



# JOINT NGO RECOMMENDATIONS ON DURABLE SOLUTIONS FOR THE GLOBAL COMPACT ON REFUGEES' PROGRAMME OF ACTION

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## WHAT ARE DURABLE SOLUTIONS AND WHY THEY ARE IMPORTANT?

Durable solutions are an essential element of global refugee response and governance founded in human rights. Forced displacement violates human rights and undermines human dignity and human development potentials. Bringing an end to forced displacement is crucial for affected human beings but is also of benefit for societies and States. Durable solutions are critical to the sustainability of development – both as a catalyst for development and as mitigation of potential negative impacts of prolonged displacement.<sup>1</sup>

A durable solution is realized when a refugee no longer has any specific assistance and protection needs linked to their displacement, and can enjoy his/her rights without discrimination resulting from his/her displacement<sup>2</sup>. At present, the three durable solutions that are recognized by the international community for refugees are:

- return and reintegration in the country of origin
- local integration into the country of asylum
- resettlement to a third country

Access to durable solutions, however, is a glaring gap in refugee response. In 2016, only 741.000 refugees were supported in a safe return to their home country or in a resettlement process. No conclusive figures exist on local integration.<sup>3</sup> Comparing this to the total 22.5 million refugees and the fact that the average length of displacement is 10 years<sup>4</sup>, it is clear that solutions are not available for the majority. Further, the characteristics of displacement have shifted in the last decade which complicates access to durable solutions. With a very low number of conflicts resolved and/or endemic complex conflict patterns, half of refugees today live in situations of protracted displacement. The top refugee-hosting countries are fragile and conflict affected,<sup>5</sup> and most face severe socioeconomic development challenges that hinder their ability to provide for their own population. Yet, they carry disproportionate share of the global responsibility for hosting refugees while not being compensated and alleviated enough by the international community. On the contrary, across the world, refugee has become politicized and too many States shy away from taking their fair share of responsibility to provide solutions to refugee displacement.

This brief highlights six key priority areas and 10 recommendations related to durable solutions for refugees that should be reflected in the Programme of Action of the Global Compact on Refugees. It draws on our collective history as operational organizations, our engagement in the global policy dialogues, and our experiences in CRRF pilot and non-pilot countries. In developing the Programme of Action, we ask Member States to expand the availability to all three durable solutions and to ensure solutions are comprehensive and high quality.

<sup>1</sup> Roger Zetter (2014): Reframing Displacement Crisis as Development Opportunities; World Bank Group (2017): *Forcibly Displaced: Towards a Development Approach Supporting Refugees, the Internally Displaced, and Their Hosts*

<sup>2</sup> Definition in the IASC Framework on Durable Solutions for Internally Displaced Persons but also applied in refugee return settings. See UNDP & UN-HCR (2016): Joint Strategies to support Durable Solutions for Internally Displaced Persons (IDPs) and Refugees Returning to their Country of Origin).

<sup>3</sup> UNHCR (2016): Global Trends Report on Forced Displacement, p.28: 'Given the complex issues involved in local integration, measuring and quantifying its success is challenging.'

<sup>4</sup> World Bank Group (2017); Ibid. p. 25

<sup>5</sup> World Bank Group (2017); Ibid. p. 11

## PRIORITY 1: Safeguard the institution of asylum as a basis for durable solutions

Safeguarding the institution of asylum includes fair and efficient access to asylum procedures, access to registration and documentation, access to due process during asylum adjudication, and upholding the legally binding principle of *non-refoulement*. Restriction on the right to seek asylum, refoulement practices, and coerced, unsafe returns—which happen in too many places—are in violation of international law and hinder access to durable solutions. Such practices expand and deepen the global forced displacement problem. As we have seen in Turkey, Jordan and some European countries, closed borders lead to desperate human suffering in border zones<sup>6</sup>; and as we have seen in Afghanistan, Myanmar and Somalia, premature returns lead to secondary displacement and precarious living conditions – particularly harmful for women, young people, and children.<sup>7</sup> Moreover, premature returns risk contributing to further destabilization and crisis in countries of origin.<sup>8</sup> Refugees' restricted access to asylum is often closely linked to real and legitimate problems of the over-stretching of services in countries neighbouring conflict zones. Safeguarding the institution of asylum, including the availability of longer term international protection is a global responsibility.

