Protection Checklist

Addressing Displacement and Protection
of Displaced Populations and Affected
Communities along the Conflict Cycle:
a Collaborative Approach

OSCE — Organization for Security and
Co-operation in Europe
Secretariat

UNHCR
The UN Refugee Agency

Protection Checklist

Addressing Displacement and Protection
of Displaced Populations and Affected
Communities along the Conflict Cycle:
a Collaborative Approach

Table of Contents

Foreword by the Director of International Protection, UNHCR Headquarters

Unprecedented levels of persecution, human rights violations, conflict, and generalized violence saw 45.2 million people forcibly displaced worldwide at the end of 2012; the highest numbers since 1994. More than half of them are persons displaced within their home country. These, however, are not just numbers; they are boys and girls, women and men. They come from various backgrounds, and have different coping skills, which means that they experience the effects of conflict and displacement differently. In the face of multiple and protracted conflicts, the ability of humanitarian actors to respond to the individual needs of internally displaced persons (IDPs) is being tested every day. This is particularly relevant in the context of large-scale displacement within and across borders in every region of the globe.

Conflict and displacement in the 21st Century have affected civilians distinctly. While solutions to end conflict take time, the humanitarian response cannot wait. The capacity of the traditional humanitarian architecture to respond, in light of the complexity and scope of new displacement challenges, is significantly stretched. In order to ensure that protection is delivered in a timely manner, humanitarian organizations must develop strategic and creative partnerships.

This new Protection Checklist is one such co-ordinated effort. It keeps people at the centre of interventions by helping to identify the protection needs of displaced persons. By carefully setting out the mandates of various actors, this Protection Checklist aims to build a more effective partnership between the OSCE and humanitarian actors working for IDPs.

UNHCR and the OSCE have worked together in close consultation with the UN Special Rapporteur on the Human Rights of Internally

Displaced Persons and the ICRC, in order to design a practical, protection-driven, inter-agency co-operation for each stage of the displacement cycle that affects civilian populations within their own countries. The Protection Checklist also outlines practical steps for collaboration between UNHCR and OSCE with respect to refugees.

The OSCE, as the largest regional organization, offers a welcome platform for dialogue. It also provides an opportunity for strategic co-operation with specialized agencies in the field, whilst maintaining the impartial and neutral character of humanitarian action. The Protection Checklist focuses on field-based interaction between the OSCE and actors such as UNHCR, based on the complementarity of mandates, institutional expertise and capacities.

I would like gratefully to acknowledge the contributions of all partners involved in the production of this Protection Checklist. I hope that this collaboration will inspire and encourage organizations to work together to make a genuine difference in the lives of those affected by conflict and displacement.

Volker Türk
Director of International Protection
UNHCR Headquarters, Geneva

Foreword by the Director of the OSCE Conflict Prevention Centre

The Organization for Security and Co-operation in Europe with 57 participating States stretching from Vancouver to Vladivostok is not only the largest regional organization under Chapter VIII of the UN Charter; it also stands out with its comprehensive approach to security, its mandate to cover all phases of the conflict cycle and its large field presence. In 2014, the OSCE deployed over 2000 staff members in its field operations, many of which include various smaller field offices in remote areas where no other international organization is present. This extraordinary outreach in the OSCE area means that the OSCE might come across situations and register developments earlier than others, including those who are specialized to deal with them. This is especially true to the dynamics related to forced displacement, which can unravel fast. While being an instrument for early warning and early action, the OSCE is also there to work on building peace in the aftermath of conflict. Dealing with the consequences of forced displacement during a conflict is very often a crucial aspect of post-conflict rehabilitation and peacebuilding. Its comprehensive approach to security means that the OSCE is well-placed to address issues of forced displacement as much from a political as from an economic and environmental and human rights perspective.

Recognizing the potential contribution the OSCE can play in addressing forced displacement issues in all phases of the conflict cycle and encouraged by OSCE Ministerial Council Decision No. 3/11 on 'Elements of the Conflict Cycle', which recognizes "that the rights […] of persons at risk of displacement or already affected by it, need to be effectively protected in all phases of the conflict cycle", the OSCE Conflict Prevention Centre (CPC) has developed jointly with the United Nations High Commissioner for Refugees (UNHCR), this Protection Checklist (PCL).

This document aims to be a practical reference tool for OSCE field staff who work on displacement issues on a daily basis or who might be unexpectedly confronted with such issues. It is part of the CPC's efforts to enhance the operational preparedness of the OSCE and to provide field operations with operational guidance and systematic knowledge. The recommendations for field staff within this Checklist are made under the caveat that any action taken would have to be within the scope of their respective mandates and resources. Having said this, I believe that the OSCE can make a valuable contribution to prevent and address forced displacement in the OSCE area, acting in close co-operation with UNHCR and other specialized agencies. I invite our staff in the field as well as within the OSCE Secretariat and the institutions to carefully study this comprehensive document and to use the information and guidance provided herewith when and where appropriate.

I would like to thank UNHCR, the UN Special Rapporteur on the Human Rights of Internally Displaced Persons and the International Committee of the Red Cross for bringing in their knowledge and expertise to this exercise. The development of this PCL in itself is an excellent example of how we can achieve more by joining forces and how by co-operating and co-ordinating our work in the field, we have brought this project to life. It thus provides us with another example of best practice for inter-institutional co-operation.

Adam Kobieracki
Director of the Conflict Prevention Centre
Deputy Head of the OSCE Secretariat

Joint Foreword by the Special Rapporteur and the Special Representative of the Secretary General on the Human Rights of IDPs

Flight and forced displacement are among the most serious humanitarian and human rights challenges worldwide. They are also a sad reality in the OSCE area. Refugees and internally displaced persons have rights as enshrined in applicable conventions. As explicitly recognized in Vilnius by the 2011 OSCE Ministerial Council, these rights "need to be effectively protected in all phases of displacement."

This is easier said than done. Experience shows that despite all efforts, those forcibly displaced all too often experience violations of their rights. People desperately trying to reach safety within their own countries or across borders may be stopped or even pushed back into danger zones. Being displaced means being at risk of acts of violence. This can be gender-based; discrimination; housing that is clearly inadequate and violates basic concepts of human dignity; lack of access to education and health services; or loss of property left behind without any prospect to have it restituted or compensated. The large majority of internally displaced persons in the OSCE area have been displaced ten or fifteen years ago or even longer. Such protracted displacement leaves people in limbo, without hope, and at the margins of society because efforts to find durable solutions are neglected.

The OSCE is not a protection agency but rather the world's largest regional security organization. As such, it has a genuine interest in ensuring protection of people displaced by armed conflict. Failure to address the concerns of internally displaced persons during conflict may cause frustration that can be easily exploited by radical elements. Helping displaced populations to return and reintegrate in the aftermath of a conflict can

simultaneously address its root causes, enhance stability and strengthen the legitimacy of the post-conflict political order. However, if the displaced are not able to find solutions that allow them to live decently and if they, therefore, feel that they are victims of injustice, the reconciliation process in post-war societies may be hampered. Latent grievances can constrain peacebuilding or even be at the core of outright rejection of a peace process or agreement by displaced communities. Protecting displaced people thus is an important contribution to restoring peace.

Despite this, operationalizing protection remains a key challenge for governments, humanitarian agencies, and international or regional organizations alike. To make protection effective, close co-operation between all relevant actors that build on each other's strengths is essential. We commend the OSCE and UNHCR for having developed this Protection Checklist in close consultations with relevant partners and organizations, such as the ICRC. The checklist distinguishes itself by being very practical and clearly identifying the actions that OSCE field operations can and should take in a given situation. Taken together, the lists of possible actions illustrate the huge contributions the OSCE can make to protect displaced persons effectively.

It is our sincere hope that the Protection Checklist will be widely used in the field and thus will strengthen the OSCE's capacity to address present and future displacement situations.

Chaloka Beyani
Special Rapporteur on the human rights of internally displaced persons

Walter Kälin
Former Representative of the Secretary-General on the human rights of internally displaced persons

Introduction

The Protection Checklist is intended as a tool to be used by OSCE field staff, as well as other OSCE actors involved in a range of situations along the conflict cycle. While the OSCE does not have a specific protection mandate, experience has shown that OSCE field staff often comes across displacement and protection issues in their work. As such, this tool aims to provide guidance and increase understanding with a view to enabling field staff to recognize relevant issues, interface where appropriate with specialized agencies with a protection mandate and refer to these agencies any displacement and protection issues encountered. This should lead to enhanced strategic and practical co-operation with relevant actors, including the Special Rapporteur on the Human Rights of Internally Displaced Persons, the United Nations High Commissioner for Refugees (UNHCR), the Office of the High Commissioner for Human Rights, and the International Committee of the Red Cross (ICRC). Co-operation between the OSCE and the aforementioned actors on the other should be guided by humanitarian principles, a spirit of solidarity, and complementarity with full respect to the neutral, non-political and humanitarian character of the mandates of humanitarian actors.

In Vilnius in 2011, the OSCE Ministerial Council adopted a far-reaching decision on the conflict cycle: OSCE Ministerial Council Decision No. 3/11 on *Elements of the conflict cycle, related to enhancing the OSCE's capabilities in early warning, early action, dialogue facilitation and mediation support, and post-conflict rehabilitation.* This Decision makes, *inter alia,* reference to displacement and protection and recognizes **"that the rights […] of persons at risk of displacement or already affected by it, need to be effectively protected in all phases of the conflict cycle".** To strengthen OSCE capabilities in this respect, the Conflict Prevention Centre (CPC), developed jointly with the United Nations High Commissioner for Refugees, this Protection Checklist (PCL). In addition to being a practical reference tool for OSCE field staff, the PCL offers support to the OSCE

Chairmanship, participating States (pS) and OSCE institutions to further explore the nexus between the conflict cycle and displacement, in order to facilitate synergies and enhance crisis management capacities. The PCL, therefore, aims to contribute towards operationalizing MC Decision No. 3/11.

Gela, age 10, stands in the entrance of the Khobi Swimming Complex, a collective centre for displaced persons. Gela lives with 10 other families in the building, which is structurally unsound, has no running water, and no functioning heating during the winter, October 2008.
Credit: UNHCR/P. Taggart

Background and Mandates

With 57 participating States extending from Vancouver to Vladivostok, the **OSCE** is the world's largest regional security organization. It offers a forum for political negotiations and decision-making, *inter alia,* in the fields of early warning, conflict prevention, crisis management and post-conflict rehabilitation, and puts the political will of its participating States into practice through its unique network of field operations.

The **OSCE** has a comprehensive approach to security that encompasses politico-military, economic and environmental, and human dimension aspects. It therefore addresses a wide range of security-related concerns, including arms control, confidence- and security-building measures, human rights, national minorities, democratization, policing, counter-terrorism and economic and environmental activities. At the 1999 Istanbul Summit, OSCE participating States adopted the Platform for Co-operative Security with the goal "to strengthen the mutually reinforcing nature of the relationship between those organizations and institutions concerned with the promotion of comprehensive security within the OSCE area"[1]. Recalling the OSCE's role as a regional arrangement under the Charter of the United Nations, the platform calls, *inter alia,* for the strengthening of co-operation between the OSCE and the various United Nations bodies and agencies[2].

In particular, the **United Nations High Commissioner for Refugees** is specifically mandated under its 1950 Statute as well as under the 1951 Convention relating to the Status of Refugees, to lead and co-ordinate international action for the protection of and durable solutions for refugees. **UNHCR** has furthermore, a specific mandate to prevent statelessness and to protect stateless people. Also, the General Assem-

---

1 Istanbul Document 1999, The Platform for Co-operative Security, I.1.

2 Ibid, II.2.

bly has on several occasions recognized the special expertise of UNHCR with internally displaced persons and encouraged the Office's involvement, within certain parameters. Since the Humanitarian Reform process[3], which called upon actors to co-ordinate their activities through sectoral working groups, called Clusters, UNHCR has assumed the role of global lead for three Clusters, i.e. the Protection Cluster; Shelter and Non-Food Items Cluster; and Camp Coordination and Camp Management Cluster (CCCM). Where the Cluster system is initiated by the UN Country Team, UNHCR, or in specific cases another protection agency, leads the co-ordination of humanitarian protection action in the country. The Protection Cluster brings together protection actors to address jointly and severally the needs of populations affected through supporting effective co-ordination, providing strategic advice in humanitarian decision-making and ensuring that the overall humanitarian response is driven by protection priorities.

In 1998, the OSCE and UNHCR signed a Memorandum of Understanding on enhancing co-operation. Since that time, the two organizations have been co-operating on a wide range of conceptual and operational activities, also in recognition of the link between conflict and displacement. Owing to the increasing complexity of conflicts, as well as post-conflict situations, activities on behalf of refugees and IDPs are relevant to the three OSCE security dimensions. For example, resolving displacement – and preventing further displacement – is linked to conflict resolution and achieving lasting peace. At the same time, unresolved problems of forced displacement may cause instability and thus threaten peace processes as well as peacebuilding efforts. Displacement might also lead to new tensions in the respective countries or regions concerned. Durable solutions, particularly voluntary return, cannot be achieved as long as there is a lack of security, property is not restored and other conditions for sustainable solutions are not met. Thus, conflict management and addressing displacement, is linked

---

3 The Humanitarian Reform process was initiated by the Emergency Relief Coordinator, together with the Inter-Agency Standing Committee (IASC) in 2005 to improve the effectiveness of humanitarian response in emergencies (excluding refugees, which are an exclusive responsibility of UNHCR).

in different ways to the mandates of both organizations and underlies the need for close co-operation.

The *raison d'être* of the **International Committee of the Red Cross** is to ensure respect, through its neutral and independent humanitarian work, for the lives, dignity and physical and mental well-being of victims of armed conflict and other situations of violence. The ICRC takes action to meet the needs of these people and in accordance with their rights and the obligations incumbent upon the authorities. The ICRC's work developed along two lines. The first of these is operational, i.e. helping the victims of armed conflict and other situations of violence. The second involves developing and promoting international humanitarian law (IHL)[4] and humanitarian principles. A key characteristic of the ICRC is that it was given a mandate (or rather mandates) by the States party to the Geneva Conventions to help victims of armed conflict. Its work is therefore firmly rooted in public international law. The organization combines four approaches in its overall strategy, which allow the ICRC to fulfil its purpose:

1. Protecting the lives and dignity of victims of armed conflict and other situations of violence;
2. Assisting victims of armed conflict and other situations of violence;

---

4 International humanitarian law (IHL) is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare. International humanitarian law is also known as the law of war or the law of armed conflict.
– International humanitarian law is part of international law, which is the body of rules governing relations between States. International law is contained in agreements between States "treaties or conventions", in customary rules, which consist of State practice considered by them as legally binding, and in general principles.
– International humanitarian law applies to armed conflicts. It does not regulate whether a State may actually use force; this is governed by an important, but distinct, part of international law set out in the United Nations Charter.

3. Directing and co-ordinating the Movement's [5] international relief efforts in armed conflict and other situations of violence;

4. Endeavouring to prevent suffering by promoting, reinforcing and developing international humanitarian law and universal humanitarian principles;

While UNHCR has a specific mandate focused on refugees, statelessness and – under certain circumstances – internally displaced persons, the ICRC has a universal vocation. As described above, its work is not limited to certain places, or to certain types of people. As the work and mandates of ICRC and UNHCR are closely linked through the conflict displacement nexus, close consultation and co-operation mechanisms between the two specialized agencies are in place.

The Protection Checklist addresses areas of common interest among the OSCE and relevant protection actors in the context of conflict and displacement, with the ultimate aim of enhancing practical and strategic co-operation. Effective co-operation among relevant actors aims to contribute to the protection of people affected by and fleeing conflict and human rights violations. In addition to this practical and field based dimension, the PCL also seeks to guide political interventions, conflict settlement processes and the development of peace agreements by systematically mainstreaming displacement issues into these political interventions. Hence, in addition to its practical and field based dimension, the PCL is also relevant to the search for political solutions to humanitarian and displacement problems.

5 The National Red Cross and Red Crescent Societies, the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies together constitute a worldwide humanitarian movement, whose mission is to prevent and alleviate human suffering wherever it may be found, to protect life and health and ensure respect for the human being, in particular in times of armed conflict and other emergencies, to work for the prevention of disease and for the promotion of health and social welfare, to encourage voluntary service and a constant readiness to give help by the members of the Movement, and a universal sense of solidarity towards all those in need of its protection and assistance. In pursuing its mission, the Movement shall be guided by its Fundamental Principles, which are: humanity, impartiality, neutrality, independence, voluntary service, unity, and universality.

Structure

Whilst it is suggested to read the Protection Checklist in its entity in order to ensure a comprehensive overview and understanding of displacement throughout the conflict cycle, the structure of the PCL also enables partial reading. In this sense, the PCL can be flexibly applied in accordance with the requirements of the situational challenges of its user.

For the purpose of the PCL, the conflict- cycle is broken-down into four phases:

— *Phase I:* Early Warning and Conflict Prevention
— *Phase II:* Crisis Management in Acute and Enduring Conflict
— *Phase III:* Conflict Management and Resolution/Protracted Conflict
— *Phase IV:* Post-conflict Transition and Rehabilitation

Each phase of the conflict cycle listed above contains a set of three to four "Issues". These "Issues" are organized by:

— Description
— Key elements
— What to consider and to look at
— OSCE action
— Recommended reading

The PCL should be read and applied by OSCE staff members in conjunction with the mandate of their respective executive structures. Thus, this document should not be perceived as expanding or extending the mandates of OSCE executive structures. For this reason, some recommendations made within the PCL might not be applicable in every case.

Note: Within this publication and unless otherwise stated, persons of concern refer to persons whose protection and assistance needs are of

interest to UNHCR. It includes refugees, asylum-seekers, stateless people, internally displaced people and returnees.

Lunch is distributed to refugees in the Akcakale refugee camp in southern Turkey, which houses 9,693 Syrian refugees (as of September 2012).
Credit: UNHCR/A. Branthwaite

Cross-Cutting Issues

The Protection Checklist includes critical protection and displacement issues encountered along the conflict cycle and directly or indirectly relevant to OSCE work. The selection of the "Issues" incorporated into the PCL was guided by extensive field experience from different regions and different conflict situations, in relation to OSCE work. Therefore, the list of "Issues" presented in the PCL is not to be considered generally exhaustive. Instead, the PCL should be considered a living tool, which can be updated and amended as needed. However, some issues do indeed cut across all phases of the conflict cycle and it should, therefore, be understood that they have to be addressed in *any* situation of forced displacement. Cross-cutting issues include:

1. National responsibilities and rights
2. Gender, age and diversity
3. Security issues
4. Confidence-Building Measures (CBMs)
5. Monitoring

While these five issues are considered relevant throughout the conflict cycle and across all situations, for the purpose of the Protection Checklist they were deliberately included into certain phases of the conflict cycle in order to illustrate some of the practical aspects relevant for OSCE field work. However, in order to complement this approach, these aspects were also considered in the recommended reading materials throughout all phases.

Practical Application Tips

— **Stay safe** and do not expose yourself or persons of concern [6] to unnecessary risks or danger.

— Become aware of the '**Do No Harm**' Principle [7].

— Bear in mind that a **visible international presence can mitigate escalation** as well as prevent human rights violations and their consequences. OSCE field staff might be the only actors physically present at a given conflict situation with actual or potential displacement.

— The OSCE has no explicit protection mandate, but other actors do. As such it is their responsibility to make comprehensive protection assessments and develop comprehensive response strategies. However, these actors may not be present at the situation/location/time but could largely benefit from your input prior to their engagement. Bearing in mind security conditions and factors of time pressure, focus on relevant key issues which you can then **describe and refer to relevant actors.**

— When describing and managing information or data as part of internal OSCE reporting or when referring information to specialized agencies, be careful and discrete and use the appropriate channels of communication, in particular with regard to protection-sensitive information (e.g. the whereabouts of small ethnic minorities or other groups at risk). **Keep strict**

6 Persons whose protection and assistance needs are of interest to UNHCR. It includes refugees, asylum-seekers, stateless people, internally displaced people and returnees.

7 Although aid can become a part of the dynamic of a conflict and may even prolong it, humanitarian organizations and human rights actors, including those engaged into human rights monitoring must strive to do no harm or to minimize the harm they may be inadvertently doing simply by being present and/or by providing assistance. All relevant actors need to be aware of this and take steps to minimize the harm. See recommended reading materials at the end of the Chapter.

confidentiality and share sensitive information only with duly authorized persons within the relevant agencies.

— **Be aware of the potential perception your actions,** activities or comments may create. Avoid doing or saying anything that could create insecurity or panic among affected persons and populations. Maintain impartiality and neutrality, *de facto* and perceived, at all times in interaction with different actors in the field.

— **Timely and effective information flow** of your observations is critically important. Ensure that information flows effectively within your executive structure and within the OSCE, as well as towards relevant actors in order to enable the mandated protection agencies to fully assess and address the protection problem. Reports should contain an accurate account of the situation and issues involved based on the corroborated facts and information.

