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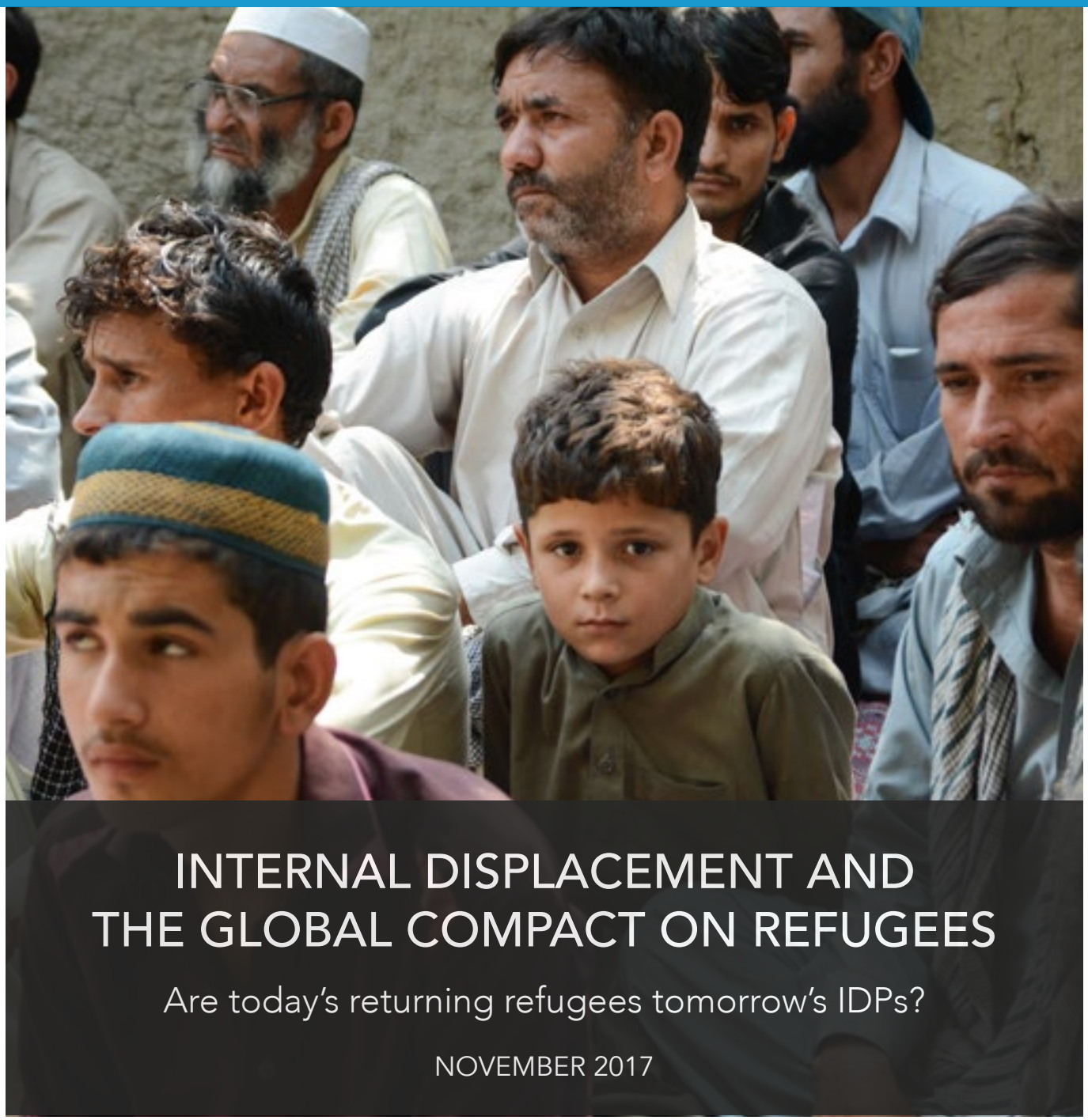

INTERNAL DISPLACEMENT AND THE GLOBAL COMPACT ON REFUGEES

Are today's returning refugees tomorrow's IDPs?

