



PEACE AGREEMENTS AND THE ROAD TO RESOLVE INTERNAL DISPLACEMENT



1. BACKGROUND



Over the past decade, the number of wars has tripled and in 2016, more countries were experiencing violent conflict than at any time in nearly 30 years. Wars can only be ended by the parties to the conflict and their supporters. An important part of ending war and restoring peace is the resolution of internal displacement caused by the conflict. And for that peace to last, internally displaced persons should participate in the process.

Within the scope of the Guiding Principles at 20 Plan of Action, the Global Protection Cluster convened a meeting in Kyiv on 3 July 2018 to examine this important subject. Kyiv was chosen as the place for this meeting not only because Ukraine offers a relevant context but also because the Ukraine Protection Cluster, a broad-based coalition of agencies led by UNHCR, produced a Guidance Note on Peacebuilding and Reconciliation in Ukraine (July 2016), which is useful for other operations and deserving of wider recognition.

The overall aim of the thematic roundtable was to contribute to efforts to resolve internal displacement through peace agreements and peace processes. The round-table reached this overall aim by discussing the various shapes that peace initiatives and pathways to peace can take, in addition to Track One negotiations and peace agreements. This report of the round-table compiles some past and present good practices in addressing internal displacement through peace processes as reported by the participants, who included government ministers and officials, IDPs, peace activists, humanitarian aid workers, international organisations and academics from various countries, including South Sudan, the Philippines, the United Kingdom, Cyprus, Georgia and Ukraine.

Peace processes are complex undertakings and involve numerous considerations including funding, participation, mandates, formality, structure and human rights and international law. They are also coloured by power, pressure and self-interest (the example of Afro-Colombians was highlighted). The roundtable explored the dilemmas around the meaningful consultation and participation of IDPs and

the models their participation has taken. The round-table proceeded on the premise that excluding IDPs and other civil society groups from a peace process means that they come to view it as belonging to the armed combatants, not to them. The example of the exclusion of IDPs representatives and others from the Darfur peace talks in Abuja in 2006 was highlighted as a key factor in creating an unsustainable and unworkable peace agreement that lacked local ownership and was quickly repudiated.

The round-table recognised that there are existing frameworks, which help shape the participation of IDPs in peace agreements. The most important peace commitment we have is the United Nations Charter itself - it commits the UN to maintaining international peace and security, to human rights and to promoting development; that framework is important for defining the role of the United Nations.

International law also describes the right of people to freedom of expression, including the right to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. International law also describes the right to freedom of peaceful assembly and association and the right to take part in the government of the country. The importance of these rights to internally displaced people is underscored by their inclusion in Principle 22 of the Guiding Principles on Internal Displacement.

The Guiding Principles on Internal Displacement are the starting point for engaging IDPs in peace agreements. They provide a definition of forced displacement (which is often necessary, see eg. Annex I: Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict in the Guatemala peace agreement) and, critically, recognise the right of IDPs to a durable solution (Principle 28), although the current average length of displacement is 17-18 years. The sclerosis in conflict management and peaceful resolution of conflicts today undermines the UN Charter but there are examples of peace processes even absent high-level support. For example, the OSCE plan for Eurasia, based on the Helsinki Principles, recognises that



prevention can and should happen at any stage; there is no order and sequencing in efforts and recovery and development should be part of the peace process and can help it; there is a need to create space for thinking together, reflection on what further steps we can take and developing a culture of prevention. The Secretary-General's emphasis on a triple nexus of peace-humanitarian action-development is a step forward and the efforts for prevention of conflict must be supported, including by guarding against the resurgence of nationalism in e.g. Bosnia.

Peace agreements must be linked to frameworks for durable solutions: peace processes, reconstruction and dialogue between communities, the planning of which IDPs should be fully engaged in. The scale of displacement in some situations today means that ignoring IDPs in peace processes e.g. Syria, Iraq, South Sudan, is impossible. However, it is sometimes the case that politicians are wary of the decision-making of IDPs and it has to be conceded that displaced people can sometimes be perceived to be spoilers in peace processes. It's important to learn from IDPs about peace-making and the building of community relations. There are good examples of government support for such efforts through social solidarity regional programme, for example launched by the Ukrainian Ministry of Temporary Occupied Territories and IDPs.

