

Criteria for Determining the End of Displacement: Options for Consideration

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The purpose of this paper is to stimulate discussion of criteria for determining when the international community should no longer consider internally displaced persons (IDPs) as such. Three sets of criteria are presented to launch the discussion. These criteria are not mutually exclusive and indeed include overlapping elements.

Cause-based criteria. One way to look at the issue would be to focus on the causes of internal displacement and, drawing on the refugee analogy, consider the existence of "changed circumstances" from those that had compelled flight to signal the end of displacement. In other words, a person would cease to be an IDP when there is a change in the circumstances that originally caused the displacement. According to the UNHCR, a change in circumstances that would warrant application of the cessation clauses of the Refugee Convention must involve the complete political transformation of the refugee's country of origin. Evidence of such transformation may include significant reforms altering the basic legal or social structure of the State, democratic elections, declarations of amnesties, repeal of oppressive laws and dismantling of former security services. The changes must be assessed over time—a minimum of 12 to 18 months. In short, improvements in a country of origin must constitute a 'fundamental,' 'stable,' 'durable,' and 'effective' change in circumstances from those that created refugees. Applying the same logic to situations of internal displacement, displacement ends (as an issue of international concern) when there are similar political changes in the IDPs' own country. Though the refugee cessation clause focuses on persons fleeing persecution, one could construct similar criteria to address displacement from conflict, natural disasters, and other reasons outlined in the Guiding Principles as causes of internal displacement.

Solutions-based criteria. Internal displacement may be considered to be at an end when IDPs return to their home communities or (re)settle in another community (either in the country of origin or in another country). This is similar to the criteria in Article 1, Section C of the Refugee Convention, which states the Convention shall not apply to people who would otherwise be refugees if they voluntarily return to the country from which they previously fled, or if they acquire the nationality of another country. The end of displacement thus would occur when an IDP, having secured or being able to secure national protection, either in his or her original home community or in another location, no longer needs international protection. Following the refugee criteria, the return must have been undertaken voluntarily and in safety and dignity, and the IDP must also have reintegrated in the community of origin. Similarly, local integration or resettlement must

be voluntary and the IDP must be able to exercise all of the rights and fulfill all of the obligations of other nationals of the new community or country. Solutions may involve compensation for loss of property—for example, for land appropriated to build dams, pipelines or other development projects. Again following the refugee analogy, the international community would have a responsibility to monitor that the returning/resettled IDPs are safe and that they have indeed reintegrated. Reintegration is a gradual process, particularly when return or resettlement occurs in countries in transition from conflict. It can be measured by full participation by former IDPs in the social, economic and political life of the community.

Needs-based criteria. This approach to the end of displacement focuses on the continued existence of IDP-specific needs and vulnerabilities. When IDPs no longer have specific protection, assistance or reintegration needs related to their displacement, the international community would no longer consider them to be of international concern (although their displacement may continue and they may continue to have needs based on poverty or disability). These criteria could apply to IDPs who are able to access the protection and assistance of their national governments, are not discriminated in the exercise of their rights or have particular unmet needs on the basis of being displaced, and therefore do not need special international assistance and protection. It could also include IDPs who are able to support themselves and their families or who have social support networks that can assist them (although they would be considered IDPs if they have protection needs). The Guiding Principles on Internal Displacement provide guidance useful in developing criteria for determining needs that are specifically related to displacement and assessing whether the specific protection, assistance and reintegration needs of IDPs have indeed been met.