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Introduction

More than 550,000 refugees made the arduous journey back to their countries of origin in 2016, mainly to Afghanistan, Somalia and Sudan.[1] For many returnees, however, repatriation carries the risk of de facto internal displacement (if they are unable to go back to their place of origin or sustainably integrate elsewhere) or secondary displacement (if they are forced to uproot their lives again). This demands a more holistic approach to durable solutions that integrates planning and policy for internally displaced people (IDPs) with that for returning refugees to mitigate the risk of people being caught up in secondary, multiple or pendular movements.

The global compact on refugees, called for in the declaration produced at the September 2016 UN summit on refugees and migrants in New York, has the key objective of fostering conditions that enable refugees to return voluntarily to their home countries.[2] The blueprint for doing so, the comprehensive refugee response framework (CRRF) and its accompanying programme of action, are currently at the centre of a multi-stakeholder process coordinated by the UN Refugee Agency (UNHCR) that provides an opportunity to take stock of lessons learnt and set out practical steps toward the achievement of durable solutions for all displaced people.[3]

The CRRF text included in annex 1 of the New York declaration is scheduled for adoption in September 2018, but it does not refer to internal displacement. The section on durable solutions does, however, reaffirm the "primary goal of bringing about conditions that would help refugees return in safety and dignity to their countries" and the "need to tackle the root causes of violence and armed conflict."[4] To ensure return and reintegration are sustainable, CRRF also calls for "national development planning that incorporates the specific needs of returnees … as a measure to prevent future displacement".[5]

These objectives all involve action in refugees' countries of origin, and as such they demand primary attention to issues that overlap significantly with policy and planning on internal displacement.

This briefing paper is based on a review of existing policy and research, and analysis of IDMC's data in key countries. It sets out our position on returning refugees, internal displacement and durable solutions, and makes concrete suggestions for the global compact's programme of action (see page 7). Our recommendations correspond with the UN secretary general's previous efforts to establish "a more coherent, predictable and effective response to the durable solutions needs of refugee returnees and internally displaced persons"[6] and UNHCR's call to "work more systematically across the entire spectrum of displacement, including through a more predictable and decisive engagement with internally displaced people".[7]

RECOMMENDATIONS

IDMC recommends that the global compact's programme of action include specific provisions on internal displacement and its relationship to durable solutions for returning refugees, calling for:

1. States of origin/nationality to integrate the Guiding Principles on Internal Displacement into national law and policy in order to receive their nationals back in full respect of international human rights law
2. States, UN agencies and their partners to expand and coordinate the collection of interoperable data that covers the entire displacement continuum, from internal displacement to refuge abroad and repatriation/return.

Refugees returning to war instead of peace

Alongside local integration and resettlement, voluntary repatriation or return is considered a durable solution for refugees.[8] It was heavily promoted as part of peace processes in the period after the Cold War.[9] As many as 25 million refugees returned following the end of conflict in their countries of origin between 1991 and 2014.[10] Some, known as assisted returnees, did so as part of organised repatriation programmes and others, known as spontaneous returnees, under their own steam. Return agreements brokered and implemented by UNHCR followed peace accords in a number of countries after the turn of the millennium, including Angola and Burundi in 2002, Liberia from 2004 to 2007 and South Sudan in the lead up to its independence between 2005 and 2010.[11] Return movements in these cases often began before assisted schemes were made available, meaning that people left their countries of refuge without the incentives and support they offered, from pre-departure information and documentation to transport and reintegration assistance, often in the form of cash.[12]

Although peace agreements provide the historical backdrop for refugee repatriation, recent return movements have tended to take place outside of this context.[13] More than 750,000 refugees returned to their countries of origin in 2015 and 2016, most to Afghanistan, Central African Republic (CAR), Somalia and Sudan.[14] Most arrived from neighbouring countries, and all of them to situations of unresolved conflict and the protracted displacement of significant proportions of the population, whether as IDPs or refugees.[15] Ongoing violence continues to trigger new displacements in all four countries.[16]

