



# HCT Framework on Durable Solutions for Displaced Persons and Returnees

## Introduction:

1. The humanitarian situation in the North East of Nigeria has led to the displacement of an estimated: 1,491,706 million internally displaced persons (IDPs), identified by the Displacement Tracking Matrix (DTM)<sup>1</sup>; and according to UNHCR, 167,789<sup>2</sup> Nigerian refugees have fled into Cameroon, Chad and Niger as of May 2015.
2. While the security situation in the North East remains fluid; since February 2015, the Nigerian Armed Forces, with support from the coalition forces, have recovered several areas of habitual residence of the IDPs, which were hitherto under the control of the insurgents. These communities span Borno, Yobe and Adamawa States; and were subject to destruction of infrastructure including houses, farmland, health facilities, and schools among others.
3. Consequently, an undetermined number of IDPs and some Nigerian refugees have reportedly started returning to their areas of habitual residence. The magnitude of return is yet to be established, considering that more than ninety per cent of the IDPs are living in host communities without proper and systematic registration. In accordance to the recent Return Intension Survey conducted by IDP Return Task Force, a significant number of IDPs surveyed expressed interest to return. Some other IDPs have contacted both Nigerian authorities and humanitarian agencies to express their willingness to return to their areas of habitual residence indicating that the only impediment to such return is the lack of assistance to do so.
4. Unverified reports have also mentioned the presence of mines and unexploded ammunitions in some areas, including those that have been recaptured by authorities.
5. In the context described above, these recommendations have been developed to serve as the position of the Humanitarian Country Team (HCT) in Nigeria and a guide to the Government of Nigeria on the return of IDPs. It may also serve as a blueprint for future HCT's strategies on durable solutions for internal displacement resulting from insurgency and counter-insurgency activities in North East Nigeria.

<sup>1</sup> IOM and NEMA Displacement Tracking Matrix Report of April 2015 for Adamawa, Bauchi, Borno, Gombe, Taraba and Yobe states <https://www.iom.int/cms/en/sites/iom/home/news-and-views/press-briefing-notes/pbn-2015/pbn-listing/displacement-hits-12-million-in.html>

<sup>2</sup> UNHCR Regional Update #8 <http://reporting.unhcr.org/sites/default/files/UNHCR%20Regional%20Update%20-%20Nigeria%20Situation%20%238%20-%2028MAY15.pdf>

## Guidance on returns:

6. Any return of IDPs to their area of habitual residence must be voluntary and conducted in security and dignity, based on informed decisions from IDPs. The information has to be provided in a language and format understood by the IDPs, including those who are not literate. At a minimum, the information conveyed should include: Assessments of the general situation in the community of origin or potential areas of local integration or settlement elsewhere in the country; The conditions in places of return, local integration or settlement elsewhere in the country, including degrees of destruction, access to housing, land, livelihoods, landmine risks, employment and other economic opportunities; availability of public services (public transport, healthcare, education, means of communication, etc.); conditions of buildings and infrastructure for schools, health clinics, roads, bridges and sanitation systems; and assistance from national, international and private actors; and information on reintegration packages, administrative regulations, and documentation requirements; available transport, and arrangements for those with special needs.
7. The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa of 2009 (Kampala Convention)<sup>3</sup> provides that national authorities have the primary responsibility to establish conditions, as well as provide means which allow IDPs to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Similar provisions exist in the Guiding Principles on Internal Displacement.
8. Voluntary returns, when feasible in security and dignity, should be understood as much as possible within the broader framework of Durable Solutions available to the displaced. Therefore, authorities may wish to consider giving IDPs the possibility to integrate locally at the place where they have found safety or be relocated elsewhere, based on lessons learnt from the implementation of Durable Solutions for IDPs in Nigeria in the recent years, or elsewhere as the case may be.
9. Durable Solutions for IDPs are not necessarily achieved merely with their return to areas of habitual residence or resettlement in other parts of the country, but rather through a combination of factors including long-term safety, security, freedom of movement, recovery of property and land, access to basic services and reconstruction. Authorities should consider the establishment of appropriate mechanisms providing for simplified procedures where necessary, for resolving disputes relating to the property of internally displaced persons and returning Nigerian refugees.
10. The presence of land mines and other unexploded devices in some areas of return, if confirmed, would require that appropriate and substantial steps be taken to clear these areas from such devices and information campaigns conducted to create awareness among IDPs.
11. The repatriation of Nigerian refugees who have sought refuge in the neighboring countries of Cameroon, Chad and Niger shall take place in conformity with international law pertaining to voluntary repatriation based on their freely expressed wish and their relevant knowledge of the conditions in the areas of return.
12. The populations and communities that (re-)integrate IDPs and/or refugees, whose needs may be comparable, should not be neglected in comparison to the displaced.

