



Returns Working Group

Operational Guidelines for the Provision of Assistance to Returns in Iraq

Overview

By 01 November 2016, the IOM DTM had estimated that the number of people who had returned to their areas of origin since late 2014 had passed the 1 Million threshold. According to the 2017 Humanitarian Response Plan (HRP), partners estimate that 1.9 million people returning to their homes during the year will require assistance. The conditions facing returning families vary enormously. Some returns areas are contaminated by explosive hazards. Public infrastructure and private housing have been destroyed and damaged in at least half of retaken areas. Essential services are available in only some districts (...). Many families expect compensation. Acts of retaliation continue to fuel social tensions (...). Efforts by location authorities to move families to their original homes, even if conditions for safe, voluntary and dignified returns are not yet in place, are expected to accelerate as soon as ISIS is expelled from Mosul, Hawiga and Tal Afar. (HRP 2017).

General Guidelines

In accordance with the HRP Objective 2: "facilitate and advocate for voluntary, safe and dignified returns", the Returns Working Group (RWG) developed operational guidelines¹ for the provision of assistance to returns in Iraq. These guidelines offer practical, on the ground guidelines on a) when assistance should be provided to returnees b) what kind of assistance should be provided². The content will be added to and amended as required by the evolving situation, especially in the event that humanitarian actors are to provide life-saving assistance to IDPs forcibly returned to their place of origin, or any other form of returns that are not voluntary, based on free and informed choice. The following principles are also to be promoted with the relevant authorities at all levels, in the expectation that many families may be encouraged to return home once ISIS is militarily defeated.

1. The HCT/HC position on return is that humanitarian assistance to return can only be considered if conditions of safety and dignity are met in the location of origin/return area and throughout the routes used from location of displacement to location of origin/return.

Criteria are as follows:

- *Physical safety*: return areas are free from military activities, free of mines and unexploded ordnance, physical safety of the IDP is provided by the state security forces.
- *Legal safety*: legal and administrative barriers to return are lifted and returnees can register their return and access civil status and property documentation.
- *Material safety*: Access in the early phases of return to means of survival and basic services, such as potable water, health services and education is available.

2. The ultimate responsibility of the return process rests with the **National and Governorate level authorities**. Humanitarian organizations may complement the efforts of the authorities and of the State Institutions. Humanitarian interventions in support of return should be in full accordance with the Guiding Principles on Internal Displacement, supporting only those returns that are voluntary based on free and informed choice, non-discrimination, and taking place in safety and with dignity.³
3. Agencies should endeavor to provide information to IDPs prior to their return, about their destination, as long as such information is readily available and can be communicated in line with the "do no harm" approach.

1 Please see Protection Cluster Guidelines: <https://goo.gl/LN92Lp>

2 Building upon these guidelines, the RWG developed standard operating procedures (accessible here: <https://goo.gl/8tcb3v>)

3 Guiding Principles on Internal Displacement accessible here: <https://goo.gl/ccuUyy>

Information must be supported to ensure IDPs make informed decisions about their return and where to settle. This includes security information, the extent and availability of services and assistance.

4. In the event of forced returns, prior information and sensitization campaigns must be rolled out to strengthen the potential for community based advocacy and allow returnees to articulate their own protection concerns by linking them to local duty bearers.
5. The humanitarian community will continue to advocate strongly against forced return. However, in cases where the return is forced, the humanitarian imperative may compel humanitarian actors to provide essential **life-saving assistance**, taking care to ensure that such assistance does not undermine the rights of individuals or communities in accordance with the principle of “do no harm”. There should be clear and principled limitations on the extent of assistance provided to forced or coerced returns, which would potentially anchor returned populations in unsafe areas. Furthermore, the humanitarian community should strongly advocate against returns that are discriminatory.

In support of above mentioned points, a number of general guidelines should be adhered to:

- **Seeking safe and sustainable solutions to end displacement acknowledging voluntary return as a preferred outcome** while supporting possible alternatives in case IDPs are unable or unwilling to return.
- For return to be sustainable, self-reliance and reduction of need for continuing external support is crucial. IDPs should be supported in priority, in seeking their **right to have restored to them property and possessions** of which they were arbitrarily or unlawfully deprived, or where this is not factually possible, in obtaining appropriate compensation.
- **Do no harm:** Assessment in areas of returns should take into account the needs of other population groups present in the area (*stayees*, new IDPs, host community) avoiding tension based assistance. Ensure that vulnerable groups are prioritized in the assistance and that most appropriate intervention be decided based on strong conflict sensitivity and scenario analysis.
- **Prioritize vulnerable groups:** A community-based approach giving due consideration to specific needs based on prioritization/vulnerability criteria is an essential aspect of assistance to returns.
- **Coordinated engagement:** Active liaison with all stakeholders involved in the returns response is vital to ensuring an appropriate, timely and comprehensive response.