The Guiding Principles also recognise that IDPs more clearly understand their situation than anyone: the causes of displacement and what they need to resolve the situation. IDPs from South Sudan and Philippines confirmed this and stated peace would be more sustainable if built from the ground up with an inclusive approach. Returns are often pushed by impatient negotiators seeking good news and tangible signs of progress from stalled processes. However, the premature return of displaced persons to their homes, in the absence of security and sustainability, can lead quickly to new displacement and new instability, as we see in Afghanistan today. Displaced persons themselves are best positioned to know when it is wise and safe to return to their homes, and their voices on this crucial question must be heard and respected. Further, they must be allowed to advocate for fair treatment, including compensation: why should ex-combatants be the only ones receiving assistance packages, training opportunities and government employment? The link to mine action and the safety of return is a critical reason why the needs of IDPs must be included in peace agreements, so that the focus of mine clearance isn't limited to arterial routes and government bases. The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Art.3(2) (e)) - provides a helpful example in requiring that its principles must be included in peace agreements and

processes- the intention of the African Union was to transform peace-making in Africa.

The experience of the implementation of the Dayton Agreement, as well as the situation in Nagorno-Karabakh, Abkhazia and South Ossetia, Kosovo and the Turkish Republic of Northern Cyprus is that the position of IDPs can become complicated if the status of the territory from which they come isn't under the effective control of the government and isn't settled. The question becomes whether people from those areas are still "internally displaced". Therefore, decisions about territory must also factor in the status of the people who belong there. A connected problem is that property issues and claims for restitution and compensation have a direct impact on the peace process (e.g. in Colombia), in restoring peace and maintaining peace. Respect for property rights should be meaningfully upheld. Special attention within the reconciliation process should be paid to the assurance of compensation and restitution mechanisms for lost, destroyed, or occupied housing, land, and property.

The experience of peace agreements and processes in South Sudan, Kenya, the Philippines and elsewhere reveals that the issue of transitional justice and reconciliation is important to IDPs and can impact peace processes (see The Agreement on the Resolution of the Conflict in the Republic of South Sudan, done at Addis Ababa, 17 August 2015). The examples of Sri Lanka, Myanmar and Zimbabwe, where conflicts ended with brutal conquest and no peace agreement shows the dangers of not identifying what holds people together and can lead to cycles of violence. Conflict management, including upholding respect for the rules of international humanitarian law, is vital for peace processes and agreements, which can be derailed by bitter experiences of violence and oppression.

With a foot in the place of displacement and a foot in the place of origin, IDPs can be a bridge in regulating conflict and it is important to include them in peace-making but IDPs suffer high levels of poverty and other difficulties in participation, such as limited access to information; we need to examine how IDPs can organise themselves in order to take advantage of opportunities for inclusion and giving voice. There is a need to create structures to penetrate blockages to IDP participation in peace agreements and there is a role for Protection Clusters to play because of their proximity to conflict-affected people, as well as their ability to bring together a wide variety of actors, including humanitarian, government and civil society in order to advance peacebuilding. The role

of local institutions should be emphasised including National Human Rights Institutions and Parliamentary Committees on Human Rights and IDP issues. The experience of UNHCR in facilitating the participation of refugees in peace processes is a useful guide to how barriers to participation can be overcome.

Women are often doubly affected by discrimination and exclusion from peace processes as women and as IDPs. Nonetheless, there are some good examples of the role of women, including IDP women, in peace agreements and processes, e.g. the Philippines and Northern Ireland, and Security Council Resolution 1325 foresees such a role for women. Women's groups have embraced Resolution 1325 as the basis for their participation in peacebuilding. In Cyprus, this took the form of the Technical Committee of Gender Equality, which was established in 2015 as formal body attached to official peace negotiations. However, women are often disillusioned by their exclusion from Track One negotiations and while internally displaced women are some of the most organized IDPs, their voice often does not project beyond the grassroots level. This is why it is important to establish frameworks and strategies to implement SCR1325.