— Be aware of the mandate of your respective executive structure and remember that you do not have an explicit protection mandate. However, OSCE structures may be mandated to carry-out specific functions related to protection aspects, as such your observations and reports can have an important **bridging function to inform specialized agencies.**

Recommended General Reading
— OSCE Ministerial Council Decision No. 3/11 on *Elements of the conflict cycle, related to enhancing the OSCE's capabilities in early warning, early action, dialogue facilitation and mediation support, and post-conflict rehabilitation* (see MC.DEC/3/11), available at: http://www.osce.org/mc/86621

Recommended Reading for Cross-Cutting Issues
— Inter-Agency Standing Committee, *Handbook for the Protection of Internally Displaced Persons,* June 2010, available at: http://www. unhcr.org/refworld/docid/4790cbc02.html
— United Nations, *Guiding Principles on Internal Displacement,*

available at: http://www.idpguidingprinciples.org/

— Hugo Slim and Andrew Bonwick, *Protection: An ALNAP Guide for Humanitarian Agencies,* August 2005, available at: http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/2346.pdf

— The Brookings Institution–University of Bern Project on Internal Displacement, *Addressing Internal Displacement: A Framework for National Responsibility,* April 2005, available at: http://www.brookings.edu/fp/projects/idp/20050401_nrframework.pdf

— United Nations Security Council Resolution 1820 (2008), available at: http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1820(2008)

— ICRC, *Professional standards for protection work carried out by humanitarian and human rights actors in armed conflict and other situations of violence,* 2013, available at: http://www.icrc.org/eng/resources/documents/publication/p0999.htm

— UN High Commissioner for Refugees, *UNHCR Manual on a Community-Based Approach in UNHCR Operations,* March 2008, available at: http://www.refworld.org/docid/47da54722.html

Direct links

— UNHCR Refworld, available at: http://www.refworld.org/

— International Displacement Monitoring Centre, available at: http://www.internal-displacement.org/

— Brookings Projects for IDPs, available at: http://www.brookings.edu/about/projects/idp

Gender, Age and Diversity in Conflict and Displacement

As all conflict and displacement situations involve women, men, girls and boys of different ages and backgrounds, an age, gender and diversity approach should always be included in all phases of the conflict cycle. Therefore, the three elements of gender, age and diversity are interlinked and must be considered together: a sound gender analysis will always take into account people's age and background.

Each person is unique. The differences between people, whether actual or perceived, can be defining characteristics that play a central role in determining an individual's opportunities, capacities, needs and vulnerabilities.

Gender refers to the socially constructed roles for women and men, which are often central to the way in which people define themselves and are defined by others. Gender roles are learned, changeable over time, and variable within and between cultures. Gender often defines the duties, responsibilities, constraints, opportunities and privileges of women and men in any context. Gender equality refers to the equal enjoyment of rights, responsibilities and opportunities of women, men, girls and boys. Gender equality implies that the interests, needs and priorities of each gender are respected.

Age refers to the different stages in one's life cycle. It is important to be aware of where people are in their life cycle as their capacities and needs change over time. Age influences, and can enhance or diminish, a person's capacity to exercise his or her rights.

Diversity refers to different values, attitudes, cultural perspectives, beliefs, ethnic background, nationality, sexual orientation, gender identity, ability, health, social status, skills and other specific personal characteristics. While

the age and gender dimensions are present in everyone, other characteristics vary from person to person. These differences must be recognized, understood and valued in each specific context and intervention in order to ensure protection for all people.

Displacement situations along the conflict cycle feature frequent change. This can include changing family and community profiles, changing activities and responsibilities, individual and group roles, as well as changing access to and control of resources by the various members of a community. Such changes always have a gender, age and diversity dimension. Attention to these changes is important as they can give rise to new vulnerabilities or enhance already existing vulnerabilities.

For example, throughout conflict and displacement family and community structures may change, sometimes drastically. Men could be involved in fighting and therefore be absent from their family and community lives. This could imply more work and less protection for children, and could force women to assume increased tasks and responsibilities. Some of these new tasks may expose them to new or increased risks, while others may empower them, contribute to the development of new gender roles and increase participation in community affairs and decision-making. With a view to resources, when planning for return and looking into property issues you may discover, for example, that property titles are in the name of the male head of the household only. However, that individual might be dead or absent, which may result in the inability of his wife to claim the property and impede her return. Such examples illustrate the importance of looking at gender, age and diversity in any conflict and displacement situation, in order to better understand the implications for the people affected.

Sexual and gender-based violence (SGBV)

Refugees and internally displaced people, who do not enjoy the protection of their own governments and/or face protection gaps, which can result from disintegrating family and community structures, are among those most vulnerable to acts of violence. This also includes sexual and gender-based violence (SGBV). SGBV against displaced persons, especially women and children will continue unabated. While men and boys are also often victims/survivors of sexual violence, statistics confirm that the majority of victims/survivors are women and girls.

SGBV is exacerbated by unequal gender relations within communities of concern. It has been used as a weapon of war and as a means of exercising power. It has been both a cause of displacement and a terrible consequence of the breakdown of family and community structures that accompanies displacement. It has also been perpetrated by some of the very people entrusted with the task of protecting refugees and displaced persons.

Generally, acts of SGBV have been grouped into five categories, including sexual violence, physical violence, emotional and psychological violence, harmful traditional practices and socio-economic violence. It should be noted that SGBV can occur in all classes, cultures, religions, races, gender and ages.

Children in conflict and displacement

Children, including adolescents, enjoy comprehensive rights under international law, yet they are often deprived of their most basic rights. Displacement exacerbates children's exposure to neglect, exploitation, and sexual and other forms of violence and abuse. Children are at particular risk and require special attention due to their dependence on adults to survive, their vulnerability to physical and psychological trauma, and their needs that must be met to ensure normal growth and development.

In this Protection Checklist, references made to children refer to every human being below the age of eighteen years unless, under the (national) law applicable to the child, majority is attained earlier [8].

---

8 In accordance with the Convention on the Rights of the Child, Article 1.

As part of armed conflict and displacement many children become separated from their parents or other caregivers. Because their status is seldom immediately clear, these are referred to as separated or unaccompanied children rather than orphans. Generally, a difference is made between separated children (from their parent, but accompanied by another family member/ caregiver) and unaccompanied children (alone). Special risks to children within (armed) conflict scenarios also include the forced or voluntary recruitment of children within armed forces, militia and rebel groups, thus exposing children to further physical and emotional harm. When working with local security forces the need to identify child recruitment – including on a voluntary basis – is important.

Gender, age and diversity sensitive protection, including child and age specific protection and protection against SGBV constitute core protection concerns of specialized agencies.

A girl plays with a young child during the cooler hours of late afternoon in the Akcakale refugee camp in southern Turkey, which houses 9,693 Syrian refugees (as of September 2012).
Credit: UNHCR/A. Branthwaite

Recommended reading

— Global Protection Cluster (Gender Based Violence Area of Responsibility Working Group), *Handbook for Coordinating Gender-Based Violence Interventions in Humanitarian Setting,* July 2010, available at: http://cpwg.net/wp-content/uploads/2013/08/GBV-AoR-Handbook-for-Coordinating-Gender-based-Violence-Interventions-in-Humanitarian-Settings.pdf.

— Global Protection Cluster, *Coordination Toolbox,* available at: http://www.globalprotectioncluster.org/en/tools-and-guidance/protection-cluster-coordination-toolbox.html

— Global Protection Cluster (Child Protection Working Group), *Minimum Standards for Child Protection in Humanitarian Action,* 2012, available at: http://cpwg.net/minimum-standards/

— UN High Commissioner for Refugees, *Working with Men and Boy Survivors of Sexual and Gender-based Violence in Forced Displacement,* 2012, available at: http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=5006aa262&skip=0&query=men

— UN High Commissioner for Refugees, Age, Gender and Diversity Policy: Working With People and Community for Equality and Protection, June 2011, available at: http://www.unhcr.org/4e7757449.html

— UN High Commissioner for Refugees, A Framework for the Protection of Children, 26 June 2012, available at: http://www.refworld.org/docid/4fe875682.html

— Inter-Agency, *Inter-Agency Guiding Principles on Unaccompanied and Separated Children,* January 2004, available at: http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4113abc14

Phase I: Early Warning and Conflict Prevention

Issue 1.1: Contextual Changes and their Impact on the Community

Description

You are in a situation of emerging tensions with changes in the political, security, socio-economic, environmental and human rights sphere. You witness sporadic security incidents with potential impact on the civilian population, including minority groups and/or existing displaced populations present in the area. As a result, people, especially those facing specific risks, may feel threatened and might start preparing to depart from their homes.

Key elements of this scenario

- Decreased freedom of movement for all or segments of the civilian population;
- Specific political developments, as well as national and/or international reactions;
- Incidents of general or specifically motivated violence, such as the targeting of ethnic or religious minorities;
- Harassment, intimidation and coercion;
- Response by (and response capacity of) law enforcement bodies and the judiciary to such incidents;
- Circulation of rumours on critical issues, inflammatory statements and/or actions by community leaders, local politicians or state officials;
- Hate speech in the media;
- Threats to life, safety and security of civilian population;
- Incidents of sexual and gender based violence (SGBV);
- Incidents of forced recruitment of adults and recruitment, forced or voluntary, of children and young adults;

— Presence of gangs and organized crime;
— Worsening of the socio-economic situation and reduced availability (or increased prices) of essential goods and resources;
— Decreased access to public services and participation in public life by all, or segments of, the community;
— Worsening weather conditions resulting, for instance, in reduced access to remote villages.

What to consider and to look at?

There are two key features at this stage of the conflict cycle that you have to keep in mind. The first includes possible changes in the composition of the community's profile in terms of sex, age, ethnic and social breakdown (i.e. are women and children or members of certain ethnic groups preparing for departure?). The second includes the actual impact of external factors (i.e. food insecurity or a breakdown of public order) on individuals or particular groups of the community. Both changing community and family structures, as well as any external element listed above can impact very differently on the various members and groups of the community, leading to more risks to or deprivation of rights among affected populations.

Actions by OSCE field operations[9]

— Establish baseline data on incidents and other key elements;
— Establish facts on the ground and monitor changes in the situation, particularly with view to persons or groups with a risk profile;
— Advocate with local/national authorities for the safety, security and well-being of persons and groups at risk;
— Assess the situation and, if applicable, develop response options;
— Report to the CPC and, if applicable, through the Secretary General to the Chairmanship and/or, through spot or activity reports, to all participating States regarding protection and displacement risks;
— If national minorities are affected, liaise with the OSCE High Commissioner on National Minorities (HCNM);

---

9 The order of suggested points of action by an OSCE field operation does not suggest a specific order of action, but consists merely of suggested possible OSCE actions.

— If the security situation allows, facilitate a visible field presence in places of displacement risk;
— Identify the nearest national or regional presence and possible role/ crisis involvement of relevant actors including UNHCR and ICRC and liaise with them, sharing information about your situation assessments and possible response options;
— If the aforementioned actors are not present on-site and the situation warrants it, ask the CPC to contact their respective liaison office in Vienna, or if necessary their headquarters for determining additional follow-up;
— If applicable and immediate protection concerns exist, liaise with international security providers on-site.

Recommended reading

— United Nations, *Guiding Principles on Internal Displacement,* available at: http://www.idpguidingprinciples.org/
— Liam Mahony, Centre for Humanitarian Dialogue, *Proactive Presence: Field Strategies for civilian protection,* 2006, available at:
— http://www.peacebrigades.org/fileadmin/user_files/groups/uk/files/ Publications/Proactive_Presence_-_Book_by_Liam_Mahony.pdf
— Inter-Agency Standing Committee, *Handbook for the Protection of Internally Displaced Persons,* June 2010, available at: http://www. refworld.org/docid/4790cbc02.html
— Early Warning: OSCE Internal Guidelines, 2012

Issue 1.2: Forced Displacement linked to Human Rights Violations, Threats of Persecution and/or Generalized Violence

Description

You observe a situation of growing human rights violations, targeted persecution of particular ethnic or social individuals/groups, or growing generalized violence. This – in combination with the inability or unwillingness of authorities and security forces to restore law and order, and to effectively

protect all citizens and residents under their jurisdiction – increases tensions and enhances the complexity of the situation. As a result, a significantly higher number of persons are now preparing to leave their homes or are actually departing to a safer place within the country (therefore become internally displaced persons or IDPs), or across an international border looking for international protection (therefore becoming refugees).

Key elements of this scenario
— General restrictions in freedom of movement, such as possible discrimination, denying or limiting freedom of movement of certain groups willing to move, including their free choice of where/when to depart;
— Availability of viable and safe means of transport;
— Safety and security of persons staying, moving and/or relocating, taking into consideration gender, age and diversity issues;
— Risks and incidents of SGBV;
— Situations of vulnerable persons who might be unable to move, such as disabled, elderly or persons with special needs, as well as hospitalized and institutionalized persons;
— Destruction, occupation and/or looting of land, houses and mobile property left behind;
— Attacks on schools and/or universities, religious sites, hospitals or medical personnel;
— Separation of family members and disintegration of traditional social groups, which might result in inadequate protection of the most vulnerable;
— Physical attacks against people leaving;
— Landmines and unexploded ordinance on exit routes;
— Confiscation or destruction of IDs and other important civil documents;
— Restriction of access to and lack of access to essential lifesaving items, such as adequate amounts of drinking water, basic food, medicine and clothing;
— Weather and climatic conditions impacting on population movements, the safety of people departing, and/or on their access to goods and supplies;

— Destinations and conditions of flight routes, including possible natural or deliberate blockades, checkpoints or bad road, weather and climatic conditions;
— Availability of accessible alternative locations for people leaving;
— Closed borders or discriminatory border procedures, including harassment, impeding affected people from leaving the country.

What to consider and to look at?
Persons and communities affected by this situation have the right to choose whether to stay or to seek safety elsewhere and may face unknown security threats in either scenario. Different population groups have varying gender, age and diversity profiles and may face different risk factors accordingly. Stay abreast with what happens, both, with people on the move, as well as within communities and at locations of origin, as there might be attempts to impede the future return of the displaced. Authorities have the primary obligation to protect people and property left behind.

Actions by OSCE field operations [10]
— Check nearest local/national or regional presence and possible crisis involvement of relevant actors including UNHCR and ICRC and establish contact. Share information about the situation and possible planned response options as early as possible;
— If the aforementioned actors are not present on-site and the situation warrants it, request the CPC to contact their respective liaison office in Vienna or, if necessary, their headquarters to determine additional follow-up;
— In close co-ordination with relevant actors, including UNHCR and ICRC: establish, monitor and update facts on evolving population movements and their composition, taking into consideration the size and areas of origin of the populations affected, their gender, age and diversity issues, as well as the attitudes of other communities towards the displaced population;

---

10 The order of suggested points of action by an OSCE field operation does not suggest a specific order of action, but consists merely of suggested possible OSCE actions.

— Assess the situation and, if applicable, develop response options;

— Report to the CPC and, if applicable, through the Secretary General to the Chairmanship and/or, through spot or activity reports, to all participating States on observed possible protection and displacement risks;

— If national minorities are affected, liaise with the OSCE HCNM;

— Advise the Secretary General on whether the issue should be raised at the Permanent Council (PC) and whether a formal early warning to the PC should be given;

— Provide advice on possible response actions to be taken by the OSCE Chairmanship, the Secretary General, the Permanent Council and/or the HCNM to prevent the situation from deteriorating and to address the causes of conflict-induced displacement;

— Facilitate dialogue and/or mediate between actors on the ground to address root causes and/or to resolve issues possibly leading to displacement situations;

— If the security situation allows, facilitate a visible field presence in places of population movements, in consultation with UNHCR and ICRC;

— In close co-ordination with relevant actors including with UNHCR, the Special Rapporteur on the Human Rights of Internally Displaced Persons, and ICRC, advocate with local authorities and security providers for the safety and security of people remaining in affected areas, the protection of their property, as well as of the property of those who have left;

— In close co-ordination with UNHCR, the Special Rapporteur on the Human Rights of Internally Displaced Persons, and ICRC, advocate with local authorities and security providers for freedom of movement and the security and safety of people on the move;

— If applicable, establish contact with colleagues in potential receiving countries/areas in order to ensure appropriate co-ordination in a refugee situation;

— Taking into account the specific mandates and responsibilities of the relevant agencies, co-ordinate with the Office of the High Commissioner for Human Rights (OHCHR), UNHCR and ICRC to advocate with local authorities and security providers to ensure adherence to international human rights, refugee law and international humanitarian law;

— If applicable and immediate protection concerns exist, liaise with security providers on-site in close co-ordination with relevant actors including UNHCR and ICRC.

Recommended reading

— United Nations, *Guiding Principles on Internal Displacement,* available at: http://www.idpguidingprinciples.org/

— UN High Commissioner for Refugees, *UNHCR Manual on Security of Persons of Concern,* November 2011, First Edition, available at: http://www.refworld.org/docid/4f6313032.htm

— Inter-Agency Standing Committee, *Handbook for the Protection of Internally Displaced Persons,* June 2010, available at: http://www.refworld.org/docid/4790cbc02.html

— UN High Commissioner for Refugees, *Refugee Protection and Mixed Migration: A 10-Point Plan of Action,* January 2007, Rev.1, available at: http://www.refworld.org/docid/45b0c09b2.html

Issue 1.3: Escalation and Mass Displacement

Description

As a consequence of escalating conflict, growing unrest, violence, serious and systematic human rights violations, international humanitarian law (IHL) violations and/or other destabilizing factors, you observe complex and large scale population movements with growing signs of hasty departure due to little time and possibility to prepare for a proper move. This is likely to lead to the increased vulnerability of people on the move as they might not be adequately prepared, lack access to essential services, personal documentation or a clear plan on where to go and how to get there. Displaced populations may face increasing hostilities and restricted freedom of movement, for instance through the establishment of military or administrative check-points. They may become increasingly vulnerable to

attacks, ill-treatment, threats to life and forced relocation by State or non-state actors.

Secondary or tertiary and even multiple displacements are common in conflict scenarios and/or where targeted persecution may compel people to flee. With each displacement, vulnerabilities tend to increase and the ability of people to cope with deterioration is likely to decrease, while risks are multiplied.

People may look for safety within their country, be displaced internally several times, or cross international boundaries. The environment and protection-sensitive management of such border crossings is of critical importance for the safety and sometimes survival of people fleeing persecution, human rights violations and IHL violations. Furthermore, routes taken might be unsafe due to on-going conflicts as well as the presence of landmines and other unexploded ordinance. Vulnerabilities of groups with special needs and even incidents of SGBV are likely to increase, and the property and belongings of people on the move might be at risk of pillage. You may witness signs of intentional destruction of infrastructure and public facilities by state or non-state actors at places of origin, in conjunction with targeted persecution and activities amounting to ethnic cleansing and preparations to impede future return of displaced persons or groups.

Key elements of this scenario

— Willingness and capacity of the state and local authorities to effectively protect all people staying behind and all displaced persons, regardless of their gender, age, diversity background;

— Freedom of movement restrictions, discrimination, denying or limiting freedom of movement of certain groups of persons willing to move, including their free choice of where/when to go or to cross an international border in search of international protection and denial of persons' access to seek asylum;

— The situation of disabled or otherwise unfit persons, hospitalized and/or institutionalized persons or respective evacuation plans for institutions;

— Types of actors present or involved, such as undisciplined police forces, military and security forces or non-state actors, such as militias, local rebel groups and elements linked to organized crime (e.g. drug and arms trafficking) and their possible exercise of *de facto* control;

— Destruction, occupation and/or looting of land, houses and mobile property left behind, as well as religious sites and institutions providing basic social services such as schools and hospitals;

— Confiscation or destruction of IDs and other important documents from all or segments of the population affected;

— Separation of family members and disintegration of traditional social groups, which might result in inadequate protection of the most vulnerable;

— Vulnerable persons or persons with specific needs (e.g. unaccompanied or separated children, single women, elderly, persons with disabilities, pregnant women etc.) left behind or intentionally staying behind;

— Risks and incidents of SGBV;

— Targeting of specific groups and minorities;

— Lack of access by all to essential and life-saving items, i.e. adequate amounts of drinking water, basic food, medicine and clothing;

— Availability of and access by all to humanitarian assistance;

— Unexploded ordinance and explosive remnants of war, in areas of displacement and on flight routes, including landmines in areas of displacement, settlements and areas near or on border points;

— Weather and climatic conditions impacting on population movements, the safety of people on the move, and/or on their access to humanitarian aid;

— Directions and conditions of flight routes including existing natural or deliberate blockades, checkpoints or bad road/weather and climatic conditions;

— Availability of alternative locations and accommodation, including attitudes of potential host communities;

— Closed borders or discriminatory border procedures, including harassment, impeding affected people from leaving the country.

What to consider and to look at?

In a situation of (emerging) mass displacement, the general context and environment as well as the protection and assistance needs of displaced people can rapidly and sometimes dramatically change. Therefore, it is important to closely monitor the evolving situation, security threats and enjoyment of rights by the affected population groups. Ideally, you should also get first-hand information from the displaced women and men themselves, bearing in mind gender, age and diversity issues. This may help in detecting specific needs or protection issues of individuals or groups particularly affected and thus in need of special attention. Movements across borders in such situations might also be mixed, including fleeing civilians and armed combatants. It will take particular care to manage such a scenario in a sensitive and protection oriented manner.

