NTCA, its multi-causal nature must be examined.

Firstly, there is a reluctance to report, which is based on several factors, including mistrust of the police and justice system and lack of confidence in the authorities to provide effective protection. This reluctance can also stem from the type of violence or crime experienced. Victims of gang violence fear reprisals and this is amplified by the fear of information being leaked to gangs by corrupt or coerced State agents. For victims of gender-based violence, hate crimes and sexual violence, this reluctance is compounded by fear of stigma, reprisals

and more violence from their assailants, and those who do report are often re-victimised or derided by police. Reporting is also hindered by a lack of shelters for victims of domestic violence, the refusal to help people who appear to be a different gender from that given on their identity document, and a lack of recognition of same-sex relationships and the possibility of violence within them.

Secondly, there are significant practical challenges in delivering justice, including weak institutions, a lack of resources and capacity, and the sheer volume of cases. When crimes are reported to the authorities, reports may be refused or simply not processed and investigated. When investigations do take place, they are often lengthy and inefficient. All this is aggravated by a lack of effective witness protection and survivor support programmes.

Thirdly, State entities and law enforcement agencies have been corrupted and infiltrated by gangs, or may themselves extort and abuse people directly.

This all contributes to a cycle of impunity in which crime can flourish and people's trust in authorities is further eroded, undermining access to justice and increasing the vulnerability of certain groups. States' failure to provide an effective response and protection contributes to displacement and affects its patterns – who goes and where they go – and people's need for international protection.

States' disregard for root causes

States' responses to gangs have failed to resolve the problem; indeed, they have instead had adverse consequences that have provoked further displacement in both El Salvador and Honduras. As gangs recruit ever younger children (because minors are less likely to be identified as gang members during raids, and because they attract less harsh criminal charges), whole families and individual minors are being forced to flee. In addition, as gangs in El Salvador relocate to rural areas in order to avoid raids, this results in increased violence in previously unaffected rural areas and consequently to greater displacement of people from these locations.

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Meanwhile, increased enmity between gangs and police has forced some members of the security forces into displacement.

The repressive State response itself has also caused displacement, with young people fleeing arbitrary State harassment and abuse of power and with people living in gang-controlled areas fleeing pressure from security forces to divulge information about gang members. These approaches further aggravate the lack of trust in the authorities and the marginalisation of young people, while failing to address the broader manifestations of violence and their root causes.

State responsibility

Prevention strategies are severely lacking and this is particularly apparent in States' persistent failures to address the root causes of violence, either by tackling the poverty, marginalisation and inequality that drive gang violence or by remedying the deep discrimination and patriarchal attitudes that drive GBV and hate crimes against the LGBT+ population. Tackling root causes is key but this will require a broad-ranging view of violence in all its manifestations (including GBV and hate crimes) plus institutional and legislative developments supported by solid policy, social programmes and attitude-changing campaigns.

Nonetheless, there have been promising localised developments that hold potential for replication in other areas. These include intervention programmes such as Cure Violence in some parts of San Pedro Sula, a youth outreach programme in Rivera Hernández (one of Honduras' poorest neighbourhoods), family-based violence prevention strategies used in the El Salvador Crime and Violence Prevention Project, and dedicated cooperation between community and municipality in Berlín in El Salvador that have enabled it to remain free of gangs.⁴

There have also been some promising recent commitments, although these are still to be implemented. El Salvador's incoming president, Nayib Bukele, has called for social programmes, education, and reintegration programmes for former gang

members, to prevent gang violence. Under the Comprehensive Regional Protection and Solutions Framework (MIRPS, as it is known regionally), Honduras has committed to "develop strategies to prevent and address the specific risks of women and girls, transport workers, traders, persons at risk of losing their lands, and LGBTI persons".⁵ Achieving this, however, would require significant multi-agency work and social and political commitment – all the more challenging given increasing political repression and State violence in Honduras.

Despite pledges by Mexico's new president, Andrés Manuel López Obrador, to develop a regional response to tackle the root causes of migration, in reality responses from Mexico and the US continue to be security measures to prevent people from travelling northwards. Ultimately, more political will and regional commitment are needed to ensure that rhetoric becomes reality.

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1. Also known as Northern Central America, comprising El Salvador, Guatemala and Honduras.

2. This expression was used by a few representatives of civil society organisations whom I interviewed in El Salvador and Honduras in 2018.