Refugees returning to areas of active conflict has two important implications. First, it increases the risk of their de facto internal displacement if they are unable to go back to their place of origin or sustainably reintegrate elsewhere, or secondary internal displacement if they are forced to uproot their lives again. Second, there is a risk that the drivers of displacement could be amplified by a large influx of people. In other words, the sustainability of refugee returns is likely to be fundamentally threatened where origin countries are faced with ongoing drivers of internal displacement risk. Of the 15 largest return movements since the 1990s, around a

third were followed by new outbreaks of violence in countries where economic prospects remained limited and peace highly fragile.[17]

UNHCR warned in December 2016 that mass returns to Afghanistan placed a heavy burden on "local markets, housing options, pressure on land availability, and access to livelihoods", from which "a major humanitarian crisis could develop if not sufficiently addressed".[18] As such, securing durable solutions for refugee returnees and IDPs is vital to the recovery of post-conflict countries.[19]

Insufficient monitoring of returnees

Two high-profile cases of large-scale returns in 2016 presented considerable risks and anecdotal evidence of people returning to internal displacement. As many as 600,000 Afghans, including registered refugees and undocumented people, returned from Pakistan to a country that was already experiencing high levels of internal displacement.[20] UN and NGO observers reported large numbers of returnees sleeping in tents or out in the open, adding to the ranks of the internally displaced because conflict and decayed social networks prevented them from going back to their places of origin.[21] In the Horn of Africa, one fourth of the Somali refugees who were repatriated to Somalia in 2016 did not return to their area of origin or habitual residence, and, indeed, were settled in areas experiencing significant internal displacement.[22]

These cases point to a strong connection between internal displacement and the ability of returnees to sustainably reintegrate. There is a major gap, however, in systematic empirical data on the fate of most returning refugees and their progress toward achieving durable solutions. Monitoring efforts drop off sharply once returnees have crossed the border. Systematic information is scarce on where they go, how many go back to their areas of origin, the conditions in return areas and the vulnerabilities and protection issues they and their descendants continue to face as a result of their displacement.

The information that does exist is piecemeal. This is in part because the pursuit and monitoring of durable solutions for returning refugees is often times approached as separate to that of IDPs. Available evidence on refugees returning to a life of internal displacement indicates that a siloed policy or monitoring approach to these two groups is inadequate for measuring the sustainability of returns and the risk of onward movement or displacement.[23]

Any comprehensive policy response to displacement requires interoperable statistics covering different displaced populations. A forthcoming technical report of the UN Expert Group on Refugee and IDP Statistics (EGRIS) states that for statistics to be useful "datasets on IDPs, refugees, asylum-seekers, and migrants need at minimum to be aligned, interoperable, and based on systematically applied and complementary definitions, standards, and methods. It is therefore requisite that coherence exists among concepts and methodologies, data collection instruments, and data analysis tools. Through this, in-depth understanding of displacement under its many different, highly specific forms is rendered plausible".[24]

Agencies and authorities on the ground need to monitor returnees' trajectories over time, covering their settlement and reintegration process. This means gathering data on a range of indicators that benchmark progress toward durable solutions systematically over time and according to commonly agreed standards and definitions.

DURABLE SOLUTIONS FRAMEWORK AND SPONTANEOUS RETURNS

According to the World Bank, unassisted or spontaneous returns accounted for about 33 per cent of all repatriations between 2006 and 2014.[25] Most large return movements include both assisted and unassisted returnees, and registered refugees may choose to self-repatriate before voluntary repatriation programmes are available, or even once they are in place.[26] Their decision may stem from a lack of awareness of, or access to the schemes, or it may be driven by a sense of urgency. This could be because of perceived insecurity in the host country, or need to get back to attend to their property or reunify with family members.[27]

Others may choose to self-repatriate to preserve their refugee status, which they would forfeit through voluntary repatriation, as a safeguard should the situation at home deteriorate.[28] They may also have more resources to begin with placing them in a better position than those who return with assistance.[29] Similarly, those who have access to education, employment and training during their exile may be in a better position to stagger or plan for their return so as to make the best use of livelihoods or services abroad until conditions improve in their country or origin.[30] There is a gap in evidence on whether those who return with external support have a better shot at reintegrating sustainably than those who self-repatriate, or return 'spontaneously'.