Operational Framework

I. Definitions

A returnee is defined as someone displaced from their area of origin who is returning to their original home or neighborhood.⁴ If they cannot settle in their original home or neighborhood, they are considered as secondarily displaced and therefore the term ‘returnee’ should not be applied to those instances.

However for many, there is seldom a predictable path from displacement to a finite physical end point and a fixed outcome, such as return to an original / fixed abode; instead a continuum of mobility further increases IDPs’ vulnerability. As such, secondary displaced in the context of IDPs being deported, expelled from their displacement, with an intent to forcibly return them to their areas or origin, are to be factored in humanitarian planning as part of potential and/or imminent returnee population with increased vulnerability.⁵ Finally, even after displaced populations have returned, they may still have urgent humanitarian priorities.

a. Type of Return

In Iraq, several types of return have been observed:

⁴The question then arises as to whether returnees who are returning to their neighborhoods but not their homes, are to be considered returnee in the strictest sense and entitled to assistance. How we define neighborhood determines the type of assistance (based on non-discrimination principles) humanitarians are to provide. A related query – people who return to their own neighbourhood, but occupy other people’s homes, may be considered returnees but looking at non-discrimination and do no harm principles, are perhaps posing challenges to the type of assistance humanitarians can deliver.

⁵Forced return remains a protection concern. As such the RWG recommends that all partners refer to the Protection Cluster as the starting point when delivering assistance.

- Spontaneous return to places of origin
- Spontaneous return to the area of origin, but not to the original home. This includes instances where IDPs occupy the homes of other displaced persons.
- Voluntary return to places of origin organized by the government
- Involuntary returns which are either forced or coerced by the security forces, armed groups, and/or government.⁶
- Returns under which safety, dignity or voluntariness cannot be verified.⁷

II. Assessment

What are the conditions that must be met in the location of origin for returns to be principled and thus supported by humanitarian action/assistance? The following criteria/factors help determine most appropriate interventions in any given scenario:

- Was the return voluntary / did the people wish to return to their place of origin or were they coerced/forced to return?
- Has the population been provided with complete, objective, up-to-date, and accurate information, which will allow them to make a free, informed, and individual choice?
- Is the security situation in the area stable?
- Has the area been de-mined/ de-contaminated?
- Are in place minimum services needed like water and electricity?
- Is the area accessible to humanitarian actors?
- What is the proximity to active conflict?
- Has the civilian administration been reestablished (at least in its minimal form) in the area of return?
- Does the population have confidence in the security forces controlling the area?
- Is there a presence or limited presence of armed groups?
- Does the population wish to remain in their place of origin or do they consider secondary displacement as a more secure alternative?
- Do they have freedom of movement on return to their place of origin?
- Are there arbitrary arrest or detentions?
- Are there killing, physical assault, abduction, disappearances taking place?
- Are there specific groups being discriminated against, not being allowed to return?
- Absence of serious risks or threats of physical harm (post-conflict violence, inter- community tensions)?
- Are returnees allowed to access humanitarian actors/assistance?
- Are there availabilities of and access to livelihoods opportunities in areas of return?

a. Framework of Analysis

In some instances, humanitarian assistance to returnees may generate or exacerbate conflict. Therefore, humanitarian principles and the principles of do-no-harm should guide all action related to IDP return. A basic conflict analysis should be carried out, to ensure that humanitarian actors do not inadvertently do harm. Suggested framework for analysis:

- **Structures:** what are the long-term factors underlying conflict in the area? This may include security, political, economic, social factors.⁸
- **Actors:** who are the actors involved? What are their interests, relations, capacities, peace agendas, incentives?⁹

⁶ Which can lead to return movements interrupted: (1) IDPs settle in transit site, as IDPs are not granted permission to access their area of origin. Movement amounts to secondary displacement. (2) IDPs *who fall off the humanitarian grid*: between initial displacement site and return to area or origin, individual are stuck between access areas and are unaccounted for.