### Recommendations for the Global Refugee Compact and its Programme of Action

**#1:** The Global Compact on Refugees should affirm the **prohibition of refoulement** and the **Programme of Action should provide global guidance on its application**. This includes:

- Agreed criteria as to what constitutes *refoulement* in the absence of physical force by State actors (for example, coercive State policies under which refugees are detained indefinitely unless they choose to return). These criteria must reflect States' obligation to abstain from seeking to return a refugee or asylum seeker 'in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened'.
- Adherence to procedural safeguards for particular vulnerable groups, including children, LGBTQ persons, victims of SGBV and trafficking

**#2:** The Global Compact on Refugees should acknowledge that responsibilities for provision of asylum must be met by the international community as a whole, rather than falling disproportionately on refugee hosting countries due to their proximity to areas of conflict or disaster. **The Programme of Action should establish the principles for a binding responsibility-sharing mechanism**, and UN Member States should adopt a resolution enacting such a mechanism.

## PRIORITY 2: Improve the quality of asylum to achieve more effective and durable solutions

Durable solutions are not sufficiently prioritized or mainstreamed into refugee responses today. In protracted settings emergency or humanitarian interventions continue for years, even decades despite consensus that this causes more harm and is ineffective and inefficient.<sup>9</sup> Programs to support education and livelihoods—lynchpins of self-reliance and of future solutions—go dramatically under-funded.<sup>10</sup> Prolonged humanitarian response results in deteriorating standards of living and erosion of human development potential among refugees.<sup>11</sup> Even more, humanitarian responses do not typically address local development needs of host communities or help to mitigate structural negative impacts of refugee hosting, such as strains on public services. At the same time, hosting states are often reluctant to focus development investments on non-citizens, especially in states where resources are already scarce and/or not reaching the most vulnerable or marginalized citizens.

If refugees are entitled and enabled to become self-reliant and participate in the economic and social life of their host communities, they stand a much better chance of becoming net contributors to their communities and local economies, and of forging a path towards lasting solutions. A secure and safe space of asylum can act as a transformative environment for refugees. It is possible and feasible to increase the quality of asylum in a way that benefits both refugees and hosting populations<sup>12</sup> - and ultimately increases the likelihood of achieving durable solutions, including voluntary, dignified and sustainable returns. This requires legal and policy frameworks and their enforcement that favour inclusion of refugee populations into the public and economic life of their hosting communities; and it requires willingness of responding stakeholders to focus on outcomes for people.

### Recommendations for the Global Refugee Compact and its Programme of Action

**#3:** The Global Refugee Compact should increase the quality of asylum for refugees worldwide by reaffirming the New York Declaration commitments for refugee self-reliance and support to hosting communities. **The Programme of Action should establish inclusion, self-reliance and resilience-building as a standard modus operandi** in refugee response that increases the potential for development approaches to be implemented effectively, mitigates the challenges faced by hosting countries and supports longer-term access to durable solutions, including voluntary, dignified and sustainable return.<sup>13</sup> A solutions-focus in the Programme of Action could be established by:

- Reinforcing standards for quality of asylum. Existing standards for quality of asylum, including the necessity of ensuring refugees and asylum seekers have access to legal stay while the conditions underlying their need for asylum persist, must be strengthened and greater accountability for meeting those standards must be promoted.
- Setting ambitious benchmarks, e.g. to ensure refugees have non-discriminatory access to public services and livelihoods opportunities while in asylum. Refugees should be able to enrol their children in school, obtain a job, and receive health benefits and other public services within the first months of their displacement.

<sup>6</sup> See for example: Norwegian Refugee Council & Mercy Corps (2017), [Don't Forget Us – Voices of young refugees and migrants in Greece](#); Danish Refugee Council (2017); [Fundamental Rights and the EU Hotspot Approach](#); IDMC (2017); [Global Report on Internal Displacement 2017](#), p.55

<sup>7</sup> See for example, Internal Displacement Monitoring Centre, Global Report on Internal Displacement 2017, p.55.; Norwegian Refugee Council & Mercy Corps (2017), [Don't Forget Us – Voices of young refugees and migrants in Greece](#)

<sup>8</sup> See for example: Amnesty International (2017), [Forced Back to Danger: Asylum-Seekers Returned from Europe to Afghanistan](#); D. Keen (2017): Anything but safe. Problems with Protection of Civilians in so-called "safe zones"

<sup>9</sup> Save the Children, [Restoring Hope and Building Futures](#), 2017. ReDSS [Time to Invest and Support Uganda's Progressive Refugee Policy](#), 2017. IRC & CGD, [Refugee Compacts: Addressing the Crisis of Protracted Displacement](#), 2017.