Actions by OSCE field operations[11]

— Ensure effective liaison with UNHCR at all levels and times needed with respect to persons seeking asylum across international borders;

— If possible, in close consultation with actors including UNHCR and ICRC (who may not yet be present at all critical locations), update the profile information of the internally displaced population and stay abreast of trends in violations of rights and the main security threats. Be aware of the different needs of the various groups of people affected;

— In close co-ordination with UNHCR and ICRC, closely monitor and update previously established facts on site and, if applicable, adapt response options;

— Report to the CPC, through the Secretary General to the Chairmanship and, through spot and activity reports, to all participating States, on developments, identified human rights violations and potential security implications;

— If national minorities are affected, liaise with the OSCE HCNM;

— Advise the Secretary General on whether the issue should be raised at the PC and whether a formal early warning to the PC should be given;

— Provide advice on possible response action to be taken by the OSCE Chairmanship, the Secretary General, the Permanent Council and/or the HCNM to prevent the situation from deteriorating and to address the causes of conflict-induced displacement;

— Facilitate dialogue and/or mediate between actors on the ground to address root causes and/or to resolve issues possibly leading to displacement situations;

— If the security situation permits, in close co-ordination with UNHCR and ICRC, facilitate a visible presence in places of population movements and at actual or potential international border crossing points;

— In consultation with UNHCR, advocate with local authorities and security providers for safe transit and full freedom of movement, with particular emphasis on accessible and open border crossings;

— Establish contact with colleagues in potential receiving countries/areas in order to ensure appropriate co-ordination in a refugee situation;

— If applicable and immediate protection concerns exist, liaise with security providers on-site in close co-ordination with relevant actors including UNHCR and ICRC;

— In line with their respective mandates and responsibilities and in close co-ordination with OHCHR, ICRC and UNHCR, advocate with local authorities and security providers to ensure adherence to international human rights, humanitarian law and refugee law.

Recommended reading

— United Nations. *Guiding Principles on Internal Displacement,* available at: http://www.idpguidingprinciples.org/

— *Statute of the Office of the United Nations High Commissioner for Refugees,* available at: http://www.unhcr.org/3b66c39e1.html

— *1951 Convention Relating to the Status of Refugees* and *1967 Protocol relating to the Status of Refugees,* available at: http://www.unhcr.org/3b66c2aa10.html

— UN High Commissioner for Refugees, *UNHCR Manual on Security of Persons of Concern,* November 2011, First Edition, available at: http://www.refworld.org/docid/4f6313032.html

---

11 The order of suggested points of action by an OSCE field operation does not suggest a specific order of action, but consists merely of suggested possible OSCE actions.

— Inter-Agency Standing Committee, *Handbook for the Protection of Internally Displaced Persons,* June 2010, available at: http://www. unhcr.org/refworld/docid/4790cbc02.html

— UN High Commissioner for Refugees, *Refugee Protection and Mixed Migration: A 10-Point Plan of Action,* January 2007, Rev.1, available at: http://www.refworld.org/docid/45b0c09b2.html

— UN High Commissioner for Refugees, *UNHCR Manual on a Community Based Approach in UNHCR Operations,* March 2008, available at: http://www.refworld.org/docid/47da54722.html

Top: An Osh neighbourhood badly damaged during the June 2010 violent unrest in southern Kyrgyzstan, March 2011.
Credit: OSCE/Sonya Yee

Bottom: An impediment to the return of displaced persons is the large number of houses or apartments that were damaged or destroyed during war.
Credit: Lubomir Kotek/OSCE

Phase II: Crisis Management in Acute and Enduring Conflict

Issue 2.1 Freedom of Movement to Seek Safety within the Country or by Crossing an International Border

Description

There is open fighting between two or more parties to the conflict, involving regular and/or irregular armed groups, in parts or in the entire territory of the country. This results in de facto or de jure limitations on the ability of civilians to move freely and safely within the country or to leave the country by crossing an international border. Civilians trapped in-between fighting and populations on the move can experience severe risks to life, physical security and integrity, as well as a range of serious generalized or targeted human rights violations. Civilians might be forced or obliged to flee or to leave their homes or be coerced into returning or relocating elsewhere. They might be pushed towards international borders or be hindered from crossing a border either by the adverse environment or by border restrictions. Specialized agencies are likely to be present, but may not always have the capacity to handle all critical locations and border crossings simultaneously.

Key elements within the country

– Willingness and capacity of the state/authorities to effectively protect people staying behind and persons on the move regardless of their gender, age, diversity background and legal status;
– Freedom of choice by all segments of the civilian population affected by fighting and conflict to stay, relocate or leave the country as well as the possible security implications of their options;
– Freedom of movement restrictions, discrimination, denying or limiting freedom of movement of certain groups of persons willing to move

(i.e. young men of drafting age), including their free choice of where/ when to go;

— Safe and viable options for people to move: accessible and available means of transport for all persons/groups willing to move, including disabled or otherwise unfit persons, hospitalized and other institutionalized persons;

— Types of actors present or involved, such as undisciplined police forces, military and security forces or non-state actors, such as militias, local rebel groups and elements linked to organized crime (e.g. drugs and arms trafficking, human trafficking) and their possible exercise of *de facto* control;

— Targeted human rights and international humanitarian law violations including persecution or restriction to freedom of movement based on gender, age or diversity backgrounds;

— As a result of restriction of movement on certain groups only, imposed by state or non-state actors, separations of family members and disintegration of traditional social groups with the potential result of inadequate protection for the most vulnerable;

— Risks and incidents of SGBV and targeting of vulnerable groups, including coercion, intimidation, exploitation, human trafficking and forced recruitment;

— Lack of access to basic social services including school and health services;

— Civil documentation including IDs, passports, other important documents that displaced people are able to carry and need to show at checkpoints and border-crossings, as well as confiscation or destruction of IDs and other important documents;

— Unexploded ordinance and explosive remnants of war, in areas of displacement and on flight routes, including landmines near or on border points and exit routes;

— Directions and conditions of flight routes, including existing natural or deliberate blockades, checkpoints or bad road/weather conditions; main areas inside the country where people are seeking safety;

— Availability of safe alternative locations and shelter absorption capacity, including access to basic services such as water and sanitation, etc.;

— Security situation and reception environment in the main destinations of internal relocation, with regard to: the attitude of host communities, the geographical distance from hostilities and fighting, the presence of regular or irregular armed groups, weather conditions, access to food and non-food relief assistance, adequate support to persons and groups with special needs.

Key elements for access to border-crossings and international protection across the border

— Knowledge of main border crossing points expected to be or actually used, including official and unofficial land border-crossing points and seaports;

— Security incidents at the access routes to border crossing points, especially at check-points which may be manned by a variety of state and non-state actors;

— Closed borders or discriminatory border procedures impeding affected people from leaving the country;

— Cases of *refoulement* or arbitrary expulsions;

— Harassment or confiscation of personal documents, goods or money while crossing the border;

— Requirement to carry an ID to cross the border and consequences for those without proper documentation;

— Hardship situations, including long waiting times in hot or cold locations, over-crowding, presence of hostile groups, unfavourable weather conditions, availability of drinking water and basic food items etc.;

— Vulnerable groups in need of special assistance;

— Staffing, capacities and skills of border authorities/guards to handle the out-flux effectively and in a protection-sensitive manner concerning gender-, age- and diversity-based specific needs;

— Immediate reception environment in the host country: safety, security, and assistance arrangements;

— Involvement of international actors and other actors on both sides of the border and existing communication channels;

— Unhindered access to territory, and effective asylum procedures to determine refugee status and/or to other international protection

arrangements (e.g. *prima facie* or group recognitions), through protection-sensitive entry systems [12].

What to consider and to look at?

While in all likelihood mandated agencies are present on the ground, they may not (yet) have the capacity to establish a presence and monitor *all* critical locations and border crossings. Hence, fine-tuned communication and co-operation is essential in order to enable expert advice and response, to avoid duplication, and, more importantly, to ensure the presence of international actors at all locations with acute risks. At this dynamic stage of conflict, 'change' is the overriding feature to be considered when looking at key protection elements. Changing elements are often unforeseen, sudden and not always visible at first glance. They can refer to all aspects of the situation, including the composition, protection and assistance needs of populations fleeing, as well as the needs of the receiving communities. The latter may have an impact on their attitude towards the arrival of displaced persons. The impact of changing conditions can affect directions and flight routes taken by populations on the move as well as their freedom of choices, freedom of movement, and capacity and means to flee. Changing attitudes of neighbouring countries towards refugee flows and their willingness to keep their borders open can have a dramatic impact on the safety, and even survival, of fleeing populations. The resource situation in the region and in locations of displacement can change quickly. New and particular protection risks can arise, for example, through the involvement of new (regular or irregular) parties to the conflict, changing weather conditions or other factors. Such changes always have a gender, age and diversity dimension. To promptly identify critical aspects of change it is good to re-visit base line data and benchmarks and to regularly update and discuss the changes in

---

12 Entry systems can raise protection concerns. UNHCR advocates for the establishment of 'protection sensitive' entry systems, which take into account the protection needs of individuals seeking access to State territory and the duty of States to respect their obligations under international human rights and refugee law, including the principle of non-refoulement. Such systems ensure that legitimate measures to control entry are not applied arbitrarily and that they allow asylum-seekers and other groups with specific protection needs to be identified and granted access to a territory where their needs can be properly assessed and addressed.

multidisciplinary teams. Indicators and benchmarks must reflect gender, age and diversity aspects.

Actions by OSCE field operations [13]
— Ensure effective liaison with UNHCR and ICRC at all levels and times needed;
— In close co-ordination with relevant actors including UNHCR and ICRC, update and discuss the profile information of affected populations and identify trends in the violations of rights, security threats and routes taken;
— Provided that the security situation allows, in close co-ordination with authorities and in consultation with relevant actors including UNHCR and ICRC, facilitate a visible international presence in places of main population movements/destinations and international border crossing points;
— In close co-operation with UNHCR and ICRC, monitor and update previously established facts and base-line data on site and, if applicable, adapt response options;
— To the extent possible, in close co-ordination with relevant actors including UNHCR and ICRC, and if immediate protection concerns exist, liaise with international security providers on-site and, through the secretariat, at the strategic level (HQs);
— In close co-ordination with UNHCR and ICRC and other relevant international actors, advocate with local authorities and security providers for safe transit and full freedom of movement within the country and for international border crossings;
— If the security situation permits, and in close co-ordination with actors including UNHCR and ICRC, facilitate outreach to affected communities (those staying behind as well as those relocating) to demonstrate international presence and get first-hand information;
— Intensify reporting to the CPC, through the Secretary General to the Chairmanship and, through spot and activity reports, to all participants.

---

13 The order of suggested points of action by an OSCE field operation does not suggest a specific order of action, but consists merely of suggested possible OSCE actions.

pating States, on displacement and protection challenges, observed human rights violations and potential inter-state implications of mass displacement and refugee population movements;

— If national minorities are affected, liaise with the OSCE HCNM;

— Advise the Secretary General and the Chairmanship to raise the issue at the PC with regard to the scale of the humanitarian crisis and the immediate and forecasted protection needs, in order to facilitate a prompt political solution;

— Provide advice on possible response action to be taken by the OSCE Chairmanship, the Secretary General, the PC and/or the HCNM to prevent the situation from deteriorating and to address the causes of conflict-induced displacement;

— Facilitate dialogue and/or mediate between actors on the ground to address root causes and/or to resolve issues possibly leading to displacement situations;

— Through Secretariat and the Chairmanship and local action, co-ordinate with UNHCR to advocate for accessible and open borders managed in a protection-sensitive way to facilitate refugee protection and to allow for free humanitarian access as well as transit of relief staff and goods;

— At the OSCE field and Secretariat level, in close co-ordination with relevant actors, advocate with national authorities and security providers to ensure full adherence to international human rights, humanitarian law and refugee law.

Recommended reading

— UN High Commissioner for Refugees, *Refugee Protection and Mixed Migration: A 10-Point Plan of Action,* January 2007, Rev.1, available at: http://www.refworld.org/docid/45b0c09b2.html

— United Nations, *Guiding Principles on Internal Displacement,* available at: http://www.idpguidingprinciples.org/

— Inter-Agency Standing Committee, *Handbook for the Protection of Internally Displaced Persons,* June 2010, available at: http://www. unhcr.org/refworld/docid/4790cbc02.html

Issue 2.2: Safety, Security and Initial Needs of IDPs at Locations of Initial or Short-Term Displacement

Description

You observe that significant groups of displaced persons are looking for safety by moving to alternative locations (relocation) within the country, probably in relative closeness to their places of origin or habitual residence and therefore potentially close to fighting and conflict. Where such settlements are located close to borders and/or front lines, their civilian character may be compromised by the presence of armed elements, incursions, the presence of arms, recruitment and raids within the camp or settlement. When this occurs, camps and settlements might become targets of military operations conducted by a party to the conflict. IDPs might find shelter either in groups or individually where they have family or social ties, where there are already other displaced persons or simply where they are able to stay due to difficult security and/or weather conditions. Frequently, family units and the social structure of traditional support groups get interrupted by flight and displacement. As a consequence you are likely to find separated and unaccompanied children, persons with disabilities, elderly, sick, and other persons with specific assistance and protection needs without adequate support, as well as women and girls outside their traditional protection systems. This may particularly expose women and children to increased risks of SGBV. Displaced persons may move to private accommodation, find shelter in informal settlements or in public buildings made available by local authorities. Schools should not be used for collective accommodation, as this could disrupt education within the host community. Upon arrival, displaced persons will face new challenges: to make the shelter habitable and safe, to organize food and drinking water, to cover medical and sanitation needs and to obtain adequate clothing, fuel and firewood. You might also observe injurious, exhaustion and physical and psychological health issues among displaced persons, such as dehydration, fatigue and trauma. This is likely to be combined with limited capacity on-site to address related needs, especially concerning mental health issues.

Key elements of this scenario

— Presence of law enforcement actors and security providers, their willingness and capacity to act and their general attitude towards IDPs;

— Early identification of threats to the civilian character of camps and settlements and response mechanism;

— Civilian character of camps and settlements and signs of early warning of deterioration of security and safety and response mechanisms;

— All IDP groups' access to security providers and their trust of them;

— Access of humanitarian actors to displaced persons and their ability and willingness to cover all groups of concern without discrimination or other arbitrary limitations;

— Level of freedom of movement of all IDP groups and humanitarian actors;

— IDPs access to safe, adequate and winterized (as required) shelter and housing including adequate sanitary facilities;

— Possible overcrowding and lack of privacy for women and girls (separate sanitary facilities) in temporary shelter;

— Separation of family members;

— Non-discriminatory and safe access of IDPs to basic food commodities and non-food items (blankets, clothes etc.) drinking water and/or other humanitarian aid (including possible livelihoods or cash/goods for work programmes);

— Availability of and access to basic health services for all;

— Access to medical aid;

— Access to education services in safe protective environments and availability of child friendly spaces;

— Free and regular access of international or national human rights monitoring actors to IDP areas and communities and their ability to speak freely to displaced men and women from the various groups;

— Possible abuse of power or corruption by security forces, humanitarian actors or community leaders, likely to affect displaced women and children disproportionately;

— Presence of regular or irregular combatants, civilian armed elements, and non-state actors including armed gangs or groups in IDP areas/communities;

— Attempts at forced recruitment of IDPs to regular security forces, irregular combatant groups or groups of organized crime, and recruitment of children;

— State or non-state actors or individuals putting pressure on IDPs to return to their homes, to move to a particular area within the country or to leave the country;

— Verbal harassment and spread of rumours against individuals or groups of IDPs;

— Physical attacks on informal settlements or collective shelters if they are close to or within conflict zones;

— Existing positive and negative resilience and coping mechanisms of IDP groups, which they have developed to cope with the consequences of protection problems. Negative resilience and coping mechanisms include trading sex for food, child labour including early marriage of daughters, or sale of children as such. These constitute serious protection problems;

— Incidents of SGBV and the possibility and ability of survivors/victims to report incidents and find medical and psychological support;

— Possible tensions and conflicts between IDPs and host communities or within the IDP community;

— Kidnapping, abduction, disappearance and hostage taking, prevalence of human trafficking.

What to consider and to look at?

The protection challenges at this transition stage between population movements and initial settlements, where displaced populations are seeking safety, may differ considerably. Protection issues might become less visible or obvious. Here, it is likely that relevant actors are establishing or expanding their presence. Fine-tuned communication and co-ordinated action are critical. At this stage, specialized agencies, often with the help of partners, engage in out-reach activities with the various displaced groups and locations to identify and analyze general and specific protection risks and issues, as well as the most pressing needs. If the OSCE engages in such activities, it is important to do so in close co-ordination with the specialized agencies. As in other situations, the particular needs and risks associated with

gender, age and diversity backgrounds usually vary considerably. For example, children might be separated from their parents or caregivers and accommodated together with others in collective shelters or in private accommodation (and therefore their particular needs are likely to be invisible to you). They might be exposed to particular risks, including abuse of power by security forces or others and may run the risk of being recruited by parties of the conflict or actors of organized crime. The fact that you do not have evidence or knowledge about security incidents, human rights violations or abuse, does not mean that they do not exist. If security allows, undertake spot-checks and discretely talk to the women, men and children affected.

Actions by OSCE field operations [14]

— To the extent possible, in close co-ordination with relevant actors including UNHCR and ICRC, establish, closely monitor and update baseline data capturing the size and composition of displaced communities in the various locations;
— In close co-ordination with relevant actors including UNHCR and ICRC, identify and assess the main displacement locations and the civilian character of initial settlements or camps as well as attitudes and capacities of host communities;
— Assess the capacity and willingness of authorities responsible or in control to protect all segments of the displaced population;
— Asses the capacity of authorities to detect and respond to the presence of armed elements in camps and informal settlements;
— Assess and stay abreast of external and internal (within the IDP community/area) security risks affecting populations in displacement, placing particular attention to increased risks associated with gender, age and diversity;
— To the extent possible, and in close co-ordination with community representatives, local authorities and relevant actors including UNHCR and ICRC, facilitate visible outreach to displaced communities and identify protection and humanitarian needs including possible gaps;

— Flag the importance of enrolment in and attendance of school for all school-aged children and young people;
— Support setting-up child friendly spaces particularly for children at risk;
— Place particular attention on gender-, age- and diversity-related needs and liaise with relevant actors including UNHCR and ICRC;
— In consultation with authorities and relevant actors including UNHCR and ICRC, and if applicable and immediate protection concerns exist, liaise with international security providers on-site;
— In line with their respective mandates and responsibilities and in close co-ordination with OHCHR, ICRC and UNHCR, advocate with local authorities and security providers for the safety and the rights and well-being of IDPs, the obligation to protect populations affected and their property, as well as to allow for humanitarian access;
— Continue reporting to the CPC, through the Secretary General to the Chairmanship and, through spot and activity reports, to all participating States, on displacement and protection challenges, observed human rights violations and potential inter-state implications;
— If national minorities are affected, liaise with the OSCE HCNM;
— Advise the Secretary General and the Chairmanship to raise the issue at the PC with regard to the scale of the humanitarian crisis and the immediate and forecasted protection needs, in order to facilitate a prompt political solution;
— At the OSCE field and Secretariat level, advocate with national authorities and security providers to ensure full adherence to applicable international human rights and humanitarian law;
— Provide advice on possible response action to be taken by the OSCE Chairmanship, the Secretary General, the Permanent Council and/or the HCNM to prevent the situation from deteriorating and to address the causes of displacement, including possible high level interventions or the taking of a PC decision on specific response actions;
— Facilitate dialogue and/or mediate between actors on the ground to address causes of displacement and/or to resolve issues related to the displacement situation.

---

14 The order of suggested points of action by an OSCE field operation does not suggest a specific order of action, but consists merely of suggested possible OSCE actions.

Recommended reading

— United Nations, *Guiding Principles on Internal Displacement,* available at: http://www.idpguidingprinciples.org/
— UN High Commissioner for Refugees, *UNHCR Manual on Security of Persons of Concern,* November 2011, First Edition, available at: http://www.refworld.org/docid/4f6313032.html
— Inter-Agency Standing Committee, *Handbook for the Protection of Internally Displaced Persons,* June 2010, available at: http://www. unhcr.org/refworld/docid/4790cbc02.html
— UN High Commissioner for Refugees, *UNHCR Manual on a Community Based Approach in UNHCR Operations,* March 2008, available at: http://www.refworld.org/docid/47da54722.html
— Inter-Agency Network for Education in Emergencies (INEE), available at: http://www.ineesite.org/en

Issue 2.3: Advocacy, Co-ordination and Effective Co-operation

Description

In an enduring crisis and forced displacement situation, you can reasonably expect a growing level of political and media attention as well as forthcoming humanitarian engagement of relevant international actors, at the local/national, and possibly regional level. Depending on the nature and evolution of the conflict, and the security and human rights situation, military preparedness or interventions might also be discussed. Agencies and organizations – such as the OSCE – which have had a presence on the ground from the outset of the crisis, have an important role to play through sharing timely information and contributing to contextual analysis and needs assessments of incoming humanitarian actors. This is the stage where the foundation for effective inter-agency co-operation and effective complementary interaction is developed. Complex crisis and displacement situations require political solutions to address root causes and to allow for solutions to conflict-induced displacement. Co-operation should be guided by humanitarian principles, a spirit of solidar-

ity, and complementary interaction between political and humanitarian actors without compromising the neutral, non-political and humanitarian character of the mandates of the latter. The OSCE, based on its comprehensive security mandate and its wide range of participating States, has an important role to play in encouraging and facilitating political solutions to conflict and humanitarian crisis. Timely and strategic co-operation between the OSCE, UNHCR and other relevant international actors has the potential to make a tangible difference in the protection of civilians and displaced populations and to enhance crisis response as well as forthcoming conflict resolution efforts.