Spontaneous returns also take place when voluntary repatriation programmes are unavailable. In line with its durable solutions framework for refugees, UNHCR does not promote or facilitate returns to areas where conditions of safety and dignity are not in place. Syria is a recent case in point, where thousands of refugees returned unassisted from neighbouring countries between January and May 2017, despite UNHCR warning of the dangers of fighting, recruitment by armed groups, arrest and detention.[31]

Undocumented migrants and involuntary returnees are among the most vulnerable of those who return unassisted. They tend not to be monitored at all, and so fall off the radar of humanitarian agencies. It may be harder for policy-makers to maintain oversight of those who return outside of voluntary repatriation programmes, but acknowledging that refugees - both registered and undocumented - may be agents of their own durable solutions warrants their inclusion in planning and policy for sustainable return and reintegration.

Limited safeguards against failed refugee reintegration

Refugee returns have slowed over the past fifteen years, and those who do repatriate are often unable to return to their homes or areas of origin.[32] Instead, many join the ranks of the internally displaced, often in squatter camps or shanty towns on the edges of urban hubs. In 46 per cent of cases between 2000 and 2016, large-scale returns were followed by an increase in the number of IDPs.[33]

For most refugees who have fled conflict, return tends to be a process of trying to build a new life in a new or transformed environment, rather than re-establishing their previous existence.[34] Many do not go back to their former homes or areas of origin. From Kabul, where refugee returnees and returning IDPs account for up to 70 percent of the population, to Luanda, Monrovia and Juba, cities often experience sharp population growth following major return movements.[35]

For people exposed to urban lifestyles during their time in exile, the allure of livelihood opportunities in cities may sway them from going back to former farms. This, however, is only part of the picture. Many face obstacles that impede them from going back to their areas of origin, while others go home only to be forced onwards to meet their basic needs or escape new outbreaks of violence. Not being able to go back or having to flee again are tell-tale signs that return has failed and a new or ongoing cycle of displacement as an IDP has begun.

To understand the notion of failed return, three cumulative stages that determine the sustainability or success of refugee repatriation under UNHCR's durable solutions framework for refugees need to be explored.[36]

- The process of voluntary repatriation begins with a refugee's decision to return, which must be taken of their own free will and without pressure in their host country. This is the cornerstone of repatriation, based on the principle of *non-refoulement*. It also requires an informed decision based on their understanding of the situation at home from a trusted source.[37] The extent to which a refugee's decision is truly voluntary is debatable, given that it is inevitably influenced by poor living conditions, insecurity or political tension in their host country.
- The second stage involves the physical process of a refugee moving back to their country of origin, which must take place in "conditions of safety and dignity". UNHCR's handbook on voluntary repatriation provides only a dictionary definition of dignity, while stating that safety should include legal, physical and material security.[38]
- The third stage covers a refugee's fate once they have returned, namely their ability to reintegrate into their community and so step out of the displacement cycle and achieve a durable solution. According to UNHCR, "voluntary repatriation is not a durable solution in the absence of the returnees' reintegration into the local community."[39] Reintegration is not resolutely defined beyond the establishment of conditions that "enable returnees and their communities to exercise their social, economic, civil, political and cultural rights" without discrimination.[40] The framework for reintegration describes a process that hinges as much on social and economic assistance as the rule of law.[41]

The circumstances and factors surrounding the decision to return - whether voluntary or forced - weigh heavily on an individual's chances of reintegrating. Refugees whose decisions are driven by push factors including hostility from their host authorities or communities, are likely to have protection and assistance needs related to their displacement that carry over into their country of origin.[42] It is also more likely that conditions of safety and dignity will not have been established in their return areas.

There is strong consensus that "re-rooting" refugees to their places of origin is not a prerequisite for successful return.[43] Post-return migration may be part of a reintegration strategy if, for example, returnees voluntarily move to urban over rural areas because skills they acquired in exile mean they are better placed to take advantage of livelihood opportunities in towns and cities.

Others may be unable to go back to their places of origin because their former home or land is occupied, or has been damaged or destroyed.[44] The difficulties associated with the restitution of land and property may significantly set back returnees' ability to reintegrate. Other factors may also prove obstacles to going back, including uncertainty about the security situation, fears and trauma associated with past experiences of conflict or violence, and lack of access to services such as healthcare and education.