Too often, peace processes are about the peace table: there is an equation of process with negotiation and it means that resources are devoted to the negotiation and too little attention is given to the range of formal and informal social processes that contribute to peace, particularly at the grassroots level (eg. Georgia network "Synergy"). There is a need for simultaneous horizontal and vertical engagement in various pathways to peace. Official talks should be linked to informal processes, for example by finding opportunities for groups to be represented in formal talks. There is not one but multiple pathways to peace and they should be linked.

It is important to note that peace negotiations usually take place between those who have done the fighting and can be tightly linked to political parties; this tends to solidify inequalities that gave rise to the conflict in the first place and rewards those who take up arms or opposition; for this reason, peace deals rarely work without supporting actions. Peace processes underline the importance of speaking not only to groups but also to individuals because some people have never been treated justly by the rest of the population.

The Tolstoyan maxim that "all happy families are alike; unhappy families are unhappy in their own way" applies equally to peace processes and it's necessary



to understand and analyse local dynamics otherwise the process becomes unstuck e.g. in Mindanao. Without consulting individuals there is a danger that decisions are made on assumptions of what IDPs want and not what they are actually saying; women's roles in particular are closely defined and it can be assumed that they do not have a voice/opinion on peace arrangements: the case of *Loizidou v Turkey* (ECtHR Application No.15318/89) shows what can happen when individuals take action themselves when they are not listened to.

There is a tendency to think that once parties get to an agreement then that's the end of the conflict; but agreements are the point of departure and represent only the ambitions of a small number of participants in the conflict; often, they are never fully implemented e.g. the Good Friday Agreement.

The process of peace-making can be as important as outcomes. In the Philippines, there has been less emphasis on negotiations and more interconnected Tracks, for example in the six paths to peace in the Mindanao peace process, which has an iterative, broad based agenda for inclusion of minorities, women, IDPs and is essentially a conversation about what society people want to see. Participation of the citizenry in peace processes should be as plural as possible, including IDPs and the various groups within according to age, gender and diversity. The example of Cyprus shows the plurality of the voices of internally

displaced women which may be especially crucial in protracted conflict contexts. Special care should be taken to avoid marginalisation and social exclusion of IDPs, which obstructs reconciliation. Psychosocial and other assistance to decrease the vulnerability of conflict-affected persons can be an important step towards social trust and access to rights required for reconciliation. Access to psychosocial care and post-traumatic stress disorder treatment may also be an important component of ensuring social cohesion and lasting peace, as it is often essential in responding to the effects of violence on victims and paving the road for societal integration.

This echoes an important lesson from previous conflicts, for example in El Salvador, in that IDPs must articulate what they want their country to be; in a crisis there is an opportunity to think of the future because people who did not live together before now have to, so there is a possibility for mutual understanding and a more cohesive society. A further example of this would be the Crimean Tatars, previously seen as unwelcome, who are now praised.

The Secretary-General's Report 2012 highlights the requirement of inclusivity in peace agreements; inclusion is also a theme in the Sustainable Development Goals; in the same vein, inclusive decision making is fundamental to sustaining peace; this emphasis on inclusion represents a shift at the international norm level.

2. UKRAINE



Since 2014, over 4.4 million people have been affected by the conflict in Ukraine. The government estimates that more than 1.5 million people have been internally displaced, of whom 66% are women and children. Approximately 800,000 people live along the contact line, which separates the government controlled and non-government controlled areas (NGCA), where security is fragile and access to government services minimal.

The number of IDPs who intend to stay in areas of displacement is rising and in 2018 for the first time has exceeded the number of IDPs who intend to return to their areas of origin. At the same time, IDPs are often excluded from civic participation in their host communities, whether due to lack of trust, loss of social networks, or discrimination based on their place of origin and this can lead to a lack of sense of belonging. In addition, this marginalisation obstructs their inclusion in any reconciliation process.