## Guidance on internally displaced persons with special needs:

13. The Government should protect all rights of internally displaced persons and provide special protection for and assistance to internally displaced persons with special needs. The assessed needs and rights of all parts of the IDP population, including women, children, elderly, physically challenged and persons who are potentially marginalized, need to be addressed in recovery and development strategies. This includes seeking to protect internally displaced persons from sexual and gender based violence in all of its forms.
14. Humanitarian and development efforts require a very clear understanding of the roles and responsibilities towards the care and protection of children. As a highly vulnerable group, especially in situations of poverty, humanitarian

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<sup>3</sup> Nigeria signed the Kampala Convention in 2009 and ratified it in 2012.

crisis or conflict, children and women deserve higher standards of protection. To achieve successful results, the HCT recommends that return, relocation, and reintegration of IDPs take special cognizance of the need to meet minimum international standards for the protection of displaced children and other persons with special needs.

### **Steps to be taken by authorities and HCT Framework:**

15. Authorities should develop a framework for the return of IDPs which will guarantee their fundamental rights, operational principles and facilitate coordination and support to services. The HCT, through the Inter-Sector Working Group (ISWG), should provide technical support in developing a solution framework and serve as a coordination platform on solutions among humanitarian actors. An Inter-sectoral response plan for return will need to be prepared.

### **Promotion of Durable Solutions in dignity and security:**

16. The HCT recommends that the Government, with the support of the international community, should take measures to establish conditions, as well as provide the means, to enable IDPs to return voluntarily, in safety and dignity, or to resettle voluntarily in another part of the country and to facilitate the (re)integration of returned or resettled IDPs.
17. This includes taking measures to ensure respect for human rights and humanitarian law; ensuring that internally displaced persons enjoy their rights without discrimination; providing safe transit for internally displaced persons; and offering adequate assistance and protection of physical safety upon relocation/return; ensuring access to adequate housing, basic services, education, livelihood, and ensuring rule of law (functioning administrative authorities and police). National and local authorities, humanitarian and development actors should strengthen effective mechanisms to monitor the process on the ground to ensure compliance with conditions in the Framework on Durable Solutions and the international human rights standards upon which it is based, in particular with regard to safety, security and voluntary returns.

### **Assessment mission:**

18. Government and humanitarian actors, with strong participation of the National Human Rights Commission (NHRC) and civil society organizations, should conduct a joint assessment mission to areas of return in locations where security permits, with the aim of informing a comprehensive Government/HCT durable solutions plan for IDPs and returning Nigerian refugees. Representatives of IDP communities should be involved in the planning and implementation of such assessment exercise. IDPs' views will be collated through an intention survey which will also include the type of obstacles they see for return and the conditions they would like to see improved before returning. The nature of assistance to be provided before, during and after return should arise as recommendations from this joint assessment and include targeted assistance to the most vulnerable IDPs. Such assistance will be both individual and community-based.

### **Information and communication:**

19. Authorities should take the necessary measures to ensure that IDPs are provided with the necessary information in order to make an informed decision and also ensure that return is voluntary, in security and dignity. The HCT recommends that IDPs, including women, minorities and others who may not have representation, participate fully in the decision-making, planning and management of return, local integration or settlement elsewhere in the country.

### **Monitoring:**

20. The primary responsibility to assist IDPs lies with the State, while humanitarian protection actors have the duty to assist, as well as advocate to authorities for the respect, protection and promotion of IDP rights. NHRC, with the support of relevant HCT actors, will monitor: (a) the conditions in which these returns are happening, (b) whether or not they comply with the standards, (c) causes for insufficient conditions for return and ongoing efforts to address the problems, (d) impact of existing condition on safety, well-being and rights of IDPs, and what services are being provided to those IDPs including those who have already left, even if in less ideal condition (e) necessary measures to ensure the sustainability of returns. The findings of protection monitoring activities currently being implemented jointly by UNHCR and NHRC will also both inform return decisions and provide information on conditions of return and reintegration of those returning.