⁷ These include returnees arrived in area of origin/final destination despite having expressed fear about security concerns, including presence of militias and the risk of explosive hazards, destruction of infrastructure, HLP and lack of basic services.

⁸ For example: (1) Returnees may disagree on systems of governance or security; (2) in disputed areas, the authorities may prioritize the return of one group of IDPs over another; (3) IDPs may prefer to return to urban areas and are not willing to return to their rural area of origin, which has the potential to generate conflict between host community and returning IDPs, or between different groups of IDPs.

⁹ For example: (1) Different groups of IDPs may hold competing interests. It is essential that we recognize these different interests, so we do not prejudice or favour one group of IDPs over another; (2) the authorities and returning IDPs may hold competing interests, and very different capacities to pursue those interests.

- **Conflict dynamics:** what are the triggers for increased violence? What are the capacities (institutions, processes) for managing conflict? What are the likely future conflict scenarios? ¹⁰

Particular attention should be paid to **secondary occupation**. During the time of displacement, IDP housing, land and property may be secondarily occupied or even sold to third parties. Both of these situations may create complicated HLP issues, which could lead to friction and hostility between IDPs who intend to return and the current property occupants.

b. Specific factors to consider for areas recently recovered:

There is a risk for humanitarian aid to represent a pull or push factors in unsafe areas. This risk is not a valid reason to leave these populations without any assistance. Risks must be however, mitigated. In case assistance is delivered on a regular basis, early recovery should be a priority since the earliest phases. Therefore, quick livelihoods and market assessments should be rolled out as soon as possible. Risks connected to premature return include threats to safety due to **proximity to the front line, UXOs and mines**, and/or **the possibility that these areas will fall again under the control of armed groups (AGs)**.

c. Case of mixed combatant and civilians:

In the event that humanitarian assistance is delivered in areas where the population (including returnees) are living amongst combatants, it is important to consider if first responders' assistance encompasses that of local authorities, and in addition, that of security forces (be it state or non-state sponsored). In situations of mixed combatant and civilian populations, humanitarian actors must evaluate whether to provide assistance, and if so, how to do so without compromising the humanitarian principles.

Issues for consideration include:

- **Humanity:** Does the situation require the intervention of humanitarian actors to address human suffering, protect life and health, and ensure respect for human beings?
- **Neutrality:** Is it possible to address the human suffering without taking a side (or being perceived to take a side) in controversies of a political, racial, religious or ideological nature? How can humanitarian actors mitigate the risks that their assistance will not be perceived as neutral?
- **Impartiality:** Do humanitarian actors make decisions on the basis of need alone, giving priority to the most urgent cases of distress and making no distinctions on the basis of nationality, race, gender, religious belief, class or political opinions?
- **Independence:** Can humanitarian action be conducted in a way that is autonomous from the political, economic, military or other objectives that any actor may hold with regard to areas where humanitarian action is being implemented?
- **Do No Harm:** Will the population be targeted if assistance is provided? Can we provide services or assistance safely for both the population and humanitarian actors? Will aid be diverted to armed actors and in essence be viewed as humanitarian support to these groups? Can (or would) these populations instead access services (e.g. health/psychosocial support) in a safer, more neutral location that can be set up nearby returnee area?

III. Response

1. Preparedness

Provision of assistance to return should follow a logic of preparedness. There is a need to better understand IDPs' intention and voluntariness to return. These intentions should also be measured against conditions in return areas, to ensure the return is safe and dignified. Pre-return activities should be considered based on information collected at the displacement site level (ex: exit questionnaire in camps) and the area of return itself (indicate on possibilities to return in safety and dignity). Pre-return activities and assessments include the following:

- Communication with communities
- Intention surveys to determine voluntariness of return

¹⁰For example: (1) Consider the role of humanitarian actors and how we may contribute to conflict by providing assistance that legitimizes a discriminatory return policy; (2) HLP issues; (3) Rural versus urban return.

- Protection monitoring/Rapid Protection Assessment
- Market assessments
- Social tension assessments / mapping
- Pre-return contamination assessments of village
- Pre-return infrastructure and shelter assessments
- Education access assessment
- Pre-positioning of assistance: shelter, food, WASH, NFI, education, etc.
- Village profiles
- Pre-departure Mine Risk Education

2. Primary data collection in areas of return

Primary data collection if needed, is conducted with a **mixed population lens**¹¹. Centrality of Protection is key to ensure that protection is factored in at every stage mentioned in these operational guidelines.¹²

3. Intervention

In return areas, a multi-sectorial response is recommended, as informed by Cluster Line Responses (HRP 2017). A “returns parameters activities checklist” is available for partners; this includes a repository of activities to be considered in the event of assisting returns.¹³ If the situation assessed reports to a case of forced return, partners will look at the below prioritization process, and decide whether support is required on the basis of the humanitarian imperative.