3. See Knox V (2017) 'Factors influencing decision making by people fleeing Central America', *Forced Migration Review* www.fmreview.org/latinamerica-caribbean/knox and Internal Displacement Monitoring Centre (2018) *An Atomised Crisis: reframing internal displacement caused by crime and violence in El Salvador* bit.ly/IDMC-ElSalvador-2018

4. See: Cure Violence (2016) *Report on the Cure Violence Model Adaptation in San Pedro Sula* bit.ly/CureViolence2016; The El Salvador Crime and Violence Prevention Project bit.ly/ElSalvador-crime-prevention

5. www.globalcrf.org/crrf_country/honduras/

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The Palestinian refugee question: root causes and breaking the impasse

Francesca P Albanese and Damian Lilly

Acknowledging the root causes of Palestinian displacement and objectively applying international law will be key to any solution to the Palestinian refugee question. Recent attempts to dismiss the Palestinian refugee issue altogether make this all the more imperative.

The ‘root causes’ of Palestinian displacement – the largest and longest-standing protracted refugee situation in the world¹ – are complex and their impact has grown over time as they continue unaddressed. They date back to the early 20th century, when the conflicting aspirations of two groups (one indigenous and one largely constituted by immigrants) over the land of British Mandate Palestine escalated into a war that in 1948 resulted in statehood for one group (Israel) and the denial of the right to self-determination, dispossession and exile for the vast majority of the other (Palestinians).

The fate of the Palestinians, 750,000 of whom became refugees around 1948, was sealed by subsequent Israeli laws and policies that prevented their return to their original homes and made them stateless as they – unlike the Palestinians who remained in what became Israel – were not offered the possibility to become Israeli citizens.² Since 1948 there have been numerous, significant waves of further displacement of Palestinians, many of whom continue to experience varying degrees of discrimination, poverty and loss of rights, not only under Israeli rule in the West Bank and Gaza (occupied since 1967), but also in some other parts of the Arab world where they found refuge.

While the UN’s General Assembly has adopted hundreds of resolutions reaffirming the refugees’ right to return to their homes, along with compensation,³ and the Security Council has frequently affirmed the need to achieve a just settlement of the refugee question, none of these resolutions has ever been implemented. Years of political negotiation between the parties under the auspices of the UN and

then regional and bilateral negotiations from the Madrid Conference and Oslo Accords onward have not ultimately led to any advances either, notwithstanding key developments such as recognition of Israel by the Palestine Liberation Organization.

Divergent narratives about the origins of the Palestinian refugee question have distorted the legal debate on the ways to resolve their situation. A misleading argument that has over time overshadowed the debate is that UNRWA⁴ ‘perpetuates’ the problem by registering and assisting successive generations of refugees.⁵ This aid, which has been instrumental to the survival and dignity of millions, cannot either be blamed for the lack of a political solution nor be a substitute for such action. UN Member States remain responsible for finding a solution to end the plight of the Palestinian refugees.

Unlocking solutions

The Palestinian refugee question is often presented as insurmountable, but it is not. The most difficult challenge is the lack of political will to even acknowledge the ‘root causes’ of either the original displacement or its continuing, protracted nature – lack of self-determination, prevention of return, lack of property restitution, lack of compensation, and denationalisation *en masse*. Efforts to obscure the root causes of Palestinian displacement have affected both the parties’ ability to compromise and the way these refugees’ plight is perceived internationally. Along with the lack of effective support by Member States to ensure the principled application of international law, this has left the Palestinian refugee issue unaddressed.

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The 2016 New York Declaration for Refugees and Migrants and the 2018 Global Compact on Refugees underscore the importance of States' efforts to eliminate root causes in order to achieve solutions including in protracted refugee situations. And these instruments highlight the relevance of a multi-stakeholder approach, together with respect for the rule of law and the protection of human rights as part of the process towards solutions.

For Palestinians, applying such an approach would imply, first and foremost, that the search for solutions be detached from the constraints of politics and the asymmetry in power of the parties, and be guided by the parameters of international law.⁶ While international law cannot by itself settle the complexity of the Palestinian refugee question, it can help move discussions beyond what is 'politically feasible' towards what is fair and acceptable, so that the political process, whenever it resumes, has more chance of success. The positions of Israel and the Palestinians have never been further apart and the promulgation of the 'deal of the century' announced by the US government in June 2019 has further polarised them. A firm lead by the UN in re-centring the debate on the rights of the refugees is imperative.