Key elements

— Types and response capacities of actors present in the crisis area/country together with their regional presence and mission mandates;
— Complementarities of mandates and expertise available on-site;
— Level of awareness within the humanitarian community on the crisis relevant political work of the OSCE and its link to the humanitarian and displacement dimension, and vice versa;
— Formal and informal communication channels established on-site and at HQ level/s (through Vienna);
— Available mechanisms for (secure) exchange of information and analysis;
— Possibility of joint situation analysis;
— Development of complementary field monitoring frameworks to maximize resources and cover critical hot spots adequately;
— Systematic and regular incorporation of protection and displacement specific elements into OSCE reporting;
— Co-ordinated response to security and human rights incidents and harmonized messaging to authorities: speaking with one international voice on protection and human rights issues;
— Harmonized advocacy among relevant parties involved in Vienna, Geneva and New York, promoting full adherence to relevant international law, human rights and refugee law, as well as to relevant OSCE commitments.

What to consider and to look at?

There is an intrinsic link between effective crisis management and under-standing and addressing the needs and rights of populations affected by violence and related displacement. Humanitarian problems always require political solutions. However, identifying and addressing humanitarian needs as early as possible, in interface with the work of specialized agencies, can mitigate crisis and can have a positive influence on conflict develop-ment. Working in complementary and strategic partnerships, accompanied by harmonized messaging and well co-ordinated interventions can have a stabilizing impact on crisis and conflict, and alleviate human suffering and save lives.

Actions by OSCE field operations [15]

— Establish situation- and thematic-specific collaboration on-site, as well as effective communication channels;
— Make strategic use of complementary mandates;
— Establish regular mechanisms for steady and timely information flow among key players;
— Harmonize international messaging;
— As required by the scope of the crisis, engage in exchange of informa-tion, analysis and co-ordination with key players, both at the opera-tional and strategic level;
— Facilitate political action that is complementary and supportive to humanitarian efforts at all levels.

Recommended reading

— Inter-Agency Standing Committee, *Handbook for the Protection of Internally Displaced Persons,* June 2010, available at: http://www.unhcr.org/refworld/docid/4790cbc02.html
— United Nations, *Guiding Principles on Internal Displacement,* available at: http://www.idpguidingprinciples.org/
— Inter-Agency Standing Committee, Protection Cluster Working

Group, Early Recovery Cluster Working Group, UNHCR facilitated, *Protection of Conflict-Induced IDPs: Assessment for Action,* 2008, available at: http://www.unhcr.org/50f94e989.pdf

Ruins of houses formerly inhabited by Georgians in a village located north of Tskhinvali, November 2011.
Credit: OSCE/Kaupo Kand

---

15 The order of suggested points of action by an OSCE field operation does not suggest a specific order of action, but consists merely of suggested possible OSCE actions.

Phase III: Conflict Management and Resolution/Protracted Conflict

Issue 3.1: Rights of IDPs and National Responsibilities

Description

This Issue focuses on the rights of those displaced by conflict who have not crossed an international border. It applies to all phases of displacement and conflict, therefore, it is recommended to be read in conjunction with other parts of the document.

While the needs of IDPs and refugees might be similar in many aspects, there is a unique and distinct international protection regime governing refugee situations. In contrast, there is no specific legal status in international law, which is applicable to internally displaced persons. Because internally displaced persons (IDPs) reside within the borders of their own countries and are under the jurisdiction of their governments, primary responsibility for meeting their protection and assistance needs rests with their national authorities. The UN Guiding Principles on Internal Displacement, which build the basis of this Issue and are mainstreamed throughout the PCL, underscore this point, setting forth the rights of IDPs and the obligations of governments towards these populations.

The rights of IDPs are based on and consistent with international human rights law and international humanitarian law. IDPs remain entitled, in full equality, to the same rights and freedoms that other persons in the country enjoy. They do, however, often have special needs by virtue of their displacement and thus need protection and assistance related to their specific conditions. Governments and other responsible authorities need to protect IDPs from discrimination and ensure their enjoyment of any right

or freedom. IDPs also often belong to national minorities or other groups at risk and, in some cases, States may not be willing (or able) to protect and assist them, or allow others to do so. Displacement usually increases existing vulnerabilities and often produces new ones.

In a lasting conflict situation where acute security threats have diminished or shifted to other locations, most internal population movements have resulted in temporary (often lasting) settlements. These can include formal and informal settlements or structured camps as well as collective centers. IDPs in urban locations often opt to live in private accommodation amongst the rest of the population. While these arrangements are rarely suited for long-term solutions, a political resolution of the conflict and implementation of solutions to displacement can take a substantial amount of time. Furthermore, humanitarian actors present may have limited capacities or may not have full and regular access to IDP areas. IDPs are also often unaware of their rights or not capable of effectively accessing them, either as a result of discrimination or due to a lack of resources in the area of displacement. Thus, it is important to fully understand IDP rights and needs and to address them throughout the displacement situation and the conflict cycle.

Rights of IDPs and national responsibilities are equally relevant to all phases and issues of the conflict cycle and have been largely mainstreamed throughout the Protection Checklist. However, both the rights of IDPs and national responsibilities have been deliberately described in more detail within Phase III. This serves the purpose of illustrating and acknowledging the fact that rights of IDPs and national responsibilities must be particularly challenged in this phase.

Key principles applicable to the protection of IDPs

As previously stated, IDPs usually have the same rights and freedoms under international and domestic law as nationals in their country. Given their particular vulnerabilities and needs, however, these rights need a specific interpretation, reaffirmation and support to enable IDPs to effectively realize these rights. Thus, the United Nations Guiding Principles for Internal Displacement have reaffirmed the rights of internally displaced persons

alluding, in particular, to: equality and non-discrimination; the principle of State responsibility; protection against involuntary displacement, in particular regarding people with a special dependency and attachment to their lands; the right to life, dignity and integrity, and the right to family life; freedom of movement, including to leave the country and seek asylum; recognition of persons before the law; protection of property and possessions; the right to request and obtain adequate assistance and access to services, in particular health and education, and to enjoy an adequate standard of living; the right to durable solutions in dignity and safety; and respecting the principle of its voluntary character.

For a full view of principles applicable to IDP protection, see the UN Guiding Principles on Internal Displacement. They should be referred to during all phases of the conflict cycle.

Key national responsibilities

— National authorities have the primary duty to protect and provide humanitarian assistance to IDPs; and seek durable solutions for the internally displaced within their jurisdiction.
— This duty entails taking specific measures to respond to the particular vulnerabilities and needs of IDPs. States are also under particular obligation to protect against arbitrary displacement and have a special responsibility in this respect to indigenous peoples, minorities, peasants, pastoralists, and other groups with a special dependency on and attachment to their lands.
— Governments should:
    — prevent displacement through rights-based approaches;
    — mitigate the impact of displacement;
    — facilitate the right of affected populations to flee to safer areas;
    — raise national awareness of the problem;
    — collect data on the numbers and conditions of IDPs;
    — support training on internal displacement and the UN Guiding Principles;
    — create a national legal or policy framework for upholding the rights of IDPs;

— designate an institutional focal point on IDPs;
— encourage national human rights institutions to integrate internal displacement into their work;
— allocate adequate resources to sufficiently respond to the challenges of internal displacement;
— ensure the participation of IDPs in decision-making taking in to account the age, gender and diversity profile of the population;

— When national capacity is insufficient, governments should co-operate with the international community and relevant actors to ensure adequate protection and humanitarian assistance to IDPs.

What to consider and to look at?

Your starting point is the fact that internally displaced persons have the same rights as other citizens (or residents) in the country. Thus, they are under the protection of the State, whose responsibility it is to protect and respect their rights, as well as to actively support displaced people in the realization of their rights. These rights are protected through legally binding commitments, which are enshrined in human rights and international humanitarian law. Therefore, while in some very critical and specific situations – subject to certain criteria – some rights can be temporarily suspended, rights can never be made subject to negotiation, including a direct link between freedom of movement and the right to life and liberty, which allows affected populations to flee and return in safety. However, while each displacement situation is unique, most situations feature an acute or chronic lack of locally available resources and, even if the authorities are willing to protect and assist IDPs, they might not be able to do so owing to security or economic constraints. In such cases, it is the State's responsibility to request help and to engage the international community or other suitable actors in providing IDPs with the protection or assistance needed. This conceptual understanding is fundamental to any response strategy.

Another important feature to keep in mind is that IDPs must know and be aware of their rights. Lack of awareness or unclear understanding of rights exposes displaced persons to potential manipulation or abuse and increases their vulnerability, as well as making them unable to articulate, ex-

plicitly claim and implement their rights. Manipulation could include withholding of information or misrepresentation of the various possibilities for durable solutions to displacement. IDPs should also be kept updated about critical developments and political discussions focused on solutions to displacement and other issues directly impacting their lives. IDPs are subjects of their lives and rights holders; they must not become objects to the various interests of other parties (i.e. political or economic). Therefore, they need to be involved and consulted in decision-making processes throughout the displacement situation.

In order to effectively address potential vulnerabilities through humanitarian aid and other essential services, specific efforts to include and mobilize women in this process are required. Women's participation in planning and distribution will help enhance not only their own safety and well-being but increase the likelihood that issues concerning the broader family will receive appropriate attention. This could, for example, include the distribution of food and cooking supplies or the education of children. In addition to the involvement in practical decision-making, however, women should also be involved in strategic and political decision-making. Being involved can give women, men and children some control back over their lives despite their difficult situation.

Remember, more often than not, IDPs have specific vulnerabilities due to their displacement condition. It is important to identify those, as well as the needs and potential vulnerabilities of local families hosting IDPs, in order to address them in the planning and delivery of assistance. Such vulnerabilities always have a clear gender, age and diversity dimension.

Actions by OSCE field operations [16]

— Liaising effectively with relevant actors including UNHCR and ICRC at all levels and times needed;
— If applicable, in close consultation with relevant actors including the

---

16 The order of suggested points of action by an OSCE field operation does not suggest a specific order of action, but consists merely of suggested possible OSCE actions.

Special Rapporteur on the Human Rights of Internally Displaced Persons, UNHCR and ICRC, and other relevant actors, advocate with authorities and security providers responsible or in control, for the rights and well-being of IDPs, as well as for their obligation to protect populations affected and their property;

— Monitor the capacity and willingness of authorities responsible or in control to protect all segments of the displaced population and, where appropriate, contribute to building relevant capacities;

— In close co-ordination with UNHCR and ICRC, assess the situation of humanitarian needs versus local capacities and willingness. Advocate for humanitarian access by specialized agencies and humanitarian access by IDPs to specialized agencies;

— To the extent possible, in close co-ordination with UNHCR and ICRC, monitor and update baseline data captured in previous assessments;

— In close co-ordination with UNHCR and ICRC, monitor the civilian character of settlements or camps, as well as the evolving capacities, needs and attitudes of host communities. Pay particular attention to gender, age and diversity issues;

— To the extent possible, and in close co-ordination with and in support of UNHCR and ICRC, engage in appropriate outreach strategies with displaced communities in order to identify protection and humanitarian needs including possible gaps;

— Continue reporting to the CPC, through the Secretary General to the Chairmanship and, through spot and activity reports, to all participating States, on displacement and protection challenges, observed human rights violations and potential inter-state implications;

— If national minorities are affected, liaise with the OSCE HCNM;

— Advise the Secretary General and the Chairmanship to raise the issue at the PC with regard to the scale of the humanitarian crisis and the immediate and forecasted protection needs, in order to facilitate a prompt political solution;

— Advocate with national authorities and security providers to ensure full adherence to applicable international human rights and humanitarian law and encourage Secretariat and Chairmanship to mirror these efforts with relevant delegations and capitals;

— Provide advice on possible response action to be taken by the OSCE Chairmanship, the Secretary General, the Permanent Council and/or the HCNM.

Recommended reading

— United Nations, Guiding Principles on Internal Displacement, available at: http://www.idpguidingprinciples.org/
— The Brookings Institution-University of Bern Project on Internal Displacement, *A Framework for National Responsibilities*, April 2005, available at: http://www.brookings.edu/fp/projects/idp/20050401_nrframework.pdf
— Inter-Agency Standing Committee, *Handbook for the Protection of Internally Displaced Persons,* June 2010, available at: http://www.refworld.org/docid/4790cbc02.html

Issue 3.2: Security Issues and Vulnerabilities

Description

You are in a situation where acute security threats have diminished or shifted to other locations, and most internal population movements, have transformed into (temporary) settlements. Where such settlements are located close to borders and/or hostilities and fighting, their civilian character may be compromised by the infiltration of armed elements. At the same time, IDP settlements close to hostilities might be considered as politically biased. When this occurs, camps and settlements might become targets of military or combatants' operations. Attacks or other acts of violence, including threats and incitements to commit such actions against internally displaced persons, who do not or no longer participate in hostilities are prohibited in all circumstances according to IHL and as reflected in the UN Guiding Principles. Besides security threats directly linked to the conflict, IDPs may also experience threats and security issues originating from within their displacement situation or community. Such internal risks may particularly

expose women and children [17]. Internal risks are usually less visible or obvious than attacks originating from the external environment. At this stage of the conflict and displacement cycle, people may have found a variety of shelters, including formal and informal camps and settlements, as well as collective centers, (which are usually established in public buildings) or within private accommodation, on their own or with host families. The different types of arrangements can bear different threats and security issues, the impact of which always has a gender, age and diversity dimension.

Key security issues in IDP areas

— The presence and capacity of *law enforcement actors and security providers and/or non-state actors,* and their willingness to protect all segments of the population affected;

— *Acts of violence or attacks on IDPs/other civilians* by members of regular or irregular armed forces, armed elements, or actors of other groups, including organized crime. These can include: armed attacks against camps or settlements; sniper fire; the use of IDPs/other civilians as human shields; attacks on hospitals, schools or other public services; torture; cruel, inhuman or degrading treatment or punishment; abductions and enforced disappearances; acts of violence intended to spread terror among IDPs; starvation; summary or arbitrary executions; murder; and genocide. It also includes rape and acts of gender specific violence, forced prostitution, sexual exploitation and any form of indecent assault;

— *Forced recruitment of adults and children:* the existence of discriminatory practices of recruitment of IDPs into any armed forces or groups, including any cruel, inhuman or degrading practices. Under no circumstances shall displaced children be recruited (voluntary or not), nor be required or permitted to take part in hostilities. Orphaned and separated children are especially at risk of recruitment. Prevention of voluntary recruitment is a challenge as it emanates from emotions generated within IDP communities. Provision of education and livelihood support could present alternative options to recruitment;

---

17 Including boys at risk of recruitment from political groups within IDP communities.

— *Presence of armed elements:* inside or within the vicinity of IDP areas, the risks and threats they pose to IDPs, possible abuse or threats, particularly to women and children. Acts which prevent IDPs from moving or force IDPs to move to a given area, or coerce IDPs to collaborate in fighting;

— *Pillage and destruction of property:* attack, unlawful use, occupation, appropriation and destruction of homes, property and land left behind by IDPs;

— Diversion of humanitarian assistance by parties of the conflict and its impact on the different IDP groups;

— *Ceasefire, humanitarian corridors and protected zones:* do they enhance protection as they are respected by all parties to the conflict or do they contain risks for IDPs/ other civilians (i.e. due to sudden non-compliance and violations, such as the use of humanitarian corridors for the movement of arms and ammunition)?;

— *Landmines and other unexploded ordinance:* contamination of areas with landmines or explosive remnants of war, unexploded ordinance, improvised explosive devices, cluster munitions, mined or blocked access to vital resources (i.e. water sources and arable land etc.), the on-going laying of mines and lack of mine risk education, unmarked and contaminated zones;

— *Abuse of power, including corruption and exploitation* by security forces, humanitarian and peacekeeping actors, as well as authorities responsible or in control (or others), likely to particularly affect women, girls and separated and/or unaccompanied children or individuals with a risk profile. Abuse as a result of opportunity, including coercion or exploitation, by local actors from within the host community or the IDP community itself;

— *Sexual and gender-based violence (SGBV):* both the prevention and response measures are imperative as one feeds into the other. The risks of SGBV apply to women, girls, boys and men and can be used as a tool of

war. Cultural sensitivities and security risks are usual deterrents to reporting and these factors must be taken into account when assessing the risks to communities;

—   *Signs and incidents of human trafficking affecting IDPs,* undertaken for the purpose of sexual or labour exploitation, and associated with trading for sexual services, or for the purpose of slavery or practices similar to slavery, as well as for the removal of organs or the facilitation of international adoptions.

What to consider and to look at?

The type and source of security issues affecting displaced persons at this stage of the conflict and displacement cycle are likely to be different from those that had previously affected IDPs. In addition to external threats directly associated with the conflict, a range of internal risks may trigger additional security threats. Some of these internal issues may be hidden and thus not obvious or directly visible to you. Therefore, the way to identify threats and security issues also needs to be adapted. In order to identify hidden security issues, it is important to engage in community outreach, trust building and consultations with the various IDP groups and the host community (men and women). This can only be achieved by maintaining a regular presence and outreach activities as well as through reliable and regular communication to and with IDPs. Remember, the impact of security issues always has a gender, age and diversity dimension. Be aware that people might be scared and intimidated and, thus, a sensitive and discrete communication with displaced persons and handling of information is critically important. In your evaluation, consider practical scenarios such as, for example, the need for displaced women to walk some distance to collect water thereby placing themselves at risk of being physically or sexually attacked, abducted or injured or killed by landmines. Remember, it is rarely possible to anticipate the type and exact timing of a security incident. For this reason, it is important that the IDP community itself knows and understands the various risks and threats of their displacement environment, in order to discuss and empower people to adapt their behaviour and activities accordingly.

Actions by OSCE field operations[18]

—   Liaise effectively with relevant actors at all levels and times needed;
—   In close co-ordination with relevant actors, monitor the capacity and willingness of the law enforcement and security providers responsible or in control to protect all segments of the displaced population;
—   Advocate with national authorities and security providers to ensure full adherence to applicable international human rights and humanitarian law. Encourage the Secretariat and Chairmanship to mirror these efforts with relevant delegations and capitals;
—   Provide advice on possible response action to be taken by the OSCE Chairmanship, the Secretary General, the Permanent Council and/or the HCNM;
—   In close co-ordination with relevant actors including UNHCR and ICRC, monitor the civilian character of IDP areas, as well as the evolving capacities, needs and attitudes of host communities;
—   Whilst staying abreast of potential external security threats and in close co-ordination with relevant actors including UNHCR and ICRC, assess internal security risks within the IDP community/area, placing particular attention to gender, age and diversity aspects;
—   If applicable, in co-ordination with relevant actors including UNHCR and ICRC, advocate with the authorities and security providers responsible or in controls for the respect of rights, security and well-being of all segments of the IDP community;
—   In close co-ordination with relevant actors including UNHCR and ICRC, emphasize the importance of school enrolment and attendance for children and young people in safe environments as vital to their protection and risk reduction;
—   If applicable, and immediate protection concerns exist, liaise with international security providers on-site;
—   In close co-ordination with relevant actors and international security providers, consider developing a risk mapping exercise, including a hot spot analysis and the evolving various types of risks at given locations;

18 The order of suggested points of action by an OSCE field operation does not suggest a specific order of action, but consists merely of suggested possible OSCE actions.

— In close co-ordination with relevant actors including UNHCR and
   ICRC, establish regular outreach and physical presence in IDP areas
   and possible channels of communication with the IDP community, in-
   cluding women and children, to disseminate relevant objective infor-
   mation in a language they understand. Continue reporting to the CPC,
   through the Secretary General to the Chairmanship and, through spot
   and activity reports, to all participating States, on security issues and
   steps undertaken to address these vulnerabilities; If national minori-
   ties are affected, continue to liaise with the OSCE HCNM;

— Consider programmatic activities within your mandate which could
   address security issues and vulnerabilities, such as combatting traf-
   ficking in human beings;

— If you come to the conclusion that additional programmatic activities
   would be useful in areas not covered by your mandate, liaise with OSCE
   executive structures which have a mandate in the respective area to in-
   quire whether they would be in a position to engage in such activities.

Recommended reading

— UN High Commissioner for Refugees, *UNHCR Manual on Security
   of Persons of Concern,* November 2011, First Edition, available at:
   http://www.refworld.org/docid/4f6313032.html

— Inter-Agency Standing Committee, *Protection Cluster Working
   Group, Early Recovery Cluster Working Group, Protection of
   Conflict-induced IDPs: Assessment for Action,* 2008, available at:
   http://www.refworld.org/pdfid/47eba3c62.pdf

— Inter-Agency Standing Committee, *Handbook for the Protection of
   Internally Displaced Persons,* June 2010, available at:
   http://www.unhcr.org/refworld/docid/4790cbc02.html

— United Nations*, Guiding Principles on Internal Displacement,*
   available at: http://www.idpguidingprinciples.org/

— UN High Commissioner for Refugees, *UNHCR Manual on a
   Community-Based Approach in UNHCR Operations,* March
   2008, available at: http://www.refworld.org/docid/47da54722.html

Issue 3.3: Mainstreaming Displacement and Durable Solutions into Conflict Resolution and Peace Agreements

Description

Resolving conflict-induced displacement – and preventing future displace-
ment – is inextricably linked with achieving lasting peace. On the one hand,
unresolved problems of displacement may cause instability and thus threat-
en peace processes as well as peacebuilding efforts. On the other hand, du-
rable solutions – particularly return and repatriation – cannot be achieved
for IDPs and refugees as long as there is a lack of security, property is not
restored, and other conditions for sustainable solutions, including trust and
confidence between local communities and returnees and post-conflict re-
construction, are not in place.

