

Durable solutions

Objectives

- **Review the standards for durable solutions in the GP**
- **Identify the responsibilities of national authorities and other actors in the planning and implementation of durable solutions**
- **Identify potential durable solutions for the context**

When does displacement end?

A **returnee** is no longer a “returnee” when he/she forms a part of the community and is not distinguished from that community for any reason related to the person’s former status as displaced person.

Solution: return

Return home:

The process of going back to one's habitual place of residence

Often the ideal solution, but difficult to achieve

Solution: resettlement

Resettlement:

The process of starting a new life in any place other than the place of original residence, but still within the same country

Can be the only reasonable option for some IDPs

Defining 'durable'

The process of (re)integration:
the re-entry of IDPs back into the
social, economic, cultural and
political fabric of their original or new
community

Key standards for durable solutions

- **Voluntariness**
- **Safety**
- **Dignity**
- **Non discrimination**



Voluntariness

- **In line with: Freedom of movement and choice of residence (GP 14)**
- **Components:**
 - **1) Freedom of choice:**
 - **Push and pull factors**
 - **2) Informed decision**

Safety

- **In line with: Prohibition of forced return (GP 15)**
- **Components:**
 - **Physical safety**
 - **Legal safety**
 - **Material safety**
 - **Both on route and in return areas**

Physical safety: What can be done?

- **Presence and monitoring**
- **Capacity building for law enforcement**
- **Capacity building for judiciary**
- **De-mining/Mine risk education**
- **Prevention of SGBV**
- **Community based conflict resolution and resolution mechanisms**

Legal safety: What can be done?

- **Amnesty law**
- **Legal aid (Registration and documentation, property)**
- **Mechanisms for property restitution & arbitration**
- **Capacity building for judges, lawyers, civil servants, etc.**

Material safety: What can be done

- **Provide basic services for survival**
 - **Water, food, health and education**
- **Implement measures for sustainable reintegration**
 - **Income generation, livelihood, infrastructure, services, etc.**

Dignity

- **Components:**
 - **Unconditional return**
 - **At their own pace**
 - **Not manhandled**
 - **No arbitrary family separation**
 - **Respect for human rights**

Non-discrimination

- **Equal access to public services**
- **Ability to participate in communal decision making**
- **No discriminatory practice towards vulnerable groups**
- **Equal benefit to community of return**

Participation

- **Planning and management of return/resettlement (GP 28)**
- **Participation in public affairs (GP 29)**
- **Community-based dialogue**

Property of IDPs During displacement

- **Protection of properties of IDPs (GP 21)**
- **Properties and possessions**
- **Left behind or acquired during displacement**

After displacement: Restitution or compensation

- **Restitution:** Returning as far as possible to the original position, including the return of arbitrarily or illegally confiscated housing or property as a form of restorative justice.
- **Compensation:** Legal remedy by which a person receives monetary or in-kind payment for harm suffered.
 - When restitution is factually impossible
 - When the injured party accepts knowingly compensation
 - When combination of restitution and compensation provided for in peace agreements

Property rights: a key factor of safety

- **Housing rights**
 - Shelter
 - Security of tenure
- **Self-reliance**
 - Access to land
 - Commercial premises
- **Restorative justice**

Right to return home: A growing recognition

- **Compensation for victims of human rights violations (regional human rights mechanisms)**
- **International Criminal Court: appropriate reparations to victims, including restitution, compensation and rehabilitation. (Art. 75, Rome Statute)**
- **World Bank: compensation for losses at full replacement costs (involuntary resettlement)**
- **Armed conflicts: A state responsible for violations of IHL is required to make full reparation for the loss or injury caused**
- **Enforcement of property rights of IDPs in post-conflict situations: Bosnia, Kosovo**
- **UN Sub-Commission adopts Principles on housing and property restitution for refugees and displaced persons (2005)**

Property restitution: A complex issue

- **Loss of documents**
- **Destruction of records**
- **Occupation by displaced households**
- **Property rights of vulnerable groups (women, indigenous people)**
- **Funding**

Property restitution: Good practices

- **Housing and property issues in registration/assessment procedures**
- **Creation of national procedures, institutions and mechanisms**
- **Legal advice/support to facilitate access to claims procedure**
- **Other forms of reparation (land distribution, building materials)**
- **Support to vulnerable groups (women, indigenous people)**
- **Capacity building for traditional mechanisms for dispute settlements**

Principle 30 - Access

- **Both in areas of displacement, on route and at place of return or resettlement**
- **Applies to a range of actors, ie:**
 - **Humanitarian organisations**
 - **Human rights monitors**
 - **Development agencies**

Conclusions

- **Three essential conditions for durable solutions: safety, dignity, voluntariness**
- **The return and resettlement of IDPs is a process, which requires proper planning and long-term commitments**
- **Implies the contribution of all sorts of actors**