In some cases it may be difficult to differentiate between returnees forced into secondary internal displacement and those who move in search of better opportunities. According to UNHCR, post-return "mobility should only be regarded as a failure of the reintegration process if returnees are unable to establish new livelihoods or benefit from the rule of law in their areas of origin, and thus feel they have no choice but to settle in alternative locations."[45] This may extend to a returnee who has gone back to their area of origin, but who continues to suffer vulnerabilities, needs and discrimination related to their displacement.

There is no set pattern or formula for successful return, but research has consistently shown that safety, housing, livelihoods and access to services play a significant role in determining returnees' chances of sustainable reintegration.[46] Where these conditions are lacking, as is common in protracted displacement situations in countries such as Afghanistan, Somalia and South Sudan, the risk of returnees ending up in de facto internal displacement or undertaking secondary movements is high.

Large numbers of returnees to Afghanistan in 2016 ended up living alongside IDPs in settlements on the edges of urban centres.[47] Many had spent long periods in exile, where authorities had been increasingly unwilling to extend their welcome, renew registration cards or assess asylum claims. Those who returned with $400 in UNHCR cash assistance in the latter half of the year may have started on a stronger footing, but ongoing insecurity, limited services and a lack of shelter meant that the cushion this provided against the risk of ongoing displacement was minimal.[48]

As it stands, UNHCR's durable solutions framework for voluntary repatriation falls short of offering post-return solutions, with little guidance provided on alternatives people might pursue when conditions of safety and dignity and opportunities for successful reintegration are unmet. It provides broad indications of what is needed for sustainable returns, but does not outline safeguards if and when efforts at return fail. The CRRF that accompanies the New York declaration provides a few suggestions to this end, from supporting home countries in establishing legal norms to encourage returnees' reintegration, to spelling out the more specific needs for them to provide documentation, facilitate returnees' socioeconomic recovery and establish measures for property restitution.[49]

These considerations have in common a reliance on home countries to mitigate the displacement-related vulnerabilities and needs of their nationals, and to ensure returnees no longer suffer discrimination as a result of their plight. The obstacles to returnees' sustainable reintegration overlap significantly with those of IDPs (see box below), as was reflected in the UN secretary general's 2011 decision which endorsed a preliminary framework and path to durable solutions for IDPs and returning refugees.[50] The framework formed the basis of operational guidelines published in January 2016 that cross-reference the Guiding Principles and the Inter-Agency Standing Committee's Framework on Durable Solutions for Internally Displaced Persons alongside international humanitarian, human rights and refugee law.[51]

Durable solutions for refugees and IDPs: a normative comparison

KEY REINTEGRATION NEEDS FOR RETURNING REFUGEES	Safety		Livelihoods	Access to services	Housing
CRRF COMMITMENTS FOR RETURNING REFUGEES	11. States of origin/nationality would:				
	(a) Acknowledge that everyone has the right to leave … and to return to his or her country;	(b) Respect this right and also respect the obligation to receive back their nationals, which should occur in a safe, dignified and humane manner and with full respect for human rights in accordance with obligations under international law;	(c) Provide necessary identification and travel documents;	(d) Facilitate the socioeconomic reintegration of returnees;	(e) Consider measures to enable the restitution of property
GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT	Principle 11, covering the right to dignity and physical, mental and moral integrity	Principle 12, covering the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention	Principle 18, covering the right to an adequate standard of living	Principle 20, covering the right to recognition everywhere as a person before the law, and all documents necessary for the enjoyment and exercise of their legal rights, such as passports	Principle 29.2, which calls on authorities "to assist IDPs to recover, to the extent possible, their property and possessions. When recovery is not possible, authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation".
IASC FRAMEWORK FOR DURABLE SOLUTIONS	Long-term safety and security	Family reunification	Access to livelihoods and employment	Access to effective remedies and justice	
	Access to personal and other documentation without discrimination	Enjoyment of an adequate standard of living without discrimination	Participation in public affairs without discrimination	Effective and accessible mechanisms to restore housing, land and property	

Toward an integrated response for returnees and IDPs

For a returning refugee, there is no pattern or formula for successful reintegration. This goes hand in hand with a lack of agreed indicators for monitoring their progress toward achieving durable solutions, or for calculating the risk of failed return leading to internal displacement.