At this stage, relevant stakeholders are discussing and taking steps
towards conflict resolution and peace agreements. Each conflict is unique
and thus peace agreements need to be customized to the specific situa-
tion. Hence, the form and substance of peace agreements needs to be de-
termined by the necessities on the ground. Any peace agreement that is to
be sustainable needs to be agreed to by the relevant parties to the process.
Displacement and durable solution issues need to be discussed from the
outset of the resolution process and mainstreamed into all relevant aspects
of the peace process.

While the needs, rights and durable solutions for refugees are usually
addressed and represented by UNHCR in line with its international man-
date, IDPs and especially women groups are rarely consulted or represented
in peace processes; their particular circumstances are often overlooked in
the language of peace agreements; and peacebuilding initiatives often mar-
ginalize or forget them. There is a wide range of actors with roles and re-
sponsibilities in peacebuilding, including national governments, National
Human Rights Institutions, civil society and the international community,
all of which have the potential to mainstream internal displacement in their
work. Also, the OSCE can actively support this, as well as mainstream in

long-term rule of law and good governance strategies, aspects important for sustainable peace and durable solutions, as well as for the prevention of renewed displacement.

Peace agreements are shaped through different negotiation formats and tracks of diplomacy. Generally, 'track-one' participation refers to official representatives of the parties to the conflict, whereas 'track-two' participation commonly includes unofficial interactions which may involve NGOs, religious leaders or private citizens. 'Track-one' diplomacy may take place bilaterally or multilaterally involving also international organizations such as the OSCE or third party States acting as mediators. High-level negotiations are often seen as the only viable approach for achieving a relatively swift negotiated resolution to armed conflict – and often the short deadlines under which they work also preclude time-consuming consultations. However, such negotiations often lack the specialized contributions and sense of ownership that can be gained through civil society participation. Thus, ideally 'track-one' processes should be complemented by 'track-two' negotiations or evolve into track 1.5 diplomacy, combining official and civil society representatives in one process. 'Track-three' processes that refer to unofficial interventions at the grassroots level by people from all sectors of society can also play an important role in peace processes, and probably provide the greatest scope for direct participation of IDPs and refugees.

Examples of direct participation of displaced persons in 'track-one' peace processes are rare as a result of three main obstacles. One is the restricted and formal structure of most 'track-one' processes. A second is that displaced populations often have specific vulnerabilities – they may belong to minority groups and lack resources, education, political skills and influence. Third, IDPs specifically have additional disadvantages – they are often scattered, in contrast to refugees; lack a specific international regime to support their rights; and may be more vulnerable to reprisals from their government where they do mobilize. Equally there may be times when the participation of IDPs and refugees in formal peace negotiations can entail risks for the displaced. For example, displaced populations can

be associated with, or fuel through their presence, 'spoiling' tactics that can hinder, delay or undermine peace processes. An alternative is to participate in 'track-two' and 'track-three' peace processes, especially through forming coalitions with other groups excluded from formal negotiations, for example women's groups. NGOs have an important role to play in supporting coalitions for peace.

In the case, where the participation of displaced persons is not possible, effective or desirable, it is important to develop complementary strategies for representing their interests in peace processes. For example, international mediators can prompt political leaders to incorporate displacement issues in peace negotiations. However, consulting with IDPs is critical – as is the adherence to international standards, which includes human rights standards and the UN Guiding Principles on Internal Displacement. Another strategy is to focus on the legal rights of IDPs through international, regional and national mechanisms, including through the mandate of the United Nations Special Rapporteur on the Human Rights of Internally Displaced Persons, who, for example could engage in country visits and provide recommendations to involved parties.

Despite some positive examples in existing peace agreements addressing displacement, commitments are often not fulfilled for reasons such as poor drafting, insufficient implementation mechanisms and funding, or a blatant lack of political will. However, displaced persons have rights grounded in international human rights, international humanitarian law, and, by analogy, international refugee law. States have an obligation to protect those rights.

In order for grassroots initiatives and communities to effectively contribute to the overall peace process, top level formal stakeholders need to politically support the principle of consultation and their participation.

Key elements
Peace agreements need to contain specific provisions for displaced populations. They should address and reflect a solid understanding of the causes of displacement. Peace agreements need to advance plans for durable

solutions as suggested below. Four areas in particular need specific attention within the text of agreements:

— Distinguish between refugees and IDPs, refer to standard international definitions, ensure that locally-used terms are inclusive in coverage and in accordance with international standards, and recognize regional displacement specificities;
— Clarify the specific parties roles and obligations vis-à-vis IDPs and refugees, and ensure the parties' co-operation in the process of finding durable solutions for the displaced, including a commitment to guaranteeing safety and security both during and after return, specific language on how security will be provided, and sanctions against people who violate the rights of the displaced and refugee returnees;
— A specific enumeration of the rights of displaced persons, including general human rights; the right to choose return, local integration or relocation elsewhere, respecting the principles of voluntary character of solutions, dignity and security; rights as citizens; and the right to documentation and property;
— The definition of an implementation process, including the establishment of a responsible body, the definition of a funding mechanism, and procedures for co-operating with the international community.

Key displacement elements for conflict resolution and peace agreements

Finding durable solutions for the displaced is a necessary element of effective peacebuilding. The following elements are particularly relevant for displaced persons and returnees:
— *Providing security* through demobilization, de-mining, re-establishing law and order and the rule of law, and combating impunity;
— *Solving property-related problems* including reconstruction and restitution of property, resolution of property related disputes and reparations when restitution is not possible;
— *Re-establishing and reinforcing the rule of law;*
— *Transnational justice;*

— *Furthering confidence-building and reconciliation* between local communities and returnees;
— *Undertaking post-conflict reconstruction,* i.e. re-establishing basic infrastructure and services, as well as ensuring access to services, resources and livelihoods;
— *Ensuring the political transition* to and the establishment of an effective, legitimate and inclusive government and political process in which the various sectors of society, including IDPs and returnees, can become stakeholders.

What to consider and to look at?

Finding durable solutions for persons displaced by conflict, especially in the case of mass displacement, is a pre-requisite for effective and sustainable conflict resolution. Therefore, this aspect needs to be a vital part of the process and related peace agreements. This implies that displaced women and men, equipped with a wide range of rights, including political and social rights, should be consulted, represented, and – to the extent possible – their participation should be actively supported during the peace process.

Active civil participation is an evolutionary process which is likely to face many challenges. These can include issues relating to legitimacy of representation, unsettled problems within the displaced communities, a range of diverging opinions on how to go ahead, as well as a range of displacement related disadvantages, such as limited resources and political influence, possible low levels of education or a general lack of experience of displaced people to actively participate in society. For this reason, ensuring participation can be challenging. However, experiences from across the world suggest that peace processes, which were actively supported from the bottom up, including by those most directly affected, such as IDPs and refugees, have had a higher chance of succeeding. This helps to sustain peace and prevent a relapse of hostilities, and therefore contributes to regional security and stability.

Participation is a fundamental pillar of democracy. In order to actively participate in society, people need timely and objective information,

channels to have their voices heard, and active opportunities to influence issues relevant to their lives. Through the facilitation of such processes, people will be enabled to practice democracy and to contribute to post-conflict societal transformation. Such transformation can start at the place of displacement and continue upon return to their home communities or when integrating into a new community. Consider that displaced persons are the ones with the strongest incentives for overcoming the conflict, finding solutions to their displacement and preventing relapse of new conflict. Therefore, their role in building democracy and peace is invaluable. Supporting displaced persons and their community structures in this complex process is the place where you can make a tangible difference.

Actions by OSCE mediators, field operations and CiO special representatives[19]

Facilitate that displacement issues, where relevant, are properly addressed in peace negotiations by mainstreaming the normative framework for the protection of the rights of displaced populations in peace talks and by programming of IDP and refugee specific activities, aiming to support their role as agents of change and peacebuilders.

— Include respective agenda items in official talks;
— Include the expertise of relevant actors including UNHCR and ICRC in 'track-one' negotiations where displacement issues are discussed;
— Encourage local-level confidence-building measures and conflict

  resolution mechanisms that include displaced populations and affected communities (e.g. host or receiving communities);
— Advocate with national/local authorities for unambiguous allocation of responsibilities, adequate resources and an appropriate evaluation and monitoring mechanism;
— If possible and appropriate, invite legitimate representatives of displaced populations to formal peace negotiations, ensuring a gender,

---

19 The order of suggested points of action by an OSCE field operation does not suggest a specific order of action, but consists merely of suggested possible OSCE actions.

age and diversity balance and/or encourage the Sides to include such representatives in their delegations;
— To the extent possible, convene separate formal consultations on displacement-specific issues with representatives of displaced populations where their direct participation in peace negotiations is impossible or inappropriate;
— Support 'track-1.5', 'track-two' and 'track-three' processes and seek guarantees that there will be no reprisals against any individuals or organizations that participate in such processes;
— Take into account outcomes of 'track-two' and 'track-three' processes, including in formal negotiations;
— Establish or support infrastructures for peace (I4P) through funding, training and capacity-building and work to ensure that broad coalitions include displacement-relevant issues;
— In recognition of the particular role and contributions of women to conflict resolution and peacebuilding (as enshrined in UNSCR 1325), support local women's peace initiatives and indigenous processes for conflict resolution:
  — advocate for the special needs of women and girls during repatriation and resettlement, reintegration and post-conflict reconstruction;
  — support local women's initiatives that involve women in all of the implementation mechanisms of the peace agreements and measures that ensure the protection of and respect for the human rights of women and girls;
— In close co-ordination with relevant actors including UNHCR and ICRC, engage in regular outreach activities with the various displaced groups to share and distribute relevant information and consult with the men and women concerned about their needs and priorities, and to facilitate their participation in all feasible and relevant areas of the process;
— When direct consultation is not possible, develop alternative means to ensure that displaced people's concerns are taken into account;
— Raise public awareness of development issues in the country/region affected.

Recommended reading

— The Brookings Institution-University of Bern Project on Internal Displacement, *Addressing Internal Displacement in Peace Processes, Peace Agreements and Peace-Building,* September 2007, available at: http://www.brookings.edu/~/media/research/files/reports/2007/9/peaceprocesses/2007_peaceprocesses.pdf

— The Brookings Institution-University of Bern Project on Internal Displacement, *Integrating Internal Displacement in Peace Processes and Agreements: A Peacemaker's Toolkit,* 2010, available at: http://www.usip.org/sites/default/files/resources/USIP_PMT_Bern_IDP.pdf

— United Nations, *Guiding Principles on Internal Displacement,* available at: http://www.idpguidingprinciples.org/

— Security Council Resolution 1325 (2000) on *Women, Peace and Security,* U.N. Doc. S/RES/1325 (2000), 31 October 2000, available at: http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1325(2000)

Former OSCE High Commissioner on National Minorities, Knut Vollebaek, interviews relief agency staff at an UNHCR camp near Gori, September 2008.
Credit: OSCE/Simon Short

Phase IV: Post-Conflict Transition and Rehabilitation

Issue 4.1: Confidence Building Measures (CBMs)

Description

Confidence building lies at the heart of the OSCE and focuses on changing perceptions and rebuilding relations between affected communities and the parties to the conflict. Whilst CBMs can be implemented in the political, economic, environmental and social sphere, building confidence on the people-to-people level provides the necessary foundation for genuine change and progress towards peacebuilding and social reconstruction. Fostering trust and bridging dividing lines between past (or potential future) antagonists is an essential element of building sustainable peace. It is important to understand that CBMs cannot resolve the basic causes of a conflict and are dependent on a genuine desire for peace and stability by the parties engaged. As mentioned within the previous phase, displaced communities have a strong incentive to overcome the conflict and their displacement situation by either returning to their home communities or choosing to integrate in other communities. In order to create an environment conducive to durable solutions, IDPs and refugees are, more often than not, able to recognize the need for pragmatic dialogue and direct communication with political and social counterparts "from the other side". With targeted support, they can therefore play an important role in post-conflict situations. Thus, a wider CBM strategy should consider the needs of IDPs and refugees and their potential contributions to confidence-building.

You are now at a phase where peace agreements have been brokered and thus durable solutions and a future beyond displacement is becoming possible. Specialized agencies are present and, in the case of a refugee return scenario, UNHCR will have the lead. However, the complexity of the

post-conflict environment requires strategic co-operation, especially between political, humanitarian and development actors, in order to create the grounds for peacebuilding *and* sustainable solutions to displacement. In this context, the interaction between the OSCE, UNHCR and other relevant actors is critical.

Internally displaced persons are starting to discuss and consider their options: Is it safe to return home (politico-military issues)? Are our homes still there (reconstruction) or are they occupied by others? Will we be welcome (human rights issues), or do we need to look into other options (freedom of choice)? Conflict-affected IDPs and refugees need bravery and confidence to decide to reconnect with their old lives and with the people that were part of it, particularly bearing in mind that some of them may have played an active role in the conflict. Even though peace agreements have been formalized and guarantees have been made at the national level, IDPs and refugees often belong to national minorities and other vulnerable groups. Hence, it cannot be taken for granted that they will be welcomed back also on the local level within their communities of origin. As in other conflict phases, the process of finding a viable and sustainable future beyond displacement can also be supported through CBMs at the community level, facilitating dialogue, communication and therefore hopefully also fostering willingness for peaceful co-existence and the re-building of a community. A powerful measure of this process is so called 'Go & See' visits in which small IDP/refugee groups (composed of men and women, young and elderly persons), often with strong security, and political and logistical support from international organizations, temporarily visit their homes and communities to assess the situation and get a feel for the overall return environment. Whilst in a classical refugee situation the overall planning and support of such visits is led by UNHCR, the roles and responsibilities within an IDP situation are more complex. Even though the primary responsibility for assistance and protection of IDPs rests with the authorities, they may not have the capacity or political willingness to ensure security or to prepare and facilitate an appropriate reception environment. Here the interaction between authorities and relevant regional organizations – such as the OSCE on the one hand and international specialized agencies and security provid-

ers on the other hand – can facilitate specific CBMs, including 'Go & See' visits. If successful (i.e. there are no security incidents combined with visible signs of welcome), such visits can be repeated and extended to wider IDP/refugee groups visiting their communities of origin. If the evolving political environment allows, such visits can then be supplemented by outreach activities from local authorities of the home community to major locations of displaced communities, in order to share first-hand information, address questions and demonstrate visible support to return. Such activities are often known as 'Go & Inform' visits. Building upon increasingly regular contacts between those who stayed and those who may return, and their positive (or at least neutral) interactions, in conjunction with assistance and development to the entire community, could also open opportunities for other CBMs, for example in the economic sphere. Bottom-up activities like these also have the potential to positively impact other post-conflict and transition processes.

Key elements of displacement-relevant CBMs

There is no 'one size fits all', rather a range of common characteristics for successful CBMs:

— *Voluntary:* CBMs rarely succeed when imposed from the outside, thus local ownership is critical for long-term success;
— *Mutual confidence and reciprocity:* measures taken by one party should logically and naturally lead to similar measures being taken by the other party in a balanced and reciprocal manner, thus avoiding a perception of imbalanced concessions by either party. Benefits resulting from CBMs should be shared;
— *Transparency:* the intended modalities of CBMs should be obvious, open and unambiguous. The opportunity for one party to exploit the measure of its own gain at the expense of the other party should be minimized;
— *Predictability:* expectations should be clarified and parties should be convinced that wrongful action will be identified and responded to by the international community/local authorities;
— *Communication*: appropriate communication channels between the

parties to facilitate information flow, build reliability and trust, and directly address misunderstandings and mistakes;

— *Incremental:* creating a local success story and building upon it in a strategic and cautious manner;

— *Verification and monitoring:* progress measured allows each side to be confident of the other side's commitment; verification and monitoring are themselves CBMs.

'Go & See' and 'Go & Inform' visits

— Clear roles and responsibilities among international and local actors are a pre-requisite for engaging in displacement-relevant CBMs, particularly in the case of potential security implications;

— Women's participation in 'Go & See' visits is important as they might be looking at different factors in accordance with their own and their families' needs;

— The overall security situation, including the political will and capacity (including public services and municipal financial capacity) of local authorities to engage with IDPs and refugees, and facilitate an appropriate political and security environment;

— Smooth and detailed logistical support, including transport and catering options, considering the specific vulnerabilities of IDPs and refugees, and people with special needs;

— Documenting the main outcomes of the visit and support to appropriate information sharing with the IDPs and refugees concerned;

— Post-visit follow-up with local authorities and structured discussions with IDP and refugee participants;

— The possibility of follow-up through the targeted outreach from local authorities to displaced communities, through 'Go & Inform' visits;

— In case of success: linkage to a wider CBM strategy, focused on community development taking into consideration potential return and reintegration needs.

What to consider and to look at?

While exploring displacement-relevant CBMs in seeking opportunities for solutions to displacement, do not lose sight of possible security implications

for persons concerned. These are linked to their backgrounds and the history of the conflict and need to be closely discussed with them and with the specialized agencies in charge. Your guiding principle here is to be aware of local sensitivities and not to risk any harm being done, be it of physical or psychological nature. In addition to security considerations, locations for the initiation of 'Go & See' and 'Go & Inform' visits should be carefully selected. Criteria for a good location include a solid pre-conflict community life (including inter-ethnic relations), positive or neutral attitudes of the local authorities and the receiving community, as well as the role of the receiving community throughout the conflict. Whatever happens within the first sequence of such contacts will influence the perceptions and attitudes of both-sides: the receiving community as well as the IDPs and refugees considering their return options. Therefore, at the beginning of such process, only locations with a high likelihood of creating a positive encounter should be chosen. Once a variety of good locations have been identified, it is important to prepare both sides for their first contacts, clarify expectations, become aware of possible spoilers and diminish potential risks. Ground rules should be discussed and established with all participants. Following a successful first visit, it is important to build a dynamic of success stories, which can be spread through the community and encourage more positive attitudes and interactions, as well as possibly other CBMs. Being mindful of reciprocity, the outreach of local authorities and other community leaders towards their former neighbours, now in displacement, can be a powerful sign of good will. It is important to understand that the role of the international community lies with giving displaced persons the opportunity to find the best solution for them and their families, and make informed choices. Therefore, measures like 'Go & See' and 'Go & Inform' visits should not push the displaced into any direction but simply objectively address their questions and concerns. Last but not least, the composition of such group visits should reflect the diversity of displaced persons in terms of gender, age, socio-economic and educational profile, and other relevant factors, as members belonging to the different groups have different needs, expectations and contributions to make, which need to be taken into consideration.

Actions by OSCE field operations [20]

— Liaise effectively with relevant actors at all levels and times necessary to carryout appropriate co-operation arrangements;

— Become familiar with the mandates, roles and responsibilities, of the different international, national and local actors, including security providers, as relevant to the situation;

— In close consultation with relevant actors, discuss and agree upon roles and responsibilities for specific CBMs, on the basis of each actors' mandate, field of expertise and capacity;

— Closely co-operate with UNHCR and other relevant actors in implementing and supporting displacement-relevant CBMs;

— Assist and support local authorities and local civil society actors in building their capacity to assume their relevant responsibilities;

— Consider linking displacement and solution-relevant CBMs with wider CBMs geared towards supporting community developments;

— In the case of national minority issues linked to the conflict, ensure close co-operation and long-term planning of a minority protection and integration strategy with the HCNM;

— Include reports on CBM processes in your regular reporting.

Recommended reading

— OSCE Conflict Prevention Centre, Operations Service, *OSCE Guide on Non-military Confidence-Building Measures (CBMs),* 2012, available at: http://www.osce.org/cpc/91082

— OSCE Conflict Prevention Centre, Operations Service, *Food-for-Thought Paper on Strengthening Local Ownership of Non-Military Confidence-Building Measures (CBMs),* SEC.GAL/78/11, 28 April 2011, available at: http://www.osce.org/cpc/77263

— United Nations, *Guiding Principles on Internal Displacement,* available at: http://www.idpguidingprinciples.org/

---

20 The order of suggested points of action by an OSCE field operation does not suggest a specific order of action, but consists merely of suggested possible OSCE actions.

Issue 4.2: Durable Solutions: Repatriation, Return and (Re)Integration Monitoring

Description

Previously, we have seen that durable solutions for IDPs and refugees are impacted by the broader peacebuilding process. The search for and implementation of durable solutions, starts during displacement and is a complex process which also continues over a long period after repatriation, return or local settlement have taken place. Repatriation and return movements can include spontaneous individual or small group movements, as well as facilitated larger movements. Voluntary repatriation in conditions of safety and dignity is often the preferred durable solution for refugees.

For IDPs, the expression 'return' masks a wide variety of phenomena. In some situations, spontaneous IDP returns occur as security, governance and the rule of law are progressively re-established in areas of origin. On other occasions, massive returns are induced by governments even as armed conflict is latent or on-going. Particularly in situations of low level protracted conflict, IDPs may move cyclically between places of origin and places of displacement, as violence evolves, or may progressively move closer to their homes, making it difficult to pin-point when a return movement starts and ends. This stands in stark contrast to most refugee repatriation movements, which normally occur in the framework of formal, legal and operational agreements between the concerned States and UNHCR. The difference between IDP return and refugee repatriation is also of a legal nature. Voluntary repatriation normally signifies the expression of the refugees' will to re-avail themselves of the protection of their state, thereby, marking the end of refugee status. In contrast to this, internal displacement is not a legal status but rather a category expressing the humanitarian needs and violation of rights linked to displacement, which does not simply end with the return home. IDP return therefore stands on a more problematic relationship to durable solutions as compared to refugee repatriation. In some cases, IDP return merely entails a physical movement closer to the conditions that caused displacement in the first place, thereby creating renewed protection problems. In such

cases, advocacy with national authorities and other duty holders is of particular importance.

