

Promoting and supporting voluntary returns and relocations: position paper and parameters for managing risks

EHCT Position Paper, May 2022

Introduction

This position paper on promoting and supporting voluntary returns and relocations and parameters for managing risk in the event of a risk or occurrence of a forced return or relocation has been drafted based on the prioritized issues of the EHCT Protection Strategy endorsed by the EHCT in December 2021.¹ Following an introductory briefing on the subject to the EHCT in January 2022, discussions and consultations were held in the Durable Solutions Technical Advisory Group bringing together partners across the HDP nexus and across the country, as well as in the national ICCG to inform the development of this paper. This paper also draws on good practices for prevention and engagement observed.

Background

Returns and relocations of internally displaced persons (IDPs) in a less than voluntary nature is not a new phenomenon in Ethiopia. Government-sponsored relocations were being carried since 1960s.² Recently, another large-scale process occurred in 2019 with returns of thousands of IDPs organized in Amhara, Benishangul Gumuz, Oromia, Somali and SNNP regions implementing the Government's Strategic Plan to Address Internal Displacement.³ In reality, these returns were of a mixed nature spanning from voluntary to forced returns. Oftentimes, these returns were preceded by the dismantling of IDP sites, disruption of humanitarian assistance in areas of displacement and scant support in return areas. According to GP2.0 National Practice Case Study on Ethiopia's DSI, such returns might lead to secondary displacement especially in contexts of scarce resources and protracted displacement. Secondary displacements in turn have resulted in exclusion and marginalisation of people from humanitarian assistance and protection.

There are legal and institutional issues related to internal displacement including lack of clarity on the government agency which is taking the lead on the matter and the role of sub-national governments. Given the tense political environment in Ethiopia, and in particular the divisions that exist across the country and the sensitivities around which populations have a right to live in and govern particular locations, it is critical that aid actors have as clear a possible approach to managing the risks and pursuing humanitarian principles in a coherent way.

Position

The EHCT's position on forced returns is informed by the following standards that are derived from global and regional laws:

1. IDPs have the right to be protected against forcible return to or relocation in any place in which their life, safety, liberty or health would be at risk.

¹ Issue No. 6 of the Strategy states: '*Forced relocations and returns of IDPs persist as a problem undermining durable solutions and resulting in safety and security risks for those affected. More clarity is needed on the EHCT's position to prevent and respond to humanitarian needs emanating from forced returns and relocation*'. It asks the EHCT to '*adopt a clear position on forced returns and relocation to prevent such acts and to inform the humanitarian response in such an event*' and '*develop a clear position on forced returns and relocations, with a view to strengthen the EHCT's ability to prevent such acts, and outlining the humanitarian engagement in the event of a forced return/relocation given those affected have humanitarian needs.*'

² Alula Pankhurst and Francois Piguet, *Contextualizing migration, resettlement and displacement in Ethiopia in 'People, Space and the State: Migration, Resettlement and Displacement in Ethiopia, workshop proceeding, 2004.'* See also Alula Pankhurst, *Moving People in Ethiopia: Development, Displacement and the State*, James Currey, Oxford, 2009.

³ Strategic Plan to Address Internal Displacement in Ethiopia, Prepared by Ministry of Peace and National Disaster Risk Management Commission, April 2019.

2. IDPs have the right to make a free and informed decision as to their preferred durable solution.
3. Any planning and implementation of movements related to returns and relocations must be aligned with basic established humanitarian and human rights principles stated in relevant legislations and policy frameworks at international, national and regional levels.
4. Primary duty lies on national authorities at all levels to promote voluntary, safe and dignified return or relocation.