## Development of HCT strategy on Durable Solutions:

21. As recommended by the Emergency Directors' mission and based on the result of assessment exercise and the findings of protection monitors, the HCT will, through the support of the ISWG and a wider consultation, develop a solution strategy outlining recommendations on how to proceed with government-led Durable Solutions.
22. The HCT recommends that authorities at Federal and State levels grant and facilitate safe, unimpeded and timely access of humanitarian organizations and other relevant actors to assist IDPs to return, locally integrate or settle elsewhere in the country. Consideration could be given to the signing of a memorandum of understanding by national and local authorities, humanitarian organizations and representatives of the internally displaced as a useful way to spell out the understandings and obligations of all parties involved in finding Durable Solutions to the displacement.
23. The HCT also recommends that the new government at Federal and State level assign resources within the national budget to respond to the assistance needs of IDPs, including for their return. This means securing and reconstructing the infrastructure destroyed in areas of habitual residence, including houses, health facilities, schools, among others. Outcomes of the inter agency assessment of the areas of return will be conveyed to the Government to assist planning.
24. HCT strongly recommends a community-based approach that addresses the needs of IDPs and those receiving them (including IDPs who returned spontaneously) may mitigate risks of tensions between the two populations, and support a more effective integration or re-integration of IDPs. Development plans in areas of return should be based on the specific needs of IDPs, relocated persons and returnees, using a rights-based approach and ensuring their participation in decision-making.
25. Confidence and stabilization measures including peace education and relationship building amongst affected communities, community reconciliation and confidence-building mechanisms should be mainstreamed into the solutions strategy.
26. The HCT strongly recommends that the Government of Nigeria immediately put in place a viable national policy framework in line with the spirit and letter of the Kampala Convention for addressing displacements in Nigeria by promptly domesticating the Convention and adopting the draft National Policy on Protection and Assistance of Internally Displaced Persons in Nigeria which was finalized by stakeholders since August 2012 and currently domiciled with the National Commission for Refugees, Migrants and Internally Displaced Persons and the Federal Ministry of Special Duties.
27. The HCT recommends that the Government of Nigeria strengthen its coordination by designating clear focal points at the federal and state levels to coordinate humanitarian actions and programmes related to the protection and return of IDPs within the framework of a national multi-sectorial approach.



## Operational Checklist

Whereas security situations in the North East of Nigeria remains fluid, civilian population that had been displaced by the insurgency and counter-insurgency measures have been returning to some areas. DTM data, the protection monitoring exercise and inter-agency assessments have also indicated the intention of a great majority of IDPs particularly in Adamawa to return to their area of habitual residence. Fully taking into account these developments and in order to ensure considerations of all aspects of durable solutions, the HCT adopted the PSWG Recommendations to the HCT on Durable Solutions for Internally Displaced Persons and Returnees in Nigeria. The following checklist is prepared by PSWG to operationalize these recommendations particularly in the context of return of IDPs to their area of return.

This checklist aims to provide guidance for humanitarians and authorities when faced with some controversial and complex issues such as determination of voluntariness of return, establishing minimum levels of security; ensuring effective level of participation by IDPs. Once adopted by the Inter-sectoral Working Group, the checklist will be used in the development of inter-sectoral plans for return, joint-assessments and monitoring exercises. It is recommended that this checklist be attached as an Annex to the report of the inter-agency assessment mission to Adamawa.

### Engagements on all dimensions of durable solutions

- Humanitarian actors should engage with authorities, LGAs and governments not only on return but on possible solutions on settlement elsewhere and local integrations especially when IDPs are not in a position to return.
- In case of non-compliance by local authorities/actors, humanitarian actors should use all channels including HCT, ISWG and individual agencies with a view to rectifying action and preventing future non-compliance.
- Humanitarian actors and authorities need to identify local economic and development initiatives and establish linkages with humanitarian interventions.