The homeland that the Palestinian refugees were forced to leave behind in 1948 no longer exists as a political and administrative entity, the root causes of their exile remain unaddressed, and Palestinian displacement and dispossession in the territory that Israel occupied in 1967 continue. These elements are of fundamental importance to the Palestinian case. However, it is not always appreciated that in other respects the problems faced by Palestinian refugees have not been markedly different from those faced by other refugees, almost two thirds of whom also find themselves in a protracted exile and often without respect of their basic rights. Like any uprooted individuals, Palestinians must be allowed to rebuild their lives in safety and dignity and have their fundamental rights respected. Comparative experiences from Asia (after the Indo-China war), Central America, the

former Yugoslavia, Iraq, East Timor and various countries in Africa (from Angola to Mozambique) suggest that solutions to complex, protracted refugee problems can be found through a combination of the application of legal principles and political compromise. In other refugee crises the international response has typically been multidimensional, addressing: first, the refugee status created by the original displacement – through a combination of voluntary choices of repatriation, local integration or resettlement; second, the material consequences of the displacement (damage or loss of property or loss of income) – through restitution and/or compensation; and, third, the moral and psychological loss and damage that may have affected both individuals and the community as a whole – through various forms of reparations.

Applying such a multidimensional response in the Palestinian refugee case would have a number of practical implications. First, it requires acknowledging an objective historical narrative around the 'root causes' of Palestinian displacement and the enduring denial of rights they have experienced ever since. This may help Palestinians see their collective identity and dignity restored after decades of dispossession and exile as – at best – second-class citizens or – often – as second-class foreigners. This may also help foster compromise with Israel and address misperceptions in this regard within Arab countries. Having the UN leading such a process would help ensure objectivity.

Second, any solutions proposed need to reconcile politics with international law including applicable UN resolutions and international human rights law pertaining to collective rights. This implies first and foremost respecting the principle of self-determination for Palestinians. Many argue that an independent, fully sovereign Palestinian State along the 1967 borders would be the logical solution, as it would allow Palestinians to realise the right to self-determination and to nurture a sense of national identity. This would not, however, automatically allow the refugees to realise

their unfulfilled historic claims, including return and compensation. A fair compromise would allow refugees to take up residency in a newly established Palestinian State or remain in host countries until a resolution enables return to Israel in numbers agreed by both parties. However, for this to happen Israel must first relinquish its occupation of the Gaza Strip and West Bank, including East Jerusalem. To facilitate restitution and compensation, relevant historical records should be preserved for the point at which it will be possible to pursue related claims.

Third, applying international law to the Palestinian refugee question also means aligning the solutions for Palestinian refugees with international refugee law and practice pertaining to individual rights. UNHCR considers that the different durable solutions (voluntary repatriation, local integration and resettlement) are not mutually exclusive; provided they are all voluntary, they can complement each other and can be strategically combined. The Palestinian refugee question is no different. For example, in 1948, General Assembly resolution 194 established that those refugees “wishing to return to their homes and live at peace with their neighbours” could do so but also that those refugees not willing to return could opt for resettlement and be compensated. Israel’s firm denial of the refugees’ right to return, however, has also limited the options for alternative voluntary solutions. The fact that there are practical and political obstacles to allowing Palestinians to return to Israel (even though their return would not be at the expense of Israeli nationals and their safety) does not undermine the importance of recognising this right of return. Meanwhile, such an approach necessitates unpacking the persistent belief among Palestinian refugees and their Arab host States that acceptance of any solutions other than return would require relinquishing their claims vis-à-vis Israel. In fact, under international law, ending refugee status only implies cessation of international protection and does not affect the historic

rights of return (including restitution) and compensation – to which Palestinians are entitled under international law as already set out in various UN resolutions.

In sum, the political will to effectively resolve the refugee issue, beyond rhetoric, has sadly been lacking to date. A just and lasting solution to the Palestinian refugee question requires robust and principled political action grounded in international law. Recent efforts to dismiss the Palestinian refugee question as secondary in the search for peace in the region may lead to further instability and should be rejected. Politics ignoring basic principles of justice will not lead to a sustainable settlement.