A durable solution is achieved when IDPs no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement. This can be achieved through: sustainable (re)integration at the place of origin (return), sustainable local integration in areas where IDPs take refuge (local integration), or sustainable integration in another part of the country (settlement elsewhere in the country). The search for any of these durable solutions for IDPs is a gradual and often long-term process of reducing displacement specific needs and ensuring the enjoyment of human rights without discrimination. It occurs in a context of politico-military, socio-economic, human rights, humanitarian, rehabilitation, development and peacebuilding challenges. As such it requires the co-ordinated and timely engagement of a wide range of national and international actors in these fields. The OSCE, with its broad security mandate, is well placed to support this process from a variety of cross-dimensional perspectives, including a human rights monitoring perspective. Structured monitoring of the complex repatriation or IDP return and (re)integration process is critical in order to ensure the timely identification of security and protection incidents, promote and facilitate equal access to rights and effective remedies, as well as to alert appropriate authorities, institutions and security providers in a timely manner on possible political, institutional, or administrative wrong-doings (i.e. at the local level), in order to engage them in addressing the problems promptly. In this sense, effective monitoring is both a powerful protection tool as well as a means to build and strengthen good governance, to support human rights compliance and local capacities, and to effectively respond to protection challenges related to the peacebuilding process.

You are now in a context in which refugees and IDPs have opted for the best durable solution to their particular situation. They have either repatriated or returned to their communities of origin (refugees or IDPs), or decided to stay and integrate where they are (IDPs in their home countries),

or decided to move to another part in the country (refugees or IDPs). While repatriation, return and (re)integration monitoring is seldom feasible at the individual level, your attention should focus on major repatriation/return locations or IDP locations, where (re)integration in new communities is taking place.

Note: Within this section, 'persons of concern' refer specifically to refugees and IDPs in the process of a (re)integration situation as a durable solution to their displacement.

Key elements to establish the basics for monitoring
— The presence of UNHCR and ICRC in repatriation/return areas, mandates, situation specific roles and responsibilities, including an institutional lead role (i.e. specified in peace agreements); the OSCE's presence, mandate and capacity, in order to facilitate complementary action;
— The extent to which repatriation/return or relocation are accepted by the local community concerned;
— Full and unhindered access to areas of return and (re)integration by specialized agencies and relevant actors, and the possibility to visit and speak freely to persons of concern of all gender, age and diversity backgrounds;
— The existence of a comprehensive inter-agency monitoring framework, and potential OSCE contribution to it, in line with OSCE mandates;
— The existence of baseline data in order to monitor progress and evaluate the sustainability of durable solutions.

Key elements underpinning the monitoring of durable solutions
— *Rights-based approach:* rights, needs, and interests of persons of concern should be the primary consideration that guides policies, decisions and programmes, as well as the monitoring of durable solutions;

— *State responsibility:* national and local authorities are responsible and need to lead and own the process of supporting return, relocation and (re)integration. This is ideally complemented by national/local civil society;

— *Community-based approach:* monitoring should verify whether responses address the rights, needs and interests of persons of concern, including the receiving community and whether they are conducive to facilitating their participation in the management of durable solutions;

— *Diversity approach:* monitoring should verify if the specific needs of the different groups of concern are taken into consideration, particularly those of persons and groups with a certain risk profile in relation to gender, age and diversity;

— *Integrated planning and co-operation approach:* monitoring should consider if the interactions among political, economic, human rights, humanitarian, development and peacebuilding actors are likely to be complementary and support a smooth transition from post-conflict short-term relief towards long-term development and democratization. Displacement affected communities should ideally be included in national development and poverty reduction plans.

A number of criteria determine to what extent a durable solution has been achieved. IDPs, who have achieved a durable solution, have overcome their displacement and are able to fully enjoy their human rights without any type of discrimination.

Key categories of monitoring

Safety, security and freedom of movement

— *Existing personal security and safety risks in areas of return and reintegration,* including: attacks; acts of violence and harassment against persons of concern; SGBV; the presence of landmines and unexploded remnants of war, the presence of organized crime and gangs; abuse and exploitation; and the abuse of power by security forces, humanitarian and peace keeping actors, authorities responsible, or other local actors from within the community, which are likely to affect women, girls and separated children disproportionately. Signs of human trafficking, including for the purpose of sexual or labour exploitation or organ removal;

— *Security sector reform (SSR):* disarmament, demobilization and reintegration programmes (DDR) led by national authorities to control small arms and light weapons, de-mining programmes, redress of past crimes and promoting of reconciliation via transitional justice mechanisms, effective and accountable security;

— *Policing:* law enforcement, their capacity, composition (i.e. multi-ethnic) and existing policing mechanisms, the role of women in policing, access of all groups to police, integration of security measures into the national security network, arrangements for co-operation on security issues within the international community;

— *Specific risks by persons of concern and law enforcement:* are there different risks from those experienced by the rest of the population? Are the risks higher for some groups of concern depending on gender, age and diversity? Are judicial proceedings less frequently initiated in the case of crimes against persons of concern or are these less likely to be prosecuted?

— *Freedom of movement:* existence of full freedom of movement for all, to the extent that everyone can freely leave and return. Restrictions on freedom of movement, including those caused by practical and other barriers (unsafe roads etc.); and official and unofficial restrictions imposed by authorities for reasons of national security, public order, public health or the rights and freedoms of others and the impact of those restrictions on persons of concern regarding access to employment, markets, land, schools and the ability to become self-reliant.

Access to and replacement of personal documentation

— Access of persons of concern, i.e. refugees, asylum-seekers, IDPs, returnees, stateless persons and other persons of concern, (on equal terms with other nationals) to identity documents and passports, civil status documents (e.g. marriage, divorce, adoption, birth and death certificates), property documents and other key documents required for access to work and to essential services, such as health cards, employment, education, or pension records;

— The issuance, reissuance or renewal of documents without major obstacles (i.e. having to return to the area of origin): Can lost copies be replaced with simple procedures? Are there safe and efficient mechanisms to establish identities and obtain the documents required? Fairness of process: are there other obstacles, such as high fees, lengthy procedures and frequent renewal requirements?[21] Do women and men of concern both have equal access to documents issued in their own name?

— In the absence of responsible national structures to issue or replace documentation, are other institutions and/or local authorities issuing documentation? Are these recognized by the national authorities, or are the documents issued by national authorities recognized by local authorities?

— Consequences of lack of identity or civil status documents for persons of concern, including the fact that some rights cannot be enjoyed without documentation, for example: access to one's own property, health care, education, and social welfare, local residency permits (if applicable), and certain types of employment, etc.

Adequate standard of living

— Ability of persons of concern, including the most vulnerable, to meet their basic needs and access essential food and potable water, basic shelter and housing, appropriate clothing and essential medical services and sanitation. Are persons of concern disproportionately affected by poverty and did their livelihood deteriorate compared to their situation before flight?

— Access by persons of concern to specialized humanitarian aid relevant to durable solutions;

— Equal access to wage-earning employment and to just and favourable conditions of work without discrimination;
    — If barriers exist, are these different from those faced by the rest of the population or some groups in particular, and what protection

---

21 In many instances ICRC/International Red Cross and RC Movement Family Links Network can facilitate communication with places of origin across borders and front lines in order to obtain documents.

risks confront persons of concern as a consequence of unemployment or unlawful employment (i.e. engaging in sex trade for survival)?

— Situation of persons of concern with specific needs: are they covered by existing national programmes or covered by the community? Capacities of such programmes.

Housing, land and property issues

— *Housing and land:* Do persons of concern have an intact home to which they can return? If not, what became of the land and housing left behind: was it destroyed, occupied, confiscated, sold (under duress) or did legal reforms (i.e. privatization, nationalization) take place after displacement? How does this affect persons of concern? Have they been allocated temporary housing and are there programmes for rebuilding and reconstruction?
    — Situation of tenants, informal settlers and other legitimate occupants and users of housing, their ability to return and repossess and use their housing, land and property in a similar manner to those possessing formal ownership rights;
    — Alternative arrangements for IDPs and conflict-affected families occupying homes/properties of others displaced;
    — Property laws: are they discriminatory against women, and do housing, land and property restitution programmes, policies and practices recognize the joint ownership rights of both male and female heads of households? Do inheritance laws have a discriminatory effect or do obstacles prevent persons of concern from inheriting property (i.e. absence of death certificate, etc.)

— *Property issues:* remedies for restitution or compensation for land, housing, and property of which persons of concern have been arbitrarily or unlawfully deprived. Are special procedures established to deal with housing, land and property claims? Additionally consider:
    — Can tenants, social occupancy right holders or other legitimate users also file claims?
    — Has the restitution of housing, land, and property been given priority as the preferred remedy?

— If restitution is not possible, has adequate, fair and just compensation been provided?

— Is legal assistance for filing claims available when required?

— What support is available for persons of concern with specific needs, including those who cannot read or write, as well as separated children, in order to ensure that they are not denied access to restitution or reparation processes?

— Are decisions in favour of repossession enforced? If so, is it done in a way that prevents looting by unlawful occupiers or hardship for those to be evicted who could likely be IDPs themselves?

Access to public services, including health care, education and social welfare

— *Immediate medical aid and health care:* unhindered access to health care, including specialized care for persons of concern in need. Do possible obstacles (i.e. lack of documentation) prevent this, or are there other obstacles of legal or practical nature (i.e. insufficient female doctors for women or the need to travel long distances to visit a female doctor) preventing access of persons of concern to these services?

— *Education:* free access to education and formal schools in a language that persons of concern understand; universal enrolment rates of boys and girls at the all levels; are there obstacles to education participation (i.e. support for children who have missed out on schooling due to displacement) and how are these being addressed?;

— *Welfare:* access to existing national social welfare programmes by persons of concern and the extent to which they can cover the needs of the vulnerable, i.e. persons with disabilities, single female households without income, isolated elderly without family support, and others. Social measures taken by the community and ways to support such measures.

What to consider and to look at?

Successful integration or (re)integration of refugees and IDPs in new communities or their communities of origin is a multi-layered and long-term process. Displacement only effectively ends when rights are fully restored and can be enjoyed without discrimination, when displacement-related vulnerabilities are addressed, and communities are integrated and socially coherent, and thus able to address the underpinning causes of displacement. Hence, the sustainability of durable solutions is an important issue to consider in the monitoring process. Monitoring this complex process requires in-depth understanding of the conflict background, the type of displacement which occurred among the various groups affected (asylum and international protection versus internal displacement), the rights and the needs of people and communities affected, as well as of the roles and responsibilities of national and international actors involved in the post-conflict phase. You will need to be aware of the institutional responsibilities of the main actors involved in this process, i.e. as per their mandate (for example UNHCR being responsible for repatriation of refugees and monitoring the consequences of repatriation), and those stipulated in relevant peace accords (and other relevant agreements), or locally agreed arrangements. Structured monitoring is usually based on a comprehensive framework to be agreed among the main players so as to facilitate complementarity and make strategic use of existing capacities and expertise. Depending on the above aspects, the OSCE's role in post-conflict durable solution monitoring is likely to be of a complementary nature that supports the efforts of mandated specialized agencies, whilst strengthening the capacity of local governmental and non-governmental structures to deal with the implications and consequences of return and (re)integration and to establish good governance structures and practices.

Monitoring should never be an objective in itself, but a means of promptly identifying essential problems affecting persons and communities of concern, with a view to facilitating remedies through appropriate (local) structures. Therefore, monitoring is a protection tool and, at the same time, an instrument for local capacity building. Moreover, if critical protection issues are identified and addressed through effective monitoring and timely follow-up action, this can reduce the likelihood of tensions resurfacing and therefore contribute to the prevention of conflict and relapse into hostilities. Hence, effective monitoring (and follow-up action) at its best, can also have a conflict preventative effect.

Another important aspect when monitoring durable solutions in the post-conflict phase is the need to see the bigger picture of the return/ (re)integration environment by also acknowledging the rights, needs and perceptions of the wider community. The wider community may have similar needs as persons of concern, which however, may have remained unaddressed through international efforts. This could work against the process of (re)integration. Thus, to the extent possible, the overall reception environment needs to be supported both in terms of upgrading general absorption capacities, as well as supporting relevant social processes. Considering these aspects in monitoring has the capability of detecting negative communal developments and thus can trigger timely rectifying interventions.

Particular attention needs to be paid to people with the most pressing needs and potential protection issues. They include elderly, chronically sick and disabled people without adequate support, single female headed households without income, separated children and other persons with a risk profile. These persons or groups may not always be visible to you, but will depend the most on your monitoring and follow-up action for their protection and assistance, and to exercise their rights.

Actions by OSCE field operations [22]

— Become familiar with the mandates, roles and responsibilities of international organizations, as well as national and local actors relevant to the situation and for a comprehensive post-conflict strategy;

— In close co-ordination with UNHCR and ICRC, as well as with other main actors, discuss the OSCE's monitoring role and contribution and ideally integrate it into an (existing) or to be developed overall monitoring framework based on the mandates and capacities of the main actors involved;

— In close co-ordination with UNHCR and ICRC (and others as applicable), gather existing or establish new baseline data as relevant for the

22 The order of suggested points of action by an OSCE field operation does not suggest a specific order of action, but consists merely of suggested possible OSCE actions.

areas of monitoring agreed on and in accordance with the mission's mandate;

— Develop an in-house monitoring plan, ensuring regular outreach to communities and people concerned, adequate recording, update of findings and related analysis;

— Ensure timely (and, if needed, confidential) sharing of your monitoring findings with relevant actors and discussions to agree on and harmonize appropriate follow-up action;

— In case of non-compliance by local authorities/actors in communities concerned, consider harmonized interventions with the main relevant actors vis-à-vis central authorities with a view to facilitating rectifying action and preventing future non-compliance;

— Include durable solution issues in your regular reporting;

— Liaise with relevant OSCE institutions such as the HCNM, with a view to facilitating interventions and adequate high-level political external co-operation as needed;

— In case of a pattern of serious and repeated non-compliance by national and local authorities, recommend appropriate action to the Secretary General and the Chairmanship;

— Consider programmatic activities in support of building local capacity to address durable solution issues, including by enhancing co-ordination among relevant local stakeholders;

— Establish regular channels and briefing practices for OSCE participating States in order to provide information about trends and developments related to potential or actual risks.

Recommended reading

— The Brookings Institution-University of Bern Project on Internal Displacement, Inter-Agency Standing Committee, *IASC Framework on Durable Solutions for Internally Displaced Persons,* April 2010, available at: http://www.unhcr.org/50f94cd49.html

— UN High Commissioner for Refugees, *UNHCR Handbook – Voluntary Repatriation: International Protection,* January 1996, available at: http://www.unhcr.org/refworld/docid/3ae6b3510.html, see *"6.1 UNHCR's Mandate for Returnee Monitoring"* and *"6.2 Returnee*

Monitoring: Amnesties and Guarantees, Monitoring, Reporting, Intervening"

— UN High Commissioner for Refugees, UNHCR Handbook for Repatriation and Reintegration Activities, May 2004, available at: http://www.unhcr.org/refworld/docid/416bd1194.html, see Module 6 on *Implementation, Monitoring and Evaluation*

— The Office of the United Nations High Commissioner for Human Rights, *OHCHR Framework on Durable Solutions for Internally Displaced Persons,* 2009, Summary available at: http://www2.ohchr.org/english/issues/idp/docs/A.HRC.13.21.Add.4_framework.pdf

— United Nations, *Guiding Principles on Internal Displacement,* available at: http://www.idpguidingprinciples.org/

— *Ending Displacement in the Aftermath of Conflict: Preliminary Framework for Supporting a more coherent, predictable and effective response to durable solutions needs of refugee returnees and internally displaced persons,* Decision No. 2011/20, available at: http://www.globalprotectioncluster.org/en/tools-and-guidance/essential-protection-guidance-and-tools/hlp-essential-guidance-and-tools/hlp-essential-guidance-by-themes/hlp-and-displacement/iasc-framework-on-durable-solution-for-internally-displaced-persons-2010.html

Issue 4.3: Mainstreaming return and (re) integration into good governance

Description

To ensure that human rights are effectively protected at all levels and for all population groups, proper systems of good governance must be in place. Many of the elements necessary for good governance are, in fact, human rights related. These include: legality and the rule of law, absence of discrimination, participation, procedural and substantive fairness in the decision-making process, access to information and absence of corruption, an independent civil service, as well as the right to judicial review before an independent and impartial tribunal. At the heart of good governance is the right of public participation, governmental accountability and the existence of an independent, impartial and informed judiciary. Effective participation in public life requires an approach towards integrating diversity and addressing vulnerabilities in order to facilitate equal access and enjoyment of rights by all. In previous chapters we have seen that IDPs and refugees undergo long journeys before their displacement-related vulnerabilities are addressed and they can effectively enjoy their rights in communities which are willing and able to accept and cope with the complex challenges of the (re)integration process. Similarly, (re)building strong, inclusive and democratic institutions and structures required for good governance, following violent (and enduring) conflict, is likely to be a complex and lengthy process. The ability of IDP and refugees to effectively overcome displacement, (re)build their lives and enjoy equality is a challenge and at the same time an opportunity for (re)building good governance. Persons of concern are entitled to recognition before the law and to equal protection by the law. Therefore, issues relating to conflict-induced displacement and its consequences, for example housing and property issues or full and equal access to municipal services also by returnees belonging to a national minority, need to be systematically mainstreamed into and addressed by a post-conflict good governance strategy. This will not only help persons of concern effectively claim their rights and participate in all spheres of society but also support democratization and the building of sustainable, fair and efficient good governance capacity. Ultimately, both will contribute to long-term stability and prevention of relapse into hostilities and conflict.

Key areas for mainstreaming return and (re)integration issues into good governance

Note: Within this section, 'persons of concern' refer specifically to refugees and IDPs in the process of a (re)integration situation as a durable solution to their displacement.

Access of persons of concern to information:

— The level of awareness of persons of concern about their rights and obligations, as well as of ways to realize the rights in the various spheres of life, i.e. through legal remedies;

— Access of persons of concern to local structures (governmental organizations and NGOs) involved in supporting the (re)integration process;

— Access of persons of concern to public information (print media and radio) in a language they understand.

Access of persons of concern to the national justice system:

— Strengthen rule of law institutions and their capacities to prevent the recurrence of violations: required reforms, capacity building, including awareness raising and specific training of public servants and judicial staff on the rights and needs of persons of concern, as well as the need for confidence-building between persons of concern and relevant authorities;

— Transitional justice mechanisms in place: including mechanisms to address the most serious crimes and human rights violations, impunity issues and effective mechanisms for witness protection. The capacity of transitional justice and its impact on removing the root causes of displacement, and the level of satisfaction by persons of concern with existing mechanisms;

— Legal or practical obstacles for persons of concern in obtaining effective remedies through the competent national justice system for violations of rights, including free access to courts, availability of legal aid or interpretation and due process guarantees;

— Ability, also of vulnerable persons of concern, to obtain effective remedies;

— Recognition and enforcement of decisions by courts, tribunals or other administrative authorities in the areas of origin or places of displacement;

— SGBV referral to the national justice system: is rape systematically prosecuted and convicted? Typical punishment for sexual abuse/rape.

Participation of persons of concern in political processes, public life and elections:

— Ability of persons of concern, both women and men, to participate in political processes and in public life without discrimination, exercise their right to vote, and stand for public office. Do persons of concern have to return home in order to participate in national elections and do obstacles exist that prevent participation in elections (i.e. lack of documentation, lengthy renewal procedures and fear among persons of concern to register for elections)? Can persons of concern vote in local elections in places of displacement and/or in areas of origin?

— Ability of persons of concern, both women and men, to associate freely and participate equally in public affairs: legal impediments preventing persons of concern from establishing or participating in civil society organizations or NGOs;

— Freedom of opinion in public life without repercussions.

Capacity of relevant local structures and rule of law:

— Capacity of national administrative, judicial, penal and human rights institutions and NGOs to protect persons of concern and their resources provided to them;

— Quality of decisions taken by national institutions with respect to persons of concern, in compliance with national law and regional/international standards;

— Level of independence of judicial, human rights and institutions from the executive power;

— Existing legislation concerning national human rights institutions: ability to investigate at their own initiative situations and cases of reported human rights violations, resource situation of relevant NGOs, including sustainable State funding;

— Possible gaps and obstacles in national laws that regulate the operation of national institutions and NGOs, which prevent them from extending effective protection to persons of concern;

— Competence of local governmental and NGO structures in the field of human rights, refugee and humanitarian law and use of best practices relevant for repatriation, return and (re)integration issues;

— Freedom of movement of relevant NGOs and their staff;

— Interface and level of co-operation between national/local governmental and non-governmental structures with regard to persons of concern;

— Availability of referral mechanisms among institutions concerning the protection and assistance of persons of concern.

Economic integration and long-term development:
— Existence of local economic support schemes for persons of concern to (re)integrate and (re)start sustainable livelihoods;
— Existence of specific strategies for areas affected by large displacement or IDP and refugee return movements. Displacement-affected communities should ideally be included in national development and poverty reduction plans;
— Existence of mid- and long-term development plans, bridging the gap between post-conflict relief, basic rehabilitation, as well as long-term development activities;

Adherence to international norms and standards in law and practice:
— A strong human rights regime, established at the national level, that addresses the full range of needs of persons of concern through accession to, ratification of or strengthening of relevant international or regional instruments with regard to refugee law, statelessness, human rights law, international humanitarian law and international criminal law;
— Incorporation of the United Nations Guiding Principles on Internal Displacement into the implementation of national legislative and policy frameworks on internal displacement;
— Inclusion, in national law and policies, of international norms and standards contained in international and regional instruments, customary law and soft law;
— Application of national laws in a manner that allows persons of concern to enjoy their rights.