<sup>10</sup> See for example: Human Rights Watch (2017), [Following the Money: Lack of Transparency in Donor Funding for Syrian Refugee Education](#), pp. 14-21; Migration Policy Institute (2016), [Building Livelihood Opportunities for Refugee Populations: Lessons from Past Practice](#); 3RP (2017), [Consequences of Underfunding](#)

<sup>11</sup> Education for example, central to any long-term solution, is a vastly neglected sector both in countries of asylum and countries of return. Currently 3.5 million refugee children are out of school because of their displacement. This will negatively impact their ability to contribute and thrive once a solution has been achieved. See [UNHCR \(2017\), Left Behind: Refugee Education in Crisis](#)

<sup>12</sup> Betts, Bloom, Kaplan & Omata (2017); Refugee Economies; Oxford University Press

<sup>13</sup> IRC & ReDSS (2016) Early Solutions Planning in Displacement

- Setting a standard for a solutions-friendly policy environment. The Programme of Action should outline core rights and be based on articles of the 1951 Convention, which ensure a decent quality of asylum, including the right to freedom of movement, the right to adequate documentation, the right to work, and the right to access public services, in particular education and health, without discrimination.
- Provide guidance for inclusion of refugees into national development plans. With inspiration from recent examples notably from Uganda and Turkey, the Programme of Action should provide guidance on how to successfully include refugees into national development and sector plans.
- Setting a standard for joint analysis. The Programme of Action should set the frame for a multi-stakeholder solutions-analysis led by local authorities and with robust participation of refugees and hosting communities focusing on quality of asylum, development impacts (positive and negative) and conflict potentials of prolonged refugee hosting.<sup>14</sup>
- Describing requirements for resource mobilization in favour of solutions. The Programme of Action should describe requirements of funding instruments needed to realize a solutions focus (multi-year results-based financing) as well as mechanisms to mobilize required technical capacities via deployment programmes and others.

### PRIORITY 3: Promote voluntary, safe, dignified and sustainable return

Return is the preferred durable solution for States and for many, but not all, refugees. However, returns do not automatically bring about durable solutions. Vulnerabilities related to previous displacement are stubborn. Reintegration is therefore an endeavour that prescribes long-term investment as we have seen in places like Afghanistan, where formerly displaced populations still do not live on par with the local populations, and in Burundi, where returnees not properly reintegrated are the most prone to repeated displacement. When coerced, unsafe return or *refoulement* occurs, returnees are then as vulnerable as when they left, if not more so. Somalia and Afghanistan provide examples of how a rapid return process meant that people, notably children, were put in unsafe environments, where shelter, schools, and other basic services were not in place, and some of them had to displace again.<sup>15</sup> In the Northern Triangle of Central America, people fleeing gang violence often use all of their economic resources to try and reach safety; deportation to their place of origin leaves them both facing extreme danger and economic destitution. Returns only result in durable solutions when they are safe, voluntary and matched with comprehensive preparation and reintegration efforts.<sup>16</sup>

<sup>14</sup> Taking inspiration from e.g. the ReDSS Solutions Analysis Framework which has been successful in garnering multi-stakeholder participation and support in support of solutions in the East Africa region and from the JIPS Durable Solutions Analysis guidance, forthcoming

<sup>15</sup> See for example: Human Rights Watch (2017), Pakistan Coercion, UN Complicity - The Mass Forced Return of Afghan Refugees; Refugees International (2016), Refugee Returns from Kenya to Somalia: "This is about fear... not about choice";

<sup>16</sup> Taking inspiration from e.g. the ReDSS Solutions Analysis Framework which has been successful in garnering multi-stakeholder participation and support in support of solutions in the East Africa region and from the JIPS Durable Solutions Analysis guidance, forthcoming

### Recommendations for the Global Refugee Compact and its Programme of Action

**#4:** The Programme of Action should reinforce commitments in the New York Declaration to promote voluntary, sustainable return and reintegration (Annex 1, § 12), i.e., by reinforcing existing legal norms and codifying good practices for return. More specifically, the **Programme of Action should contain the following quality standards for dignified and sustainable return:**