In any given scenario, humanitarian support for returns should be limited in time and scope. Transition to full government responsibility, including through support of development assistance, should take place as soon as possible, and will be facilitated by continual engagement with relevant authorities from the outset. The complete spectrum of humanitarian support to returnees would be divided into the following three phases and implemented as a continuum over a twelve month period:

- **First line:** focusing on immediate delivery of emergency, life-saving interventions for returnees (initial three months) and communicating with the communities
- **Second line:** assist the local authorities in scaling up from emergency to interim relief, with a focus on improving for both returnees and *stayees* coverage/services and meeting/maintaining basic standards (months four to six)
- **Full Cluster response** with a focus on transitional support to bring coverage, services and support to acceptable standards, creating an enabling environment for handover to government, community and/or development actors (month seven to twelve).

4. Monitoring

Protection monitoring is important as it highlights humanitarian protection concerns but also Human Rights violations linked to conflict, armed violence and displacement in areas of return. The government, through its local administrations and National Reconciliation Committee(s), is to potentially support monitoring efforts as well, through joint missions with selected humanitarian partners. Capacity to cover all targeted (return) areas may be insufficient. In such event, it is important to consider alternative plans/solutions, such as below:

¹¹ As part of OCHA's consolidation of the general assessment framework within the response, the RWG works with the newly established Assessment Working Group (AWG) to ensure harmonization of first line assessment mechanism in return areas, through the inclusion of return specific indicators in OCHA's Rapid Needs Assessment (RNA).

¹² Centrality of Protection: <https://goo.gl/EMGQSL>

¹³ While all activities listed address the full spectrum of intervention to support safe, voluntary and dignified return, the RWG encourages partners to first take stock of the type of return dynamic unfolding, prior to designing any set of multi-sectorial intervention, through close interaction with the Protection Cluster.

- Plan for evaluation missions specific to zones of returns when a return is planned or excepted (scenario analysis aided by conflict and situational analysis)
- Ensure monitoring tools are conflict sensitive and adapted to any type of return identified (see above)
- Existing IDP channels for complaints utilized as a complaints and monitoring mechanism (CwC hotline, IDP call centre)
- In the event of monitoring post-intervention, follow up if needed with sensitization campaigns; Inter- community dialogue projects; activities supporting the restoration of Rule of Law (RoL) and good governance; activities/projects identifying the root cause of local tensions before, during and after return.

Linking humanitarian actions to longer term interventions ¹⁴

Interventions must be designed to reduce vulnerabilities linked to displacement and conflict. The following criteria are to be considered:

Safe and secure environment

- *Risks of community tension between returnees and host community*: is there perception of a safe and secure environment?
- *Resurgence of violence*: are security forces used to repress members of opposite ethno sectarian affiliation?
- *Weapon circulation and harassing by security forces*: are citizens confident in the security force that protect them?
- *Presence of armed groups*: do citizens have freedom of movement through area of origin, regardless of the group?

Ensuring political moderation and stable governance

- To what extend do individuals trust the government or affiliated bodies to resolve disputes
- To what extend do individuals trust their local authority to respond to their specific needs?

Ensuring the Rule of Law is upheld

- Are disenfranchised groups, marginalized through local/government policies?
- Is there a centralized platform for residents to voice their concerns and have them addressed?
- Does there exist a highly visible and present system of transitional justice?¹⁵

Ensuring social well being

- Is there absent a level of trust necessary for peaceful co-existence?
- Are there peace interactions between different groups within the community?

¹⁴ See Memo Durable Solution 2011, available here: <https://goo.gl/MqQ00f>

¹⁵ To be determined whether transitional justice is understood as (1) temporary justice institutions in place until more formal authority/fully appointed institutions are present; or (2) measures and mechanisms to redress legacies of mass human rights violations and abuse (prosecutions, truth commissions, reparations, reforms, etc). While the two definitions are not necessarily mutually exclusive, various meanings these entails merit this point be further developed.