Tensions have developed between IDPs and some host communities, particularly where resources are scarce and there is competition or perceived competition for places in schools, access to government services, accommodation, goods and employment. Feelings of integration have fluctuated among IDPs. The burden on displaced and conflict-affected women, the elderly, and the disabled, has been compounded by the lack of available social services. The gender and age bias in the Ukraine's labour market does not help internally displaced women and elderly rebuild their lives. The elderly often become dependent on their children as a result and internally displaced men face a 'crisis of masculinity' that has in some cases manifest itself in addictions and deterioration of mental health. Women are often responsible for ensuring their families' social and economic well-being and meeting these responsibilities in conflict-affected communities and in situations of displacement is particularly onerous. Ukraine is implementing SCR 1325 through its National Action Plan, which was adopted in February 2016, and aims at contributing towards the elimination of cultural barriers that hinder the full participation of women in all aspects of negotiations and resolution of conflicts and/or matters of peace and security at the national level.

A quarter of the population or up to 10 million Ukrainians, either participated in the conflict or are a family member of close friend of someone who served in the armed forces during the war. This group is more likely to suffer from post-traumatic stress disorder, exhibit more aggression and intolerance and has lower empathy, social skills and family cohesion. In addition, it is estimated that up to one third of internally displaced people suffer from PTSD. Effective rehabilitation and outreach programs could have strong impact on improving tolerance and support for an inclusive Ukrainian identity and are essential for successful integration.

Four years of conflict have significantly affected the enjoyment of social and economic rights of Ukrainian citizens, living in the non-government controlled areas of Ukraine, who cannot access their bank accounts, social entitlements, pensions or registration documents unless they are registered as IDPs in the government controlled areas. As a result, elderly IDPs are among the most marginalised in Ukraine and suffer a stigma of being "pension tourists," because many need to travel to government controlled areas to access their pensions. This creates a negative image and discourages social cohesion and reconciliation. In addition, the restrictions on freedom of movement between the government controlled and non-government controlled areas, and the ongoing ban on all commercial cargo across the 'contact line' contributes to the alienation of people living in the non-government controlled area.

Cases of involuntary return to the NGCA have been documented, as some IDPs are not able to meet their basic needs in the government controlled areas, and this number is increasing given the suspension of social benefits and pensions to many IDPs in the first part of 2016. There have also been reports about tension between returning IDPs and the non-displaced population due to their different experiences during the conflict, as well as of human rights violations on both sides of the conflict.

Peacebuilding and reconciliation are strongly connected to these protection concerns and can advance durable solutions in Ukraine. Durable solutions are needed to allow conflict-affected



people to rebuild their lives and their communities. Peacebuilding contributes to repatriation efforts by creating a more stable environment to which IDPs can return, or within which IDPs can integrate. Improving infrastructure and access to services means that IDPs will not have to relocate to search for access to shelter and basic needs. Promotion of peaceful conflict resolution mechanisms, provision of basic services, and development of equal employment opportunities are all peacebuilding activities that can begin even as the conflict continues. Universities relocated from NGCA and Crimea to the Government-controlled areas, student exchange programmes and civil society organisations can also be conduits of peace as students in Ukraine have been active in addressing social issues linked to displacement.

Increasing opportunities for dialogue promotes healing within a community, with related improved psychosocial effects, as well as making integration and relocation into host communities more sustainable. Similar reconciliation activities, such as community dialogues, can support the process of integrating IDPs into host communities, reducing the possibility of secondary displacement. This dialogue can also ease tensions between IDPs and host communities. The common culture among Ukrainians is a valuable foundation upon which dialogue and integration can be fostered. Displaced universities can provide a venue for generation of such dialogue and integration. Reconciliation efforts are also essential in repatriation efforts, especially when displacement has disproportionately impacted marginalized groups. Activities such as legal assistance, promotion of access to justice, and psychosocial assistance also promote healing, reconciliation, and social cohesion by addressing the harms suffered because of the conflict.