- Uphold the asylum space as long as required as per international refugee law (see above).
- Respect for human rights in the return process. The Programme of Action should be based on a human-rights based approach to refugee response and solutions, including to return, by making clear that all returns must be carried out with respect for fundamental human rights and in a secure, humane and dignified manner where people concerned are given a chance to prepare and influence the return process. Family unity must be respected and minors should never be returned in contravention of the best interest of the child.
- Operationalize the core principles of voluntariness, safety and dignity in the return process. The Programme of Action should support the operationalization of core principles with quality benchmarks for voluntariness (for example, the quality of counselling and information, evaluation of push and pull factors), safety in return areas (mine/UXO contamination, prevalence of violence, security provision), and for dignity (for example, potential for civic participation, preservation of family unity).
- Comprehensive return assistance. The Programme of Action should expand on Annex 1 recommendations of best practice for comprehensive return assistance that comprises all phases of the return process, incl. access to independent counselling and appropriate and timely information in the pre-return phase; adequate time to prepare – mentally and otherwise; return movements that happen in safety and facilitate the return all the way home depending on the preference of the person of concern; and lastly, support to returnees and their receiving communities to enable successful and peaceful reintegration. The IASC Framework on Durable Solutions for IDPs is a solid reference point for indicators of successful return and could meaningfully be adapted to the Programme of Action.<sup>17</sup>
- Gradual return. In many instances, return becomes more sustainable if persons of concern are allowed an opportunity to complete the return process gradually, e.g. by being allowed to move back and forth<sup>18</sup>, and the Programme of Action should encourage a practice of gradual return.
- Collaborate with diaspora. Diaspora communities play an important role in shaping attitudes and incentives for (or against) return. The Programme of Action should encourage collaboration with diaspora communities in return processes.
- Prevent future forced displacement. Efforts to build conditions, including a society without discrimination, conducive to return and reintegration should entail building conditions that will prevent future displacements with a role for all stakeholders to support (in the ways that are possible for them) governments to anticipate and mitigate the conflicts that cause displacement

<sup>17</sup> The ReDSS solutions framework provides a good example of how to operationalize the IASC framework also in refugee situations. The Government of Somalia, for example, has employed the tool in its 'Durable Solutions Initiative,' to develop area-based, multi-stakeholder action plans for solutions.

<sup>18</sup> In Zambia cross-border migration and mobility of Angolan refugees facilitated sustainable and voluntary repatriation. In the Balkans, extensive practice of go-and-see visits enabled large-scale voluntary repatriation DRC (2014): What Facilitates Solutions to Displacement? Lessons learned on key drivers for displacement solutions.

## PRIORITY 4: Deliver on third country solutions

Opportunities for resettlement are not keeping pace with the growing number of vulnerable refugees who require solutions. As a core element of global responsibility sharing, resettlement aims to support hosting countries by providing solutions to the most vulnerable refugees, whose needs may be particularly difficult to meet in frontline states, and has both tangible humanitarian value as well as symbolic political value. Resettlement also plays a critical role in providing a solution to the most in-need refugees for whom local integration or voluntary return is not an option. While it is critical that resettlement continue to be available first and foremost to the most vulnerable, refugees who may not be prioritized for resettlement should benefit from complementary admissions schemes as long as these pathways guarantee minimum protection safeguards (e.g. guarantee *non-refoulement*, ensure access to appropriate identity and travel documents, preserve family unity). States opting to admit refugees through complementary admissions schemes outside of the traditional UNHCR construct (e.g. humanitarian admissions, expanded family reunion, medical evacuation programs, student visas, refugee access to labour migration schemes) should not do so at the expense of resettlement places that must be offered based on need.

While not all states have the capacity to support large resettlement programmes, there are a variety of good practices of complementary pathways which states can build upon and replicate. Good examples include private sponsorship initiatives implemented in Canada and the humanitarian visa programme in Brazil<sup>19</sup>. These types of arrangements require policy changes to create a favourable environment for welcoming refugees. Increasing the offer of complementary pathways would make a significant difference for refugees currently facing limited options for protection.

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**#5:** The Programme of Action should reinforce commitments in the New York Declaration to promote third country solutions, i.e. by setting targets for the total number of resettlement and other additional and complementary pathways. The Programme of Action should establish a system for joint multi-year planning that encourages States with resettlement programmes to scale up their national commitments and States that do not yet have existing programmes to begin resettling. This could be achieved by scaling up processing of the more than 1.2 million refugees who have already been identified by UNHCR as in need of resettlement, while also increasing alternative admissions pathways focusing mainly on family reunification. A platform established within the Program of Action could bring key stakeholders on board and facilitate finding context-appropriate durable solutions

**#6:** The Programme of Action should establish a mechanism for states with long-standing resettlement programs to provide support through technical assistance and exchange of best practices to those that do not yet have existing or well-established resettlement programs to help with their creation.