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This article is written in a personal capacity and does not necessarily represent the views of the authors’ organisations.

1. Out of 13 million Palestinians more than half are considered refugees, some 5.4 million of whom are registered ‘Palestine refugees’ with UNRWA and live in the Near East. Palestine Central Bureau of Statistics, December 2018.
2. While some Palestinians may have acquired citizenship where they ‘relocated’ (Jordan is the only country that granted it *en masse* to those displaced in 1948), the majority remain without citizenship. Lack of full sovereignty of the State of Palestine – an indispensable element to the realisation of the right to self-determination – renders Gaza Strip and West Bank residents stateless under international law.
3. See for example General Assembly Resolution 194, para 11 bit.ly/GenAssResolution194
4. The UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), established 1949, operates in Jordan, Lebanon, Syria, the West Bank including East Jerusalem, and the Gaza Strip, providing education, health services and jobs.
5. Compliance of UNRWA’s registration system with international refugee law and practice is discussed in Albanese F P (2018) ‘UNRWA and Palestine Refugee Rights: New Assaults, New Challenges’, *Current Issues in Depth*, Institute for Palestine Studies. bit.ly/Albanese2018-PalestineStudies
6. For more on the application of the NYD/GCR framework to Palestinian refugees, see Albanese F P and Takkenberg L (2020) *The Status of Palestinian Refugees in International Law*, OUP.

thematic listings

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Resilience spaces: rethinking protection

Pablo Cortés Ferrández

Collaborative approaches to building capacities of urban IDPs and host communities are emerging as a more effective way of confronting the root causes of protracted and secondary displacement in informal settlements in Colombia.

In Colombia, internal displacement caused by armed conflict or generalised violence is often followed by further displacement towards cities where families seek assistance, protection and economic opportunities. An estimated 87% of these internally displaced people (IDPs) come from rural areas, and they seek shelter in the only places that they can access – informal settlements.¹

“I was displaced by paramilitaries from Llanos Orientales to Chocó in 2005. Three years later we fled to the urban areas of Buenaventura and then again in 2012, due to the generalised violence, to Bogotá. In 2014 we started to build our house on this hill because of the cost of living in the city.” (Yomaira, who lives with her husband and three children in Altos de la Florida, Colombia)

Altos de la Florida is a neighbourhood in Soacha, a municipality of approximately one million people, the largest of the cities in the vicinity of Bogotá. Forty-eight per cent of the municipality is considered ‘illegal’ by the local authorities. By July 2018, Soacha was hosting around 50,000 IDPs. The number of displaced people has also been swelled by at least 12,300 Venezuelans who have fled the crisis in their home country. Altos de la Florida has a low quality of housing, services and infrastructure, with some 73% of households – 1,011 families, around 3,657 people – living in conditions of structural poverty.

Informality: a root cause of urban displacement

The UN Refugee Agency (UNHCR) and UNDP have identified Altos de la Florida as a vulnerable community due to the ‘informal’ nature of the neighbourhood. Households lack security of tenure, with no official proof of home ownership (and indeed the neighbourhood has faced eviction attempts). The lack of basic services and infrastructure



Altos de la Florida, September 2018.

in Altos de la Florida increases people’s vulnerability. Few have access to mains drinking water, around 300 children lack access to a kindergarten, and there are no primary health centres. The informal nature of these urban settings limits what can be done to reduce vulnerabilities, yet the city’s planners refuse to legalise the settlement by approving those homes that have already been built and by incorporating the neighbourhood into their urban planning.

Informality combined with the settlement’s physical location and the absence of local authority presence make it a target for non-state armed actors. Homicide rates are high, and violence is a significant challenge. The lack of political will, the

structural vulnerabilities of communities in these informal urban areas and high levels of insecurity lead to new urban displacements, both intra-urban and inter-urban. Urban IDPs are forced to flee the informal settlement due to urban violence only to arrive in another informal settlement with similar protection risks. Informal settlements are thus at the same time places from which people flee and places in which displaced people seek refuge. In socially and spatially segregated Altos de la Florida, IDPs represent 30–40% of the population.