The EHCT, however, recognizes that in practice, return and other durable solutions decisions are informed by many factors, including situational, societal, communal, family and individual considerations. As a result, returns and relocations are often of a mixed nature. In particular, the EHCT clarifies the following common misconception to inform the ensuing parameters for prevention and engagement:

Misconception	Clarification
Forced and voluntary returns/relocations are two sharp and clearly distinguishable categories	Given return and relocation decisions are informed by a broad variety of factors, in most instances they are not either voluntary or forced, but of a mixed nature with 'forced' and 'voluntary' constituting two poles of a broader spectrum. This reality therefore requires a more nuanced and pragmatic advocacy and operational engagement.
Early returns are premature and indicative of forced returns	Returns sometimes happen briefly after displacement, with IDPs spending little time in displacement waiting and seeing what the developments are before returning. Such early returns are not as such indicative of forced returns and it is generally positive when IDPs decide to as little time as possible in a displacement situation. Such early returns should therefore in general be supported, where support needs arise.
Conditions must be conducive for returns to be voluntary	Free and informed decision-making is what determines the voluntary nature of a return or relocation, not the assessment by humanitarian or other actors on whether conditions are conducive. In reality, IDPs return or relocate under a variety of circumstances and any engagement by humanitarian, development and peacebuilding actors should follow IDPs' own decisions, irrespective of their organizational judgment of the conditions in areas of return or relocation.
In situations of displacement and return the primary focus should primarily be on the displaced populations.	The fact that a population has moved does not necessarily indicate that that population is more vulnerable than other communities in the places they are leaving or have moved to. In fact, their ability to move may indicate their relatively greater resilience. It may also show that those who remain in those places are more vulnerable. Focussing on locations of displacement therefore requires a comprehensive approach to all communities in that location, based on an understanding of their particular needs and vulnerabilities. Any support to physical movement itself can only ever be a small, short-term component of such an approach.

Parameters for prevention and engagement

The EHCT sets forth the following parameters aimed at informing actions preventing forced returns or relocations, as well as to guide the operational and advocacy engagement in the event of a forced return or relocation. In particular, they are designed to avoid the risk that aid is used as either a carrot or a stick to encourage population movements, either through reducing aid in areas of displacement or increasing it in areas of return. They include a few general principles and then focus on three core areas: 1) engaging with communities to ensure their needs and wants are at the heart of any response; 2) engaging with authorities as the primary duty bearer; 3) ensuring coordination amongst international actors.

General

1. Use of protection monitoring for early warning and inform prevention and mitigation measures. Such monitoring should follow IDPs in the event of return and also inform future evidence-based advocacy.
2. Establishment of protection sensitive procedures in line with international, regional and national standards to respond to the specific needs of vulnerable persons in situations of displacement.
3. Effective, collective and timely use of advocacy and information gathering tools. There are a range of tools that can be used by return working groups at local and regional levels to enable a contextualised and coordinated approach, including: operational guidance manuals, SOPs, checklists, operational plans, obstacle trackers, sustainability frameworks and operational matrices coordination. The Amhara Regional Returns and Solutions Taskforce and its Master operational plan for organized IDP return is one example.

Engaging with communities

4. Informed decision making to ensure return or relocation is voluntary. Lack of information is one of the major problems in return and relocation. Hence, IDPs must have access to accurate and impartial information which should be provided by authorities and humanitarian actors. Such information should include the current security situation and the level of assistance in place of origin or relocation. It is critical to understand how IDPs are currently getting information to develop appropriate strategies. Intention survey methodologies need to adequately account for the complexities of displacement and return in different areas of the country. Actors can also facilitate go-and-see and come-and-tell visits for IDPs in the areas of planned return. Information sessions should also include rights awareness education and counseling for IDPs.
5. Consultations with IDPs on the design and modalities of return or relocation. Information provision and consultations should not be limited to return or relocation but also possibility of the other durable solutions. Where there is a return trend emanating, it is important to not lose sight of those not yet ready to return, or who might wish to pursue a different pathway. Enabling an operational approach that “follows IDPs’ decisions” requires a diversification of the response, that comes with funding implications.
6. For determining the voluntary nature of returns, community-based protection structures are most suitable. Community engagement is also essential to understand barriers and vulnerabilities and can help to identify ways to address them early before pressure rises. Social cohesion and community-based conflict mediation and resolution can reduce the rise of communal tension translating into pressure to return.
7. The diversity of the IDP community must be considered in the consultations and the provision of information. These consultations hence need to take into consideration channels and modalities which are most used and trusted by youth, children, people with disabilities, the older people and other groups. Depending on the context, it is also good to include religious and clan leaders in those consultations.
8. The non-sustainability of involuntary returns or relocation should be incorporated in advocacy efforts. Such actions do not generally translate into a durable solution, but result in a deepening of need, secondary displacement or even exposure of risk.