Given that these stages of the repatriation process take place in home countries, responsibility for their success and so the ability of returnees to step out of the displacement cycle lies first and foremost with the national government in their state of origin. As things stand, refugees risk stepping into a blind spot for both data and protection purposes once they cross back into their home countries.

Against a backdrop of unresolved conflict, in the absence of a more systematic approach to monitoring and with only limited safeguards for failed repatriation, one way of helping to prevent people from falling through the cracks would be to recognise that returning refugees who are unable to go back to their areas of origin or integrate sustainably elsewhere are at high risk of falling into de facto internal displacement. Doing so would acknowledge that they require a set of solutions more specifically tailored to meet the needs of those displaced under the purview of national protection.

This demands a more integrated approach to durable solutions, and one that includes greater efforts to tackle internal displacement in refugees' countries of origin that are reflected in local and national planning. This in turn means the adoption of normative frameworks on internal displacement at the national level as a tool to be used alongside international refugee law, and interoperable data across the entire displacement continuum, from internal to cross-border and back again.

The purpose of identifying returning refugees - and other vulnerable people such as deported migrants going back to their states of origin - as IDPs is to raise accountability for national protection and ensure they are not left behind. IDPs do not have a special status under international law, but they do have the same rights as other citizens and residents of their countries. For refugee returnees who are IDPs, one could, in parallel, invoke refugee protection guarantees related to reintegration and durable solutions to improve their lives.[52]

The definition of an IDP provided by the Guiding Principles relates to nationals and non-nationals forced to flee their homes or places of habitual residence on a given state's territory, "in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters".[53]

It recognises the specific vulnerabilities, needs and barriers to rights experienced by people displaced in their own country, including former refugees. The latter is specified in the annotations to the Guiding Principles, which state that the definition should be interpreted broadly to include people who "first go abroad and then return (voluntarily or involuntarily) but cannot go back to their place of origin/habitual residence".[54] As such, the reasons returning refugees are unable to go home are important in assessing whether they face de facto internal displacement in their own country.

Once a returning refugee is identified as an IDP, the Guiding Principles, supplemented by the IASC framework on durable solutions identify three avenues through which a durable solution may be achieved - sustainable return to their home or place of habitual residence, integration in the location to which they were displaced or settlement elsewhere in the country. The Guiding Principles stress that national authorities have "the primary duty and responsibility" to establish the conditions and provide the means for IDPs to do so voluntarily and in safety and dignity.[55] According to the IASC framework, a durable solution is achieved when IDPs "no longer have specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination".[56]

Afghanistan and Somalia, two of the largest receiving countries for returning refugees in 2016, have adopted provisions in their national policies that recognise them as IDPs if they fulfill certain criteria. Somalia's national policy on IDPs covers "returning refugees, including deportees, who suffer of secondary internal displacement upon return or who find themselves in a protracted situation similar to IDPs due to their inability to return to their former homes or places of

RETURNEES AS IDPS: WHO'S COUNTING?

Whether or not returning refugees are also counted as IDPs depends heavily on who is monitoring, and for what purposes. There is broad consensus that refugees may become IDPs if they are forced from their home or place of habitual residence after their return to their country. The annotations of the Guiding Principles provide a baseline for counting returning refugees as de facto IDPs when they are unable to return to their place of origin or habitual residence because of ongoing armed conflict, generalised violence, human rights violations or disasters.[57] Counting returnees as IDPs when they are either forced from their home or place of habitual residence or unable to return to it is an important first step for global displacement monitoring and statistics.