International aid: undermining resilience

In recent years, humanitarian, development and peace actors have increased their interest in responding in urban contexts. However, their lack of experience in responding to challenges arising in urban settings continues to undermine humanitarian and development interventions, and this is what our research in Altos de la Florida investigated.²

In the settlement, a protracted emergency response since 2001 has caused over-dependency on external aid. Emergency assistance is essential, particularly for newly arrived families, but protracted provision of aid replaces community participation and increases the gap between humanitarian action and development. Social cohesion is undermined, and the limited consultation and lack of coordination involved reduce the effectiveness of any intervention. Previous project evaluations found that “international cooperation is insufficient and requires the integral intervention of the State”.³ Far greater collaboration between the humanitarian sector and local authorities is necessary if the causes of lack of integration and ensuing secondary displacement are to be addressed; this requires a strong political will, both locally and nationally.

Resilience spaces: a protection approach

In informal urban settlements, humanitarian, development and peace actors have to work within the limitations of a weakened and less cohesive social environment, exacerbated by violence. This promotes short-term responses and siloed approaches. Poorly integrated

responses have limited capacity to address complex urban crises. Interventions must be collaborative and integrated, and should aim to reduce the longer-term vulnerabilities of both IDPs and host communities.

Beyond survival, humanitarian aid should be committed to supporting people to live in dignity. ‘Resilience spaces’ were developed as a complementary approach to protection, combining assistance and recovery not only by addressing urgent needs but also by strengthening local capacities. The framework combines a top-down protection approach with a bottom-up capacity-building approach through three areas of intervention: creating education, economic and labour opportunities; strengthening social cohesion; and supporting leadership capacities. Such an approach has been introduced through various projects in Altos de la Florida, resulting in the creation of two grassroots ‘resilience spaces’ in the informal settlement: *Comité de Impulso*, a fortnightly meeting between community leaders, residents, IDP associations and humanitarian workers; and *Florida Juvenil*, a youth community organisation created by the neighbourhood’s breakdance, theatre and football groups.

The *Comité de Impulso* works to build synergies among organisations, the community, the authorities and the public sector in order to make humanitarian response more sustainable. With local leaders convening the committee and through the community being empowered to deal with neighbourhood issues, it is itself a resilience-building process. *Florida Juvenil* – whose approach is that protection comes through empowerment – emerged from a UNICEF initiative and continues to be supported by UNHCR (the UN Refugee Agency), *Kairós* and the Jesuit Refugee Service. *Florida Juvenil*’s leaders are young people from the neighbourhood who started as students with the breakdance group (called 180 Crew because of the number of young people involved).⁴

Resilience has emerged as one of the strongest responses to the humanitarian and development divide and the call for a ‘New Way of Working’ to bridge this

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divide. In Altos de la Florida, the joint work of humanitarian and development actors, in collaboration with national and local counterparts, aims to reduce risk and vulnerability in the short to medium term (three to five years). The focus here is on three criteria which are increasingly recognised as essential in urban responses to displacement: complementarity, connectivity and sustainability.

In Altos de la Florida, international actors have been working to strengthen rather than replace local and national systems. They have sought to collaborate with local and national aid providers, and include local authorities and municipalities in planning and programming; they work to empower leaders of both local and national NGOs and community-based organisations by developing their leadership, management and coordination capacity, and by facilitating them to use social networking tools to advocate with local authorities. Sustainability and resilience depend on this ability to

collaborate and on the strengthening of local and national capacities. The approach taken in Altos de la Florida is based on the construction of resilience as an instrument of protection. This protection, in turn, represents a key factor in addressing the root causes of urban displacement.

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1. CNMH (2010) *Una nación desplazada. Informe nacional del desplazamiento forzado en Colombia*, p38 bit.ly/29uyNzv

2. This article is based on a research project implemented 2015–18 in Altos de la Florida, comprising 211 households surveys, 98 in-depth interviews, three social cartographies, and three focus group discussions. The project received funding from the EU Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement No 691060.

3. Econometría Consultores (2016) 'Evaluación externa del programa "Construyendo Soluciones Sostenibles-TSI"', Econometría SA, p19

4. www.youtube.com/watch?v=X116jIL7v_U;
www.youtube.com/watch?v=IF5fTRROURE

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A Syrian man who fled Aleppo has returned to his house and re-opened his restaurant, despite the whole building having been damaged by fire during the conflict. *"I inherited the restaurant from my grandparents, who sold grilled lamb here to visitors for over 50 years."* Many Syrians have returned to damaged homes in neighbourhoods without power or water and with schools and hospitals reduced to rubble.



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