### Persons with special needs (Paras. 13, 14)

- Humanitarian actors, through PSWGs, sub-sectors and protection actors, should identify people with the most pressing needs and potential protection issues. They may 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 the monitoring and follow-up action for their protection and assistance, and to exercise their rights.
- Ensure that vulnerable groups and their concerns are properly reflected in all assessments, response plans and monitoring exercises.

- Develop and implement referral mechanisms among institutions concerning the protection and assistance of vulnerable groups.

### Voluntary character of return (Paras. 6, 8)

- Humanitarian actors need to ensure that solutions are implemented based on voluntary decisions of IDPs. That a return is voluntary means that IDPs make an informed choice, that there is no coercion, and that the will to return is expressed clearly.
  - Authorities and humanitarian actors need to ensure that IDPs have access to accurate and objective information on the general situation in the community of origin, including the extent to which the causes for displacement may persist, the mechanisms foreseen to ensure reintegration, and those available to ensure continued assistance and integration in other parts of the country.
  - The information has to be provided in a language and format understood by the IDPs, including those who are not literate.
- Absence of coercion. The concept of coercion includes not only direct coercion through, among other, physical force, harassment or intimidation, but also indirect coercion including the provision of erroneous information, and denial of basic services or closure of IDP camps or facilities without an acceptable alternative. A return that happens because an alternative solution is not available is not a voluntary return, even if IDPs express their acceptance. Material rewards tailored to influence a decision (particularly when not coupled with similar assistance in case another option is chosen) may also amount to coercion.
- Clear expression. IDPs must express in a clear and unambiguous way their willingness to return. In principle, the decision must be individual. However, in many cases there may be a group-based decision-making process, in families for obvious reasons and in larger groups because of cultural factors. This is as such acceptable. However, authorities must make sure that all groups according to age, gender and diversity (for instance different ethnic groups) have been consulted, and that individual options without undue pressure are available for those with valid reasons to prefer another option.

### Safety and Security (Paras. 16, 17)

- When determining whether solution alternatives meet benchmarks on safety and security, humanitarian actors and authorities may take into account the following considerations.
  - **Physical safety**, or the absence of threats to life, liberty and integrity of the person. This means a secure return environment in terms of generalised absence of violence, verbal threats and intimidation, adequate management of common crime, freedom of movement, presence of land mines and other unexploded devices, safe routes, housing and livelihood areas free of mines, booby-traps and unexploded ordinances.
  - **Legal safety**, that is, the presence of adequate law enforcement mechanisms and access to justice, particularly as regards recovery of property and housing.
  - **Material safety**, that is notably equal access in the early phases of return to means of survival and basic services, such as potable water, food, housing, health services and education, followed by measures to underpin sustainable reintegration.
- Monitor the capacity of local law enforcement, administrative, judicial, penal and human rights institutions and NGOs to protect returnees and their resources provided to them.
- Monitor and ensure that IDPs enjoy freedom of movement during transit, areas of return and other locations.
- Monitor that humanitarian actors and local counterparts enjoy unimpeded humanitarian access.
- Monitor vulnerabilities and access to means of survival and basic services, and address any critical gaps.

- Liaise with military actors as appropriate to monitor the impact of military deployment and measures on civilian populations; facilitate access and address protection concerns. Use of military escort should be considered as a measure of last resort in line with IASC guidelines.
- Where IDPs spontaneously return or relocate even though they have been informed that conditions are not safe, humanitarian agencies should strictly abstain from promoting such unsafe return or relocation. Considerations should only be given to providing assistance to IDPs if this decreases risks they face in the context of the return.

### **Dignity, accountability and participation of IDPs (Para. 17)**

In order to ensure that durable solutions considerations meet standards on dignity, all humanitarian actors and authorities:

- Promote, through sensitization programs and trainings, respectful treatment of IDPs by authorities and humanitarian actors.
- Establish mechanisms aimed at ensuring representation of vulnerable groups in decision making.
- Conduct proper consultation and participation of IDPs in all stages of the return process, taking into account the different views of girls, boys, women, men, older persons and diverse population groups.
- IDPs' views shall be collated through an intention survey which will also include the type of obstacles they see for return and the conditions they would like to see improved before returning.