What to consider and to look at?
Also here your starting point is that persons of concern have the same rights as other citizens and legal residents. Thus, the State is responsible to protect and respect their rights, as well as to actively support them in the realization of their rights. The challenge here lies with considering the displacement-related needs and vulnerabilities of persons of concern, in the process of their (re)integration, in order to enable them to effectively enjoy their rights and participate in public life as other citizens can. This aspect should feature in the design of the overall post-conflict good governance strategy in a displacement context. A pre-requisite for this is that persons of concern are or become aware of their rights and duties, as well as of their concrete possibilities regarding ways to successfully (re)engage and participate in public life. Similarly, it is important that relevant authorities and municipal officers are aware of displacement related issues and challenges, and become competent to address them adequately in their local action. This may require substantive training and capacity-building efforts which should be carried out in close co-operation with specialized agencies. While it is important to understand the displacement-related vulnerabilities of persons of concern, it is equally important to consider the needs and capabilities of the wider community. Thus, persons of concern should not be singled-out as persons who have more or different rights than others (or even privileges), but rather as persons with specific needs resulting from their displacement and who require specific action to ensure their effective equality before the law and within the public life of the community and country. Even though the needs and challenges of a post-conflict environment are complex and might seem overwhelming, a good governance strategy has to strive for balance in addressing equality issues for *all* people and generating opportunities for *all* to access and realize their rights, as well as finding appropriate remedies, as needed. This concept should be mainstreamed into all good governance processes, linking-up legal, judicial, administrative, political and economic aspects within a long-term strategy. Furthermore, a good governance strategy is: comprehensive and multi-annual, facilitates a smooth shift from post-conflict relief and rehabilitation towards a wider durable solution and development; and supports political inclusiveness, human rights and democratic processes. This will also be critical for the success and sustainability of (re)integration processes and a stable basis for peaceful co-existence.

Actions by OSCE field operations [23]

Address durable solutions related good governance issues in your programmatic activities and include relevant developments in your regular reporting. Liaise closely with OSCE executive structures mandated to work in related fields, especially ODIHR, the HCNM and the RFOM.

Access to information:

— Support local actors in providing persons of concern with information on their rights, obligations and channels for legal remedies.

Access to national justice system:

— Advocate for the rule of law and access to justice to be duly considered in integration and development plans and in other strategic documents;

— Advocate with relevant authorities for the granting of access to justice to persons of concern on the same terms as (other) nationals, in a language they understand;

— Monitor court cases and conditions of detention. Advocate with local counterparts that cases involving persons of concern are properly investigated, prosecuted and resolved.

Participation in political processes, public life and elections:

— In close co-operation with ODIHR, advocate, with relevant authorities, for appropriate electoral arrangements to enable persons of concern to vote and to stand for public office and support them in facilitating appropriate arrangements;

— Advocate with relevant authorities to address all existing legal or other impairments that limit the fundamental freedoms persons of concern, including freedom of assembly and freedom of opinion.

Capacity of relevant local structures and rule of law:

— Promote an integrated approach to human rights and protection, with

---

23 The order of suggested points of action by an OSCE field operation does not suggest a specific order of action, but consists merely of suggested possible OSCE actions.

special attention on the specific needs of persons of concern, with all relevant governmental actors;

— In close co-operation with relevant actors, including UNHCR, ICRC and other specialized agencies, support and advise the government on strategy and policy development for (re)integration and the development of a sustainable durable solution strategy;

— Support legal reform processes by means of advocacy and legal advice;

— In close co-operation with relevant actors, including UNHCR, ICRC and other specialized agencies, raise awareness and support competence-building through training and capacity-building of law enforcement agencies and other relevant national and local governmental and NGO actors on the rights and needs of persons of concern;

— In close co-operation with relevant actors, including UNHCR, ICRC and other specialized agencies, support key local level government institutions, in order to lead and oversee responses to (re)integration needs, priorities and challenges;

— Comment on national legislation to expand the competence or level of independence of relevant national institutions so as to promote the security, welfare and rights of all, including persons of concern;

— Support authorities in setting-up fair and effective court systems;

— Ensure that strategies and initiatives for reform of the judicial or administration system include relevant safeguards to protect the rights and well-being of persons of concern;

— In close co-operation with relevant actors, including UNHCR, ICRC and other specialized agencies, support or strengthen legal aid actors to assist persons of concern in availing themselves of their rights;

— In close co-operation with specialized agencies, support the establishment and functioning of independent national human rights institutions and train them on relevant issues;

— To the extent required, and in close co-operation with specialized agencies, intervene with relevant institutions on individual cases and security and human rights gaps;

— Support community policing, taking into account ethnic sensitivities, as well as gender, age and diversity issues;

— Support community-based social cohesion programmes.

Economic integration and long-term development:

— Advocate for the sustainability of durable solutions, by supporting relevant community needs in long-term post-conflict recovery and national, as well as regional development agendas. Effective bridges may be needed to overcome gaps between humanitarian response and development. This will need facilitation of access for returned communities to development projects and policies.

Adherence to international norms and standards in law and practice:

— Assess which international and regional instruments have been ratified by the country and any possible gaps;

— Advocate for accession and ratification as relevant. Translate, publish and disseminate promotional material and support UNHCR, OHCHR and ICRC and other relevant actors in their efforts to promote accession to international instruments that underpin the protection and security of persons of concern, protection of national minorities and other relevant issues;

— Provide expert and technical assistance where needed and as available.

Recommended reading

— The Brookings Institution-University of Bern Project on Internal Displacement, Inter-Agency Standing Committee, *IASC Framework on Durable Solutions for Internally Displaced Persons,* April 2010, available at: http://www.unhcr.org/50f94cd49.html

— United Nations, *Guiding Principles on Internal Displacement,* available at: http://www.idpguidingprinciples.org

— Document of the Copenhagen meeting of the Conference on the Human Dimension of the CSCE, available at: http://www.osce.org/odihr/elections/14304

— OSCE, *HCNM Recommendations on policing in multi-ethnic societies,* available at: http://www.osce.org/hcnm/32227

— UN High Commissioner for Refugees, *UNHCR Manual on a Community Based Approach in UNHCR Operations,* March 2008, available at: http://www.refworld.org/docid/47da54722.html

Issue 4.4: Reconciliation in the Context of (Re-)Integration of Persons of Concern

Description

Conflict always creates harm and suffering, often for all sides of the conflict, and especially for civilian populations. Displacement in the context of violence, persecution and violations of international humanitarian law and human rights is one of the most serious expressions of the harmful effects of conflict. While there are many examples of successful large return and (re) integration processes in the aftermath of conflict, the harm and trauma that people have suffered as part of violent conflict (and related displacement) cannot be undone and should not be ignored. Thus, the way that societies, communities and individuals cope with and respond to painful experiences and injustice occurred during conflict and displacement is likely to influence the future. This suggests a close link between return and (re)integration and reconciliation, as the two processes can be interdependent and mutually reinforcing: a well-managed and successful (re)integration process is likely to strengthen constructive dialogue and social interaction among population groups concerned. At the same time, a positive social dynamic in the country and places of origin, showing clear signs of preparedness to deal constructively with the past, can encourage refugees and persons still displaced in their decision-making about whether to return and rebuild their lives in their country and home communities.

'Reconciliation' as a concept is associated with different meanings and processes; hence there is no general agreement among academics and practitioners on its precise meaning. In its most frequent use, reconciliation relates to dealing with the past, and therefore centres primarily on issues related to acknowledgement of perpetrated acts and transitional justice. Reconciliation also stresses the pivotal roles of remembrance and memory as well as overcoming historical myths and legacies.

A working definition provided by the OSCE CPC in the Food-for-Thought Paper 'Towards a Strategy for Reconciliation in the OSCE Area', describes reconciliation as a process that aims to overcome conflicts by

breaking the vicious cycle of mutual misperceptions and divisive memories, often resulting in violence, through the transformation of political and societal relationships. These should be based on notions of trust, equality, acceptance of differences, positive perceptions of each other, partnership, active friendship and mutual or joint interests. In this respect, reconciliation does not only have a political, and thus pragmatic side, but also a cognitive dimension to the process in which patterns of historically rooted animosities are to be broken and transformed into constructive relations by changing perceptions.

The process of reconciliation is a hard and difficult road. An important aspect of reconciliation is to consciously and systematically address those aspects of grievances which can potentially be remedied. This includes the systematic restoration of rights, recognition of international humanitarian law and human rights violations and responsibilities (including displacement) and ultimately the seeking of truth and justice as a foundation. It furthermore includes the drawing of potential legal, institutional and societal lessons, with a view to preparing the ground for a collective 'never again'.

Every reconciliation process is different and depends on the nature of the conflict. While there is no general model, historic experiences indicate common features and successful mechanisms, such as strong and unambiguous political leadership and political will to engage in a process which implies self-reflection and often political risks.

While the complex process of reconciliation can be supported from the outside, it clearly needs to be owned by the society and local communities affected, as well as accepted by those who have suffered the most. In supporting (re)integration, lasting peace and reconciliation processes, multiple actors, institutions and levels of activities are required. This includes civil society, IDPs, refugees and displacement-affected communities (e.g. host/ returnee communities). The ability to re-build vibrant, diverse and sustainable communities after violent conflict and mass displacement is the ultimate objective of a successful reconciliation process. Although external interventions in this process are limited by nature, they can make

an invaluable contribution in support of society, local communities and persons concerned on this difficult road.

Key considerations for reconciliation in the context of return and (re)integration

While there is no 'one-size-fits all' approach to reconciliation, there are areas which are likely to be relevant for all or most processes. They include:

— *Psychological dimension:* the history of what happened – individual and communal experiences – addressing the psychological legacy. Deeply contested interpretations of the past exist and the past normally continues to impact on the present (i.e. the loss of family members, loss or destruction of homes and property, trauma and loss of rights etc.).

— *Social dimension:* (re)integration takes place in a local and community context involving the receiving community, returnee groups and other local actors. Thus, community and grassroots, as well as other bottom-up initiatives, also facilitating the participation of persons of concern, are likely to have an enhancing potential. Women and youth can play an important role in this process, as they are often seen as not having taken an active part in the conflict.

— *Political dimension:* vision, leadership, risk taking and a sense of responsibility and commitment on the part of political leaders are crucial elements in advancing reconciliation processes. Reconciliation cannot happen if leaders lack the political will and fear the consequences of taking risks. Personal relations and direct communication between leaders are also fundamental to the reconciliation processes. Symbolic gestures by political leaders can make an important difference and influence the perception of all sides in a positive way.

— *Justice and legal dimension:* determination of facts, establishing and seeking the truth, recognition of international humanitarian law and human rights violations (and responsibilities of past violations), systematic restoration of rights especially of those directly relevant for repatriation/ return

and (re)integration, such as housing and property rights, mechanisms for obtaining justice, including restorative justice, reparation and compensation. The facilitation of relevant legal initiatives and legal reform.

—   *Institutional dimension and rule of law:* capacity of rule of law institutions and frameworks on the national, bilateral, and regional levels. National level: strengthening of the rule of law and democratic institutions, democratization, respect for human rights and fundamental freedoms, through reforms, local capacity-building, training, confidence-building measures and transitional justice mechanisms. Gaps and obstacles in national legislation: quality and scope of existing legislation concerning human rights and independence of judicial and other relevant institutions from the executive power.

—   *Educational dimension:* educational reform (i.e. legal/legislative, technical/pedagogical and content/curricula), including textbook reforms, training for teachers, and access to education in a language understandable to persons of concern, as well as involving the youth in social and community initiatives (i.e. sport events etc.). Educational reform should include conflict sensitive guidance for the development of education interventions and ensure that conflict sensitivity is incorporated in education policies and programmes.

—   *Regional and international dimension:* structured and focused co-operation among influential countries or countries affected by the former conflict (e.g. refugee hosting countries, neighbouring countries) with view to resolving outstanding displacement-related issues and facilitating durable solutions for all affected by displacement. Development of bilateral, multi-lateral and regional instruments of co-operation to ensure continuity in communication and relationship building; facilitate dialogue and technical co-operation; establish parameters for creating bilateral and regional working groups; develop action plans that address the specific needs to be resolved; and joint information campaigns to inform remaining IDPs and refugees on the conditions for durable solutions.

What to consider and to look at?

It is important to become aware of and recognize the existing limitations of external interventions in reconciliation processes. Reconciliation cannot be imposed from the outside, and reconciliation processes need to be owned and supported by the communities and the society affected. Reconciliation processes are multifaceted and lengthy and sometimes require the continuous and determined effort of several generations. It is important for external actors to focus on those reconciliation-relevant issues which can (and should) be addressed and where the contributions of external actors can add value to the efforts of national and local actors. The dimensions of reconciliation processes include legal and institutional, political, economic and social initiatives and look both at the past (with view to remedying grievances) as well as at the future with view to addressing root causes and preventing new conflict. Rule of law and human rights initiatives can play an important role in re-establishing rights, assessing damage and loss, as well as facilitating remedies. While looking at legal and institutional aspects, also be attentive to community-based social opportunities for dialogue and positive interaction, for example, by supporting potential grassroots initiatives.

Your starting point in supporting post conflict reconciliation in the context of (re)integration is to support local ownership and broad-based participation of persons of concern (at all levels and in all relevant areas). In addition, provide guidance and support to relevant national and local structures and actors and their evolving capacities. Consider that sometimes women, the elderly and the youth are more willing and able to initiate constructive interaction and therefore can play an important role in reconciliation processes as they might be seen as 'not having blood on their hands'. While older community leaders may have positive memories of a common and peaceful history prior to conflict (and the authority to remind the community of this), young people who did not directly take part in the conflict, may have a strong focus on the future and its opportunities. While women and mothers may have suffered much during conflict and displacement, and have had to shoulder additional burdens, they may be more willing to apply a pragmatic approach and engage into solution-focused dialogue.

Remember, successful and sustainable (re)integration of the women and men, girls and boys displaced by conflict is a powerful expression of the willingness and ability of the parties concerned to address at least parts of the consequences of the conflict and look towards the future. In this process, local authorities have an important role to play in promoting reconciliation and peaceful coexistence. Supporting this process will contribute to strengthening society as a whole and supporting its efforts on the way towards reconciliation and a peaceful future.

Actions by OSCE field operations[24]

Address reconciliation in your programmatic activities and include relevant developments in your regular reporting. Liaise closely with other OSCE executive structures such as ODIHR or the HCNM.

— Assess whether the rights of persons of concern are being restored and identify possible obstacles;
— Assess whether conflict-related human rights violations and violations of international humanitarian law and responsibilities are being addressed, as well as their severity, and provide advice and support to transitional justice mechanisms;
— Provide a general platform for dialogue and reconciliation as well as for exchanges of relevant best practice and experiences;
— Encourage governmental and political parties involved in the past conflict to engage in dialogue and technical co-operation to solve outstanding displacement-related issues;
— Encourage and support relationship-building between the receiving community and returnee groups;
— Support the work of civil society in reinforcing multi-lateral reconciliation processes;
— Support educational reform processes, including conflict sensitive assessments of education systems and programmes, textbook reforms, as well as community and youth initiatives;

---

24 The order of suggested points of action by an OSCE field operation does not suggest a specific order of action, but consists merely of suggested possible OSCE actions.

The prompt rehabilitation and reconstruction of houses destroyed during war is a prerequisite for the repatriation and return of as many as two million uprooted people, February 1995.
Credit: UNHCR/R. LeMoyne

— Promote the role of the media in the reconciliation process to assist in creating positive images and perceptions as well as to address stereotypes.

Recommended reading
— OSCE, *Workshop "Towards a Strategy for Reconciliation in the OSCE Area" – Key Issues and Recommendations,* 2012, available at: http://www.osce.org/sg/98698
— International Peace Institute (IPI), Walter Kemp, *Rebuilding Lives: Regional Solutions to Displacement in the Western Balkans,* 2012, available at: http://www.ipinst.org/media/pdf/publications/rebuilding_lives_ipi_epub.pdf
— The Brookings Institution-University of Bern Project on Internal Displacement, *Integrating Internal Displacement in Peace Processes*

and Agreements: A Peacemaker's Toolkit, 2010, available at: http://www.usip.org/sites/default/files/resources/USIP_PMT_Bern_IDP.pdf

— International Centre for Transitional Justice and The Brookings Institutions-University of Bern Project on Internal Displacement, edited Roger Duthie, *Transitional Justice and Displacement,* 2012, available at: http://www.ssrc.org/workspace/images/crm/new_publication_3/%7Bcf869aa8-b9d1-e111-bb1a-001cc477ec84%7D.pdf

— The Brookings Institution – London School of Economics Project on Internal Displacement, *Resolving Internal Displacement: Prospects for Local Integration,* 2011, available at: http://www.brookings.edu/~/media/research/files/reports/2011/6/01%20protracted%20displace%20local/resolving_id_prospects_for_local_integration_june2011.pdf

Top: Return of a shopkeeper in the destroyed village of Peja/Pec, Kosovo, summer 1999.
Credit: Lubomir Kotek/OSCE

Bottom: Children from Syria sit by the fire in front of their tents in the closed container and tent camp in Harmanli, Bulgaria, November 2013.
Credit: UNHCR/D. Kashavelov

Mandates

Organization for Security and Co-operation in Europe (OSCE)

The OSCE is a regional arrangement under Chapter VIII of the Charter of the United Nations and a primary organization for the peaceful settlement of disputes within its area, as well as a key instrument for early warning, conflict prevention and resolution, crisis management and post conflict-rehabilitation.

In Ministerial Council Decision No. 3/11 on 'Elements of the Conflict Cycle…' participating States recognized that the "rights of persons at risk of displacement or already affected by it, need to be effectively protected in all phases of the conflict cycle."

The OSCE Secretariat, the OSCE institutions and the OSCE field operations operate under their respective mandates. This Protection Checklist should be read and applied by OSCE staff members in conjunction with the mandate of their respective executive structure. This document – a practical reference tool for OSCE staff members exposed to persons at risk of displacement or already affected by displacement and in need of effective protection – does not in any way serve as a basis for expanding OSCE mandates, which remains the sole responsibility of the Permanent Council.

United Nations High Commissioner for Refugees (UNHCR)

The Office of the United Nations High Commissioner for Refugees (UNHCR) was established on December 14, 1950 by the United Nations General

Assembly. The agency is mandated under its 1950 Statute as well as under the 1951 Convention relating to the Status of Refugees, to lead and co-ordinate international action to protect refugees and resolve refugee problems worldwide. Its primary purpose is to safeguard the rights and well-being of refugees. It strives to ensure that everyone can exercise the right to seek asylum and find safe refuge in another State, with the option to return home voluntarily, integrate locally or to resettle in a third country. Also, the General Assembly has on several occasions recognized the special expertise of UNHCR with internally displaced persons and encouraged the Office's involvement, within certain parameters.

Generally, UNHCR seeks to reduce situations of forced displacement by encouraging States and other Institutions to create conditions which are conducive to the protection of human rights and the peaceful resolution of disputes. In pursuit of the same objective, UNHCR actively seeks to consolidate the reintegration of persons of concern, thereby averting the recurrence of displacement-producing situations. In its efforts to protect persons of concern, the organization works in partnership with governments, regional organizations, IGOs and NGOs. By virtue of its activities, UNHCR strives to promote the purpose and principles of the United Nations Charter: mainly by contributing to activities which promote international peace and security, developing friendly relations among nations and encouraging respect for human rights and fundamental freedoms.

International Committee of the Red Cross (ICRC)

The ICRC is a neutral, impartial and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance. The ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles.

Established in 1863, the ICRC is at the origin of the Geneva Conventions and the International Red Cross and Red Crescent Movement. It

directs and co-ordinates the international activities conducted by the Movement in armed conflicts and other situations of violence.

Office of the United Nations High Commissioner for Human Rights (OHCHR): the United Nations Special Rapporteur on the Human Rights of Internally Displaced Persons

Established in its initial form in 1992 by the Secretary-General at the request of the Commission on Human Rights, the mandate on the human rights of internally displaced persons is part of the Special Procedures mechanism of the Human Rights Council. The Special Rapporteur's mandate is serviced by the Office of the High Commissioner for Human Rights (OHCHR). In accordance with the Human Rights Council Resolution A/HRC/RES/14/6, the mandate is to, *inter alia:* engage in co-ordinated advocacy for the protection of the human rights of IDPs; engage in dialogue with Governments, non-governmental organizations and other actors; contribute to strengthening the international response to internal displacement; and mainstream the human rights of IDPs into all relevant parts of the UN system.

In addition, the Special Rapporteur conducts activities related to the promotion and dissemination of the Guiding Principles on Internal Displacement (E.CN.4/1998/53/Add.2) at the national, regional and international levels; undertakes country visits; supports training and capacity- building activities for governmental and non-governmental organizations, such as the development of national policy and legislative frameworks on IDPs; and conducts policy-oriented research. The Special Rapporteur submits annual reports to the Human Rights Council and the General Assembly.

