

Explanatory Note on Voluntary Return¹

This note was prepared by the Protection Cluster-Islamabad to provide brief guidance to humanitarian and development actors on the right of IDPs to make a free and informed choice to return, or integrate locally or elsewhere in the country in the context of the 2010 Pakistan floods.

The Guiding Principles on Internal Displacement (1998)² should inform all actors in their assistance and protection response – with the understanding that the Government has primary responsibility for assisting and protecting IDPs. According to Principle 28(1): “Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons 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.”

What is meant by Voluntary, Safety and Dignity?

All returns must be conducted voluntarily, in safety and dignity and with informed choice in accordance with international human rights law, international humanitarian law, and humanitarian principles. The right to a durable solution includes the right to return to places of origin, or settle in another location. It also includes the right to integrate at the place of displacement. A focus on return as the only durable solution may lead to premature and unsustainable return.

Voluntary – Voluntariness implies the freedom to choose and the ability to make an informed decision:

- 1) *Freedom of choice* is defined, first, by the absence of any physical, psychological or material pressure, and second, by the availability of choices. Consequently, any use of force, threats, coercion or intimidation directed at internally displaced persons will contradict the principle of voluntary return. This also includes indirect coercion including making assistance conditional on specific choices, the provision of erroneous information, denial of basic services or setting arbitrary time limits to end assistance or closing 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.
- 2) *An Informed Decision* means that the decision is taken by IDPs themselves based upon relevant information on the situation in the place of origin and en route. It will also usually imply that there is a known alternative. IDPs need to have access to accurate and objective information on 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.
- 3) *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 - Safe return includes both physical safety, legal and material safety, both during the return and in the place of origin. *Physical safety*: 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, safe routes, housing and livelihoods, areas free of mines and unexploded ordinance. *Legal safety*: the presence of adequate law enforcement mechanisms and access to justice, particularly as regards recovery of property and housing. *Material safety*: access to basic means of survival. Material safety implies 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.

Dignity - In general terms, in the context of IDP returns the right to dignity includes respectful treatment by authorities, and above all 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. Dignified return in practice means that returning families are not “manhandled” - that they can return unconditionally and if they are doing so spontaneously they can do so at their own pace, that they are not arbitrarily separated from family members, and that they are treated with respect and full acceptance by the authorities.

For further guidance: See the IASC Framework on Durable Solutions for IDPs: <http://pakresponse.info/Default.aspx?tabid=84>

¹ This note was produced in the context of large-scale returns however the principles elaborated in this note are equally applicable when IDPs choose other durable solutions, including local integration or settlement elsewhere in the country.

² The Guiding Principles are recognised by states (including Pakistan) as “an important international framework for the protection of IDPs”. The Guiding Principles draw from and reflect international human rights law and international humanitarian law. The right to freedom of movement is enshrined in the Constitution of Pakistan.