In an effort to promote IDP inclusion in local communities the Government of Ukraine has taken a number of steps starting with the adoption of the two-year Comprehensive State programme on support of social adaptation and reintegration of people who moved from NGCA and Crimea in December 2015. In April 2016 a Ministry of Temporarily Occupied Territories and Internally Displaced Persons was created with promotion of peacebuilding, reconstruction, and development of the Donetsk and Luhansk regions being one of its core mandates. The Government recognizes that collective efforts among government, IDPs, civil society and international organisations can improve the situation. In June 2016, the Ukrainian Parliament passed a series of reforms of the judicial system aimed at improving appointments and assessments of judges as well as the

structure of the courts system. The government has also supported the expansion of legal aid centres to provide free legal assistance throughout Ukraine, and assisted with housing solutions for IDPs shared by the national and local budgets.

In December 2017, the government adopted the State Target Recovery and Peacebuilding Programme in the Eastern Regions of Ukraine that envisages stimulating socio-economic development of local communities to improve social resilience and stimulating economic activities. Under this program reintegration activities such as improvement of conditions at the checkpoints across the contact line, assistance of crossing the contact line, protection of children, access to goods and administrative services are to be conducted by all state agencies and governmental bodies situated in the areas along the contact line in government-controlled areas. The program recognizes the importance of 'people to people' diplomacy as a key instrument and promotes reintegration through access to education.

Additionally, the government has recognized the need to include women in peacebuilding efforts, aiming to have a certain percentage of women participating in peacekeeping operations, negotiations, administrative bodies, and the security sector. At the same time, IDPs highlight the need to operationalize adopted strategies and action plan and allocate funding for its implementation. Also, there is a need to raise awareness among IDPs on existing instruments and opportunities as, a survey found in March 2018 that half of IDPs were unaware of the government's strategy for integration of IDPs.

Many civil society and international organizations are already implementing peacebuilding and reconciliation activities in Ukraine. These activities include initiatives to build dialogue, promote good governance and empower displaced communities. Protection Cluster partners are working with IDPs to raise their awareness about these processes and the opportunities they offer for participation in decision-making, planning and budgeting processes at community level. A comprehensive support programme to the government for implementation of the Women, Peace and Security agenda includes integration of gender-sensitivity and responsiveness to security reform, defence reform, and mediation. An economic and social recovery project to increase employment and rebuild infrastructure in the Donbas region is also underway. There is also an ongoing support for decentralization and strengthening local governance.



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Several civil society institutions have conducted surveys regarding national dialogue and attitudes in Ukraine. They have published recommendations for state policy, including building consensus on future development, drafting state policy on national unity, prioritizing decentralization alongside reintegration of Crimea and Non-Government Controlled Areas of Donetsk and Luhansk, building stronger relationships between government and civil society, and promoting inclusive dialogue.

Although the conflict in Ukraine is ongoing, there are nonetheless opportunities to enhance Ukraine's peacebuilding and reconciliation process. Many humanitarian and development agencies in Ukraine are taking steps to promote peacebuilding and reconciliation in their work. The Ukraine Protection Cluster has developed a Guidance Note on Peacebuilding and Reconciliation which provides practical guidance on how to operationalize peacebuilding and reconciliation, including examples from other contexts, as well as key recommendations. Although the Minsk Process does not envisage opportunities for participation of representatives of IDPs in Trilateral Contact Group and its working groups, nonetheless horizontal engagement on IDPs in peacebuilding initiatives is essential. Given that women have played a key role in IDP community-based organizations advocating for IDPs rights, the Resolution 1325 can be used as a platform to magnify their voices and to promote their equal participation and full involvement in all peacebuilding efforts.

TO TAKE FORWARD:

- ➔ The Government of Ukraine to engage IDPs in discussions on policies that affect their access to rights, prospects for durable solutions and participation in peace processes.
- ➔ The Government of Ukraine to operationalize implementation of the State Target Recovery and Peacebuilding Programme in the Eastern Regions of Ukraine and allocate funding for its implementation.
- ➔ Protection Cluster in Ukraine to promote initiatives aimed at strengthening IDP participation in decision making and governance at the local and national level, including advocacy on IDP voting rights.
- ➔ Humanitarian, early recovery and development actors to support dialogue, in particular at grass-root level.



Global Protection Cluster