Engaging with government

9. Supporting the government as the primary responsible organ in the protection of IDPs, following a whole of government approach. In the current context, this is unlikely to be straight forwards with overlapping mandates and responsibilities at different levels of government. While the focal points for the humanitarian system may be relatively clear in the form of the DRMBs, only engaging these actors is unlikely to lead to the most sustainable approach. The involvement of more developmentally-focussed actors will be important for longer-term thinking. And a clear strategy for engaging political actors will also be necessary to minimise political interference.
10. Strengthening understanding and knowledge of durable solutions among responders. There can be an assumption of negative intent when in practice actors are under extreme pressure and responding to situations they are not familiar with. The international system's language and jargon can also be bewildering. Taking time to ensure all actors are speaking with a common language can help avoid misunderstanding. This can take the form of consultation and discussion, or include specific capacity building efforts – on all sides.
11. Assertive, timely and coordinated advocacy in situations where concerns around less than voluntary return are realised. Coordination needs to include engagement with different levels of government as well as the different roles that different actors take on. As well as promoting the principle of voluntariness, advocacy can also focus on the likely negative operational implications of rushed returns in terms of future assistance needs and secondary displacements. Authorities shall be encouraged to present IDPs with safe and voluntary alternatives to return, such as integration in the place of displacement or in another part of the country, in order to reduce any coercive factors in areas of displacement.
12. Putting in place mechanisms for rapid discussion and coordination in a fast-moving environment. Given the often-mixed nature of returns and the inherent volatility of the situation, there is a need for robust and rapid coordination. If not, there is a risk that authorities will engage humanitarian actors on an individual basis leading to messy and uncoordinated responses, or on no assistance being provided. These mechanisms need to have at least two core functions: one, to enable the building of consensus amongst humanitarian actors based on the best available information; and two, to enable coherent dialogue with local authorities on appropriate responses and potential alternatives. To ensure harmonized positioning and coordination, in field contexts where agencies may be approached by authorities with requests for material support to return or relocation processes, agencies are requested to first coordinate their response at the relevant forums (the sub-national Return/Relocation Working Group/Taskforce, if this exists, or at a higher Regional/National level for as applicable), before committing any resources.

Collaboration and coordination

13. Coordination on gathering, analyzing and sharing data on returns to enable a collective response. This includes general reports of number and trends as well as location-level assessments at regular basis. Potential data protection concerns, particularly for the most vulnerable, must be considered early on in this process.

14. Necessity for the early involvement of recovery and development actors, as well as other stakeholders for a «whole of society approach». This is challenging given the different operating modalities – and sometimes physical location – of humanitarian and development organisations. Dual-mandate organisations can play a particularly critical level in linking coordination across the triple nexus, as well as clear points of contact between local level and national level coordination mechanisms. Focussing on resilience is likely to be a critically important common agenda for humanitarian and development actors. Donors should ensure that flexible funding is available to encourage early engagement by more developmentally-focused agencies.
15. Addressing the humanitarian needs of those affected by a less than voluntary return/relocation so as not to aggravate their situation. It is unlikely to be ethically acceptable to refuse to provide assistance to such populations, but any such support should be accompanied by continued interventions with the concerned authorities so as not to legitimize the action. Coordinated national advocacy has a critical role to play here.