For policy, protection and assistance purposes, an assessment that accounts for barriers to sustainable reintegration, in areas of origin or elsewhere, is required. It should focus not on returning refugees' location, but on whether they face potential new threats to their physical security or health, or obstacles to establishing sustainable livelihoods and reintegration associated with new or ongoing displacement.[58] Short of this, there is a significant risk that returnees' who are unable to achieve a durable solution will fall off the radar and may instead be left in protracted internal displacement and forced into onward movement to meet their basic needs.[59]

A Somali family looks on as a plane arrives in Dadaab refugee camp to ta ke them back to Mogadishu, Somalia.
Photo: NRC/Frederik Lerneryd, September 2016

habitual residence".[60] Afghanistan's policy similarly includes "returnees (returning refugees and migrants deported back to Afghanistan) who are unable to settle in their homes and/or places of origin because of insecurity".[61]

Both policies focus on the refugee returnee's location to determine whether or not they are eligible to be considered an IDP. It is their inability to return to their area of origin, or a secondary displacement once they have returned that counts.

Once a returnee is identified as an IDP, Afghanistan's policy provides that their displacement only ends when "a durable solution has been found … so that they no longer have needs specifically related to their displacement and can enjoy the same rights as other Afghans".[62] It specifies that a durable solution relies on an IDP securing "a place to live with security of tenure, access to basic services and livelihood on a par with others who were not displaced".[63] This is significant, because it extends the condition of displacement to those who face barriers preventing them from reintegrating sustainably.

From a durable solutions perspective, return home or elsewhere is not an end in itself, but rather a process pegged firstly on conditions of safety and dignity, and secondly on the displaced person reintegrating sustainably. This is true in the normative frameworks for both returning refugees and IDPs. As their primary aim, both seek to mitigate vulnerabilities, needs and barriers to rights related to displacement based on the principle of non-discrimination, and as such they complementary in the solutions they propose.

IDMC's suggested input for the global compact's programme of action

CRRF misses a crucial piece of the puzzle in failing to recognise the relationship between durable solutions for returning refugees and internal displacement. A strict separation of IDP and returnee populations proves inadequate for both data and protection purposes, and impedes efforts toward achieving durable solutions.

The programme of action for the global compact on refugees could address this shortcoming by recognising the everyday risk of returning refugees becoming IDPs if they are unable to return to their home or habitual place of residence or otherwise reintegrate sustainably elsewhere in their home country, or if they are forced to flee anew within their own borders. As such, it should include specific provisions on durable solutions that call for:

1. States of origin/nationality to integrate the Guiding Principles into national law and policy

As a normative framework that reflects the vulnerabilities, needs and barriers to rights experienced by displaced people under the protection of their own national governments, the Guiding Principles should be used alongside international refugee, human rights and humanitarian law to ensure that returning refugees are received "in a safe, dignified and humane manner and with full respect for human rights in accordance with obligations under international law", as stated in CRFF article 11.b.

The inclusion of returning refugees in national policy on internal displacement and responses to it should act as a support mechanism for increasing the sustainability of returns and preventing future displacement through the restoration of national protection.

The UN secretary general endorsed a preliminary framework for "a more coherent, predictable and effective response to the durable solutions needs of refugee returnees and IDPs" in a 2011 decision.[64] In 2016 this was developed into a preliminary operational guide that cross-references the Guiding Principles and IASC framework on durable solutions. [65] CRRF and its programme of action provide an opportunity to bolster this guidance and the durable solutions policy framework for refugees returning to their countries of origin through explicit mention of the same two instruments.

2. States, UN organisations and their partners to expand and coordinate the collection of interoperable data that covers the entire displacement continuum

Before we can prevent secondary, multiple or pendular movements of displaced populations or accurately calculate the risk of returnees becoming internally displaced, gaps in data and monitoring need be bridged to cover the full spectrum of displacement, from internal displacement to cross-border movements and return to countries of origin.

Informed planning across sectors on sustainable return and reintegration, as called for in CRRF article 12, cannot move forward without data that takes the specific needs of returnees into account and so engages more decisively with IDPs. This means monitoring returnees' trajectories over time, not just at drop-off but much further into their settlement and reintegration process, and gathering data on a range of indicators that benchmark progress towards durable solutions systematically, comprehensively and in ways that are collaborative and interoperable.

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This policy brief is authored by Elizabeth J. Rushing and Margarite Clarey of IDMC.

Returnee families wait for tents in the Besud district at the outskirts of Jalalabad, Afghanistan. They have recently returned from Pakistan and have no place to live. Photo: Tiril Skarstein, NRC, September 2016

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