**#7:** The Programme of Action should affirm complementary admissions pathways outside of traditional resettlement that meet the needs identified by UNHCR minimum protection safeguards. Family reunification opportunities must be prioritized, with specific targets for children.

## PRIORITY 5: Maintain the opportunity for local integration

Refugees have a right to return to their country of origin. However, the reality is that for some refugees, repatriation will not be possible for a number of years or may never be an option and resettlement not achievable. The Global Compact on Refugees should facilitate local integration as durable solution option for some refugees.

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**#8:** The Programme of Action's section on Durable Solutions should promote the option of local integration with reference to lessons learnt and good practice<sup>20</sup> from contexts of local integration of refugees.

## PRIORITY 6: Secure inclusion and agency of people of concern in durable solutions processes

Refugees and host communities are the primary agents in achieving solutions – be it temporary local solutions or local integration, return or third country solutions. Their participation in solutions processes, including early planning and decision-making, is crucial to achieve effective and sustainable responses and ultimately durable solutions.<sup>21</sup> However, this is often not the norm, particularly as refugees fall outside of the traditional state-citizen relationship and accountability structure.

### Recommendations for the Global Refugee Compact and its Programme of Action

**#9:** The Programme of Action should establish **mandatory modalities for inclusion and participation of refugees and host communities in policy and program decisions, including for durable solutions**. The inclusion and agency of people of concern should be codified in the Programme of Action both when it comes to participation and co-creation in programme response as well as in the political processes that determine the options, and establish the parameters for durable solutions. Challenges of representation and fairness should be addressed in the Programme of Action with reference to best practice in development approaches, such as multi-stakeholder decision-making bodies that include refugees and/or organizations that represent them.

<sup>20</sup> DRC (2014): What Facilitates Solutions to Displacement? Lessons learned on key drivers for displacement solutions. DRC (2014): Local Integration in Action

<sup>21</sup> DRC (2013): Durable Solutions. Perspectives of Somali Refugees living in Kenya and Ethiopian Camps and Selected Communities of Return; DRC/NRC/IRC Durable Solutions Platform (2017); "We want to return to a land where we can plant a seed". Syrian Perspectives on Durable Solutions

## PRIORITY 7: Make solution approaches sensitive to vulnerable groups, in particular children

Current approaches to solutions tend to be child-blind. While over half of the world's refugees are children, their vulnerabilities and needs go unmet and unreported. Increased physical vulnerability, high dependency on others and displacement vulnerabilities that have lasting impacts on children's lives must not be under-represented in the solutions agenda. In many circumstances there are limited measures and capacities to support that a child's solution decision is in his/her best interest. Even in a solutions environment, child-specific indicators are not common in monitoring and reporting.

Children become adults in protracted displacement. It is essential for the successful adult transition that children in displacement are able to learn and develop. Education, as an example is a vastly neglected sector both in countries of asylum and countries of return. Currently 3.5 million refugee children are out of school because of their displacement. Lack of education will not only affect displaced children at a personal level, but post-war economies of countries like Syria and South Sudan will also be significantly and negatively stunted by the lack of education of generations.

### Recommendations for the Global Refugee Compact and its Programme of Action

**#10:** The Programme of Action should outline measures to promote child-sensitive durable solutions, including:

- Prioritization of children and their protection and development in both the Refugee Status Determination process and for decisions on resettlement. Timely referrals through child friendly and sensitive approaches must be accessible
- Access to quality learning opportunities within the first month of their displacement. The level and sustainability of support for refugee education must be increased<sup>22</sup>
- Guidance to communities and care-givers to support children and young people who arrived as unaccompanied refugees in their integration<sup>23</sup>

<sup>22</sup> Promising Practices in Refugee Education joint-initiative provides ten key recommendations for improving quality education opportunities for refugee children. Further, Save the Children's Learning and Well-being in Emergencies, is identified as significant model to improve refugee children's foundational learning, reading, literacy and social emotional skills and knowledge, and strengthen teacher capacity to better monitor and respond to learning achievement assessment.

<sup>23</sup> In Sweden, Save the Children's Transforming Care approach helps and guides adults to understand and meet the basic needs of children and young people who have suffered serious and traumatic events.