Table 1. Cluster Lead Agencies at the Global level

Emergency Telecommunications	WFP
Logistics	WFP
Early Recovery	UNDP
Protection	UNHCR
Camp Co-ordination and Camp Management	UNHCR /IOM
Emergency Shelter	UNHCR / IFRC
Education	UNICEF/Save the Children
Health	WHO
Nutrition	UNICEF
Sanitation, Water and Hygiene	UNICEF
Food and Agriculture	WFP/FAO

Global Cluster Architecture

The Humanitarian Reform process was initiated by the Emergency Relief Coordinator, together with the Inter-Agency Standing Committee (IASC) in 2005 to improve the effectiveness of humanitarian response in emergencies (excluding refugees which are an exclusive responsibility of UNHCR). The basis of the current international humanitarian co-ordination system was established by General Assembly resolution 46/182 in December 1991. The Humanitarian Reform of 2005 introduced new elements to improve capacity, predictability, accountability, leadership and partnership. The emergency response capacity was reinforced at the global level according to an agreed division of labour with specialized UN Agencies Funds and Programmes assuming leadership in different areas of Humanitarian response and to lead 'Clusters' (see Table below outlining the global cluster leads).

Clusters are groups of humanitarian organizations (UN and non-UN) and relevant government and civil society partners that work together to co-ordinate emergency responses in specific sectors related to humanitarian action, e.g. nutrition and health. They are created when clear humanitarian needs exist and where there are numerous actors within a sector and when national authorities require co-ordination support. The Clusters' work is based on the principles of partnership and accountability to affected populations.

1. UNHCR's Cluster Responsibilities

At the Global level, UNHCR has assumed the leadership of Protection, Camp Co-ordination and Camp Management (CCCM) and Emergency Shelter.

Within the Protection Cluster there are also thematic areas of responsibility covered by designated UN agencies related to Child Protection

(UNICEF), Sexual and Gender Based Violence (UNICEF/UNFPA), Housing, Land and Property (UN Habitat) and Mine Action (UNMAS).

The Global Protection Cluster (GPC) co-ordinates and provides global level inter-agency policy advice and guidance on the implementation of the cluster approach to Protection Clusters in the field and supports protection responses in non-refugee humanitarian emergencies. The GPC also leads protection efforts and advises on standards and policy in complex and natural disaster humanitarian emergencies, in particular with regard to the protection of internally displaced persons.

2. OSCE Interaction With the Cluster System

In countries where a new conflict or natural disaster has occurred, OSCE offices need to be alert to the activation of the Cluster system by the UN Counitry Team (UNCT) during the emergency period. This is usually for a fixed duration as long as the situation related to conflict or natural disaster is in existence and the state continues to need support. This arrangement is usually reviewed on a periodic basis.

OSCE offices can usually verify the status of active clusters in a country by referring to the Office of Co-ordination of Humanitarian Affairs (OCHA) in the country.

3. ICRC Interaction With the Cluster System

In situations where clusters are put in place, the ICRC will neither take the lead for any cluster, nor will it be a cluster member, as this approach foresees formal accountability to the Humanitarian Coordinator and ultimately the UN Emergency Relief Coordinator. The ICRC closely follows and supports UN humanitarian reform and does participate in field co-ordination mechanisms; including as an observer at Humanitarian Country Team (HCT) meetings and cluster meetings relevant to its programmes [25]. The ICRC approach to co-ordination is based on the desire for efficient operational complementarities between organizations so as

to ensure that there is no overlap in humanitarian activities and that all the needs of the beneficiaries are met.

4. Recent Developments in the Global Cluster Architecture: Transformative Agenda

In light of the growing recognition of the weaknesses in the multilateral humanitarian response, the IASC Principals reviewed the approach to humanitarian response and launched the Agreement on the Transformative Agenda. In December 2012, the 'TA Protocols' setting out the parameters for improved collective action in humanitarian emergencies were agreed. The protocols focus on three key areas: leadership; co-ordination and accountability to affected populations, donors and governments.[26]

A number of the TA protocols are aimed at large emergencies but contain principals which are also increasingly applicable in existing cluster situations.

Activation of a cluster system in a country [27]

At the country level not all global clusters may be activated but are based on needs identified through joint evaluations in-country.

---

25 OCHA lists ICRC attendance at HCT meetings as 96% which denotes exceptionally strong participation.

26 Concrete actions include: Strengthened leadership capacities at all levels of the response. Improved strategic planning that clarifies the collective results that the humanitarian community aims to achieve. Strengthened needs assessments, information management, planning, monitoring and evaluation for a more effective and strategic response. Improved cluster co-ordination, performance and participation, as well as a more clearly defined cluster-activation procedure. Enhanced accountability for the achievement of collective results, based on an agreed performance and monitoring framework linked to the strategic plan. Strengthened accountability to affected communities, to be implemented at field level through a defined inter-agency operational framework. For further information, refer to the IASC: http://www.humanitarianinfo.org/iasc//pageloader.aspx?page=content-template-default&bd=87

27 IASC Reference Module for Cluster Coordination at the Country Level | 2012, p.4., available at: http://clusters.humanitarianresponse.info/system/files/documents/files/iasc-coordination-reference%20module-en_0.pdf

Clusters are based on the following criteria:

A Trigger event in the form of new large-scale emergency or sharp deterioration and/or significant change in an existing humanitarian situation leading to co-ordination gaps.

B Evaluation of existing national response and co-ordination capacity and/or national response shows inability to appropriately meet needs.

C Humanitarian needs justify a multi-sectoral approach that the existing co-ordination and response mechanisms can no longer adequately address.

D The size of the operational presence (the number of actors and complexity of response) requires a sector-specific co-ordination mechanism, if this does not already exist.

Recommended reading

— Inter-Agency Standing Committee, *IASC Guidance Note on using the Cluster Approach to Strengthen Humanitarian Response,* 24 November 2006, available at: http://www.humanitarianinfo.org/iasc//pageloader.aspx?page=content-template-default&bd=87

— Inter-Agency Standing Committee, *IASC Reference Module for Cluster Coordination at the Country Level,* 2012, available at: http://clusters.humanitarianresponse.info/system/files/documents/files/iasc-coordination-reference%20module-en_0.pdf

— Inter-Agency Standing Committee, IASC Handbook for RCs and HCs on Emergency Preparedness and Response, 2010, available at: http://www.humanitarianinfo.org/iasc

Useful web-sites for further information related to clusters

— Global Protection Cluster: http://www.globalprotectioncluster.org/

— OCHA Humanitarian Response: http://clusters.humanitarianresponse.info/

Acronyms

CBMs	Confidence-Building Measures
CCCM	Camp Co-ordination and Camp Management
CiO	Chairperson-in-Office
CPC	Conflict Prevention Centre
DDR	Disarmament, Demobilization and Reintegration Programmes
GPC	Global Protection Cluster
HA	Humanitarian Assistance
HCT	Humanitarian Country Team
HCNM	High Commissioner on National Minorities (OSCE)
HQ	Headquarter
I4P	Infrastructures for Peace
IASC	Inter-Agency Standing Committee
ICRC	International Committee of the Red Cross
ID	Identification
IDPs	Internally Displaced Persons
IFRC	International Federation of Red Cross and Red Crescent Societies
IGOs	Intergovernmental Organizations
IHL	International Humanitarian Law
INEE	Inter-Agency Network for Emergency Education
IOM	International Organization for Migration
NGO	Non-governmental Organization
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Co-operation Europe
PCL	Protection Checklist
PC	Permanent Council (OSCE)
pS	Participating States (OSCE)
RFOM	Representative on Freedom of the Media (OSCE)
SG	Secretary General (OSCE)

SGBV	Sexual and Gender-Based Violence
SSR	Security Sector Reform
UN	United Nations
UNCT	United Nations Country Team
UNFPA	United Nations Populations Fund
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations International Children's Emergency Fund
UNDP	United Nations Development Programme
UNFAO	United Nations Food and Agriculture Organization
UNMAS	United Nations Mine Action Service
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
UNOHCHR	United Nations Office of the Commissioner for Human Rights
UNSCR	United Nations Security Council Resolution
UNWFP	United Nations World Food Programme
WHO	World Health Organization

Glossary

10-Point Plan of Action

is a tool developed by UNHCR to assist governments and other stakeholders in incorporating refugee protection considerations into migration policies. The Plan of Action consists of 10 action points, each proposing practical, protection-sensitive tools and strategies that could be adopted as part of effective and coherent responses to mixed movements. The Plan further sets out 10 areas in which UNHCR has an interest and a potential role to play in partnership with other key actors. The Plan is especially relevant to situations where refugees are at risk of *refoulement* or hazardous onward movements.

Arbitrary expulsion

is the removal, which has not been undertaken in accordance with Art. 32 of the 1951 Convention and the identical Art. 31 of the 1954 Convention, of an asylum-seeker, refugee or stateless person, who is lawfully in the territory of the host State, to a country. Expulsion can only take place on grounds

of national security and public order. It should be initiated only as a measure of last resort and if it is the only practical means to protect the legitimate interests of the State. Asylum-seekers who have entered or have been present in a host State illegally, but whose status determination procedure has been initiated, should be considered as "lawfully in the territory". An expulsion decision can be made by any administrative or judicial authority. Expulsion must also respect due process.

Assistance Aid

provided to address the physical, material and legal needs of persons of concern to UNHCR. This may include food items, medical supplies, clothing, shelter, seeds and tools, as well as the provision of infrastructure, such as schools and roads. In UNCHR's practice, assistance supports and complements the achievement of protection objectives.

Asylum

The granting by a State of protection on its territory to individuals from another State who are fleeing persecution or serious danger. Asylum encompasses a variety of

elements, including *non-refoulement,* permission to remain on the territory of the asylum country and humane standards of treatment.

Asylum-seeker
An individual who is seeking international protection. In countries with individualized procedures, an asylum-seeker is someone whose claim has not yet been finally decided on by the country in which the claim is submitted. Not every asylum-seeker will ultimately be recognized as a refugee, but every refugee was initially an asylum-seeker.

Cartagena Declaration on Refugees
A Declaration adopted by a colloquium of experts from the Americas in November 1984. The Declaration enlarges the 1951 Convention definition of a refugee to include "persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order." While the Declaration

is not a treaty, its provisions are respected across Central America. This refugee definition has been incorporated in the legislation of most of the countries of the Americas.

Children
Persons who are below the legal age of majority and are therefore not legally independent. This term includes adolescents. Under the Convention on the Rights of the Child, a 'child' is a person who is below the age of eighteen, unless the applicable law sets a lower age. The age may vary according to the different treaties signed by the States. With regard to protecting children from recruitment and involvement in conflict, the most important legal instruments are API article 77 and APII art. 4 3) c), ICC Statute, Article 8(2)(b)(xxvi) and (e) (vii), article 38 (3) CRC = 15 years old. The optimal protection is provided by the optional protocol on the involvement of children in armed conflict to the CRC, which requires that States take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities and expressly

prohibits non-state armed groups from recruiting children under 18 for any purpose.

Cluster Leadership Approach
The Cluster Leadership Approach is part of the overall UN-led humanitarian reform process initiated in 2005 aimed at improving the effectiveness of humanitarian response through improving the predictability and accountability of humanitarian actions. It was adopted by the Inter-Agency Standing Committee as a mechanism that would address identified gaps in response and enhance the quality of humanitarian actions by strengthening partnerships between UN agencies, the Red Cross movement, international organizations and NGOs. UNHCR has been designated the cluster lead for emergency shelter, camp co-ordination and management and protection in situations of conflict-related internal displacement.

Convention relating to the Status of Refugees (1951 Convention)
This treaty establishes the most widely applicable framework for the protection of refugees. The

Convention was adopted in July 1951 and entered into force in April 1954. Article 1 of the Convention limits its scope to "events occurring before 1 January 1951" but this restriction was removed by the 1967 Protocol relating to the Status of Refugees.

Convention relating to the Status of Stateless Persons
(1954 Convention)
A Convention that provides the definition of a stateless person and establishes a framework by which a stateless person, who is lawfully resident in a State, can have legal status. The Convention was adopted in September 1954 and entered into force in June 1960.

Customary international law
International legal norms that derive their authority from the constant and consistent practices of States, rather than from formal expression in a treaty or legal text. In order for State practice to contribute to the formation of customary international law, that practice should be conducted with a sense of legal obligation (opinion juris). Customary international law is binding on all States regardless of

whether they have ratified any relevant treaty, save for States which are "persistent objectors".

Durable solutions

Any means by which the situation of refugees can be satisfactorily and permanently resolved, enabling refugees to resume a normal life. Traditionally, UNHCR pursues the three durable solutions of voluntary repatriation, local integration, and resettlement.

In the context of internal displacement, a durable solution is achieved when internally displaced persons no longer have any specific assistance and protection needs linked to their displacement and they can enjoy their human rights without discrimination based on their displacement. It can be achieved through the following:

— Sustained reintegration in the place of origin

— Sustained local integration in areas where internally displaced take refuge (local integration)

— Sustainable integration in another part of the country (settlement elsewhere in the country.)

Executive Committee of the High Commissioner's Programme (ExCom)

The Committee mandated with advising the High Commissioner in the exercise of his/her functions; reviewing funds and programmes, and authorizing the High Commissioner to make appeals for funds, and approving the budget. EXCOM is composed of representatives of 87 States with demonstrated interest in, and devotion to, the solution of the refugee problem.

Gender-related persecution

Persecution that targets or disproportionately affects a particular gender. Under certain factual circumstances, gender-related persecution may come within the refugee definition.

Groups with specific needs

Individuals, families or groups requiring additional support in order to enable them to overcome the challenges they face in accessing and enjoying their rights.

Human Rights

Agreed international rights that recognize and protect the inherent dignity and the equal and inalienable rights of every individual,

without any distinction as to race, colour, sex, language, religion, political or other opinion, national or social origins, property, birth or other status. They may form part of customary international law and/or may be set out in various national, regional and international legal instruments.

Inter-Agency Standing Committee (IASC)

The IASC is a forum involving the key UN and non-UN humanitarian partners for inter-agency co-ordination of humanitarian assistance.

Internally displaced person (IDP)

An individual who has been forced or obliged to flee from his home or place of habitual residence, "…in particular as a result of or in order to avoid the effects of armed conflicts, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border" (according to the *Guiding Principles on Internal Displacement*).

International protection

All actions aimed at ensuring the equal access to and enjoyment of the rights of women, men, girls

and boys of concern to UNHCR, in accordance with the relevant bodies of law (including international humanitarian, human rights and refugee law).

Local integration

A durable solution to the plight of refugees that involves their permanent settlement in the country in which they sought asylum.

Minority

A minority is broadly understood to be a group of people with a common identity, based on culture/ethnicity, language or religion, which is different from that of a majority group around them. The term minority as used in the United Nations human rights system usually refers to national or ethnic, religious and linguistic minorities, pursuant to the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

Nationality

The legal bond between a person and a State. Generally, nationality can be established at birth by a person's place of birth (jus soli) and /or bloodline (jus sanguinis) or can

be acquired through naturalization. The concept is referred to as "citizenship" in some national jurisdictions.

Non-governmental organization (NGO)

An organization that is functionally independent of, and does not represent, a government or State. Use of the term derives from Article 71 of the UN Charter permitting ECOSOC to grant consultative status to international, regional, sub-regional or national NGOs, provided they have recognized standing within their particular field of competence, an established headquarters, a democratically adopted constitution, authority to speak for their members, a representative structure, appropriate mechanisms of accountability to their members, who must exercise effective control over policies and actions, and resources derived primarily from independent institutions.

Non-refoulement

A core principle of international human rights and refugee law that prohibits States from returning individuals in any manner whatsoever to territories where they may be at risk of persecution, torture or other forms of serious or irreparable harm. Refoulement can result, for instance, following interception operations, rejection at the frontier, or return to third countries ("indirect refoulement"). The most prominent expression of the principle of non-refoulement in international refugee law is Article 33(1) of the 1951 Convention. The principle also is part of customary international law and is, therefore, binding on all States whether or not they are parties to the 1951 Convention or other relevant international refugee law or human rights instruments.

Or

The principle of non-refoulement precludes States from transferring any persons within their control to another State or territory if there is a real risk that they may face violation of certain fundamental human rights (for instance risk of persecution, torture or other forms of serious or irreparable harm). The principle applies to any form of transfer, return, rejection, deportation, extradition, expulsion or refusal regardless of where it may occur, for instance at the border, on the high seas, etc.

The most prominent expression of the principle of non-refoulement in international refugee law is Article 33(1) of the 1951 Convention. This principle is also found in human rights instruments (including CAT, ICCPR, ECHR) in particular as a component of the prohibition on torture, cruel, inhuman or degrading treatment or punishment, and in international humanitarian law. It is a principle of customary international law and is, therefore, binding on all States whether or not they are parties to the 1951 Convention or other relevant instruments. It is binding on States in all circumstances, including in the context of measures to combat terrorism or during armed conflict, and does not allow for any exception.

Persecution

The core concept of persecution was deliberately not defined in the Convention relating to the Status of Refugees, suggesting that the drafters intended it to be interpreted in a sufficiently flexible manner so as to encompass ever-changing forms of persecution. It is understood to comprise human rights abuses or other serious harm, often, but not always, with a systematic or repetitive element.

Persons with specific needs

Any person who requires specific assistance in order to enjoy the full range of his/her human rights. Children (especially separated children), trafficked persons, women at risk, elderly and disabled persons are among the groups that often have specific needs.

Person of concern to UNHCR

A person whose protection and assistance needs are of interest to UNHCR. It includes refugees, asylum-seekers, stateless people, internally displaced people and returnees.

Persons with disabilities

The United Nations Convention on the Rights of Persons with Disabilities defines persons with disabilities as: "those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others".

Protection

All activities aimed at obtaining full respect for the rights of the individual, in accordance with the letter and the spirit of the relevant

bodies of law (i.e. international human rights law, international humanitarian law and refugee law.)

Refugee

A refugee is any person who, "… owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his [or her] nationality and is unable or, owing to such fear, is unwilling to avail him [or her]self of the protection of that country; or who, not having a nationality and being outside the country of his [or her] former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it." *Article 1A(2) of the 1951 Convention* or *who is outside his/her country of origin or habitual residence and is unable to return there because of serious and indiscriminate threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order. OAU Convention and Cartagena Declaration.*

Refoulement

The removal of a person to a territory where he/ she would be at risk of being persecuted, or being moved to another territory where he/she would face persecution. Under international refugee law and customary international law, *refoulement* is permitted only in exceptional circumstances.

Reintegration

A process which enables returnees to regain their physical, social, legal and material security needed to maintain life, livelihood and dignity and which eventually leads to the disappearance of any observable distinctions *vis-à-vis* their compatriots.

Resettlement

The transfer of refugees from the country in which they have sought asylum to another State that has agreed to admit them. The refugees will usually be granted asylum or some other form of long-term resident rights and, in many cases, will have the opportunity to become naturalized citizens. For this reason, resettlement is a durable solution as well as a tool for the protection of refugees. It is also a practical example of international burden and responsibility sharing.

Returnee

An individual who was of concern to UNHCR when outside his/her country of origin and who remains so, for a limited period (usually two years), after returning to the country of origin. The term also applies to internally displaced people who return to their previous place of residence.

Sexual and gender-based violence (SGBV)

Is violence that is directed against a person on the basis or sex. It includes acts that inflict physical, mental or sexual harm or suffering, threats or such acts, coercion and other deprivation of liberty. While women, men, boys and girls can be victims/survivors of gender-based violence, women and girls are the main victims/survivors. SGBV shall be understood to encompass, but not limited to the following:

A Physical, sexual and psychological violence occurring in the family, including battering, sexual exploitation, sexual abuse of children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.

B Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in education institutions and elsewhere, trafficking in women and forced prostitution.

C Physical, sexual and psychological violence perpetrated or condoned by the State and institutions, wherever it occurs.

Self-reliance

In the refugee context, the ability of an asylum-seeker or refugee to provide for his/her own living needs, and those of his/her dependents.

Stateless person An individual who is not considered as a national by any State under the operation of its law, including a person whose nationality is not established.

Human Trafficking

The critical additional factor is the acquisition of people by improper means such as force, fraud or deception, with the aim of exploiting them. While the additional elements that distinguish trafficking

from migrant smuggling may sometimes be obvious, in many cases they are difficult to prove without active investigation.

Transformative Agenda

The Transformative Agenda of the IASC was adopted on December 2011. It is a set of concrete actions aimed at transforming the way in which the humanitarian community responds to emergencies. It focuses on improving the timeliness and effectiveness of the collective response through stronger leadership, more effective co-ordination structures, and improved accountability for performance and to affected people.

Voluntary Repatriation

Return to the country of origin based on the refugee's free and informed decision. Voluntary repatriation is one of the three durable solutions and may be "organized" (under the auspices of the concerned governments and/ or UNHCR) or "spontaneous" (the refugees return by their own means without the involvement of UNHCR and governments). See also "facilitated" and "promoted" voluntary repatriation.

Forced displacement is among the most serious humanitarian and human rights challenges worldwide. In the face of conflict, the ability of international actors to respond swiftly to the needs of displaced persons makes an important contribution to restoring peace and protecting the rights of displaced populations. Within its broad mandate and geographical area, the OSCE might come across displacement situations earlier than others, including those agencies with responsibilities and roles to provide protection and assistance to the displaced. This Protection Checklist helps to identify the protection needs of displaced persons and aims to build more effective co-operation between the OSCE and these actors.

This Checklist is provided for OSCE field staff, as well as other OSCE actors who work on displacement issues or who might be confronted with protection challenges arising from conflict situations. It is intended to be a practical reference tool that clearly identifies the actions that OSCE field operations can and should take in a given situation, within their mandates. The lists of possible actions illustrate the valuable contributions the OSCE can make, acting in close co-operation with UNHCR and other relevant actors, to effectively prevent and address forced displacement in the OSCE area.