

**High Commissioner's Dialogue on Protection Challenges:
Understanding and addressing root causes of displacement**
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***Thematic session 3:
Unlocking protracted situations and finding solutions***

Co-Chairs:

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Co-Chairs' Summary

The dominant question centred on what the international community could do about protracted displacement situations, including the Palestine refugee situation. Specifically, participants discussed:

- the role of humanitarian and development funding in addressing root causes of displacement and finding solutions;
- the link between development and humanitarian actions;
- the role of human rights in finding solutions;
- the importance of rule of law in making solutions sustainable;
- the necessity of preventing protracted situations and finding differentiated solutions within protracted situations;
- the link between assistance and effective social inclusion to overcome critical vulnerabilities of affected populations;
- how statelessness can be both a cause and consequence of displacement and how best to address it; and,
- the Solutions Alliance as a means to promote increased resilience, self-reliance and development for displaced persons.

Two approaches to optimizing solutions were emphasized:

- (i) Interim solutions are part of the long-term solution as they build human resilience and social and economic capital. Discussions on inclusion in the labour market highlighted this in particular.
- (ii) Building political will and action, and employing regional approaches is critical.

While the question of protracted refugee situations has both inherent **quantitative and time-bound** elements (numbers and the passage of time), the discussion highlighted the importance of analysing the problem in much more dynamic and complex ways. The double-barrelled outcome of the size of protracted refugee situations as **conventionally defined and the increasing length of time of protracted situations was noted as compounding vulnerability. Accordingly there was recognition of the need to shift focus towards addressing vulnerability and ensuring inclusion.**

In addition to focusing on the compounding issues of the length of displacement and the increasing numbers of those finding themselves in protracted situations, discussion also highlighted that irrespective of the length and complexity of a displacement situation, the importance of **addressing vulnerabilities and rights**, noting that the length of time in displacement was not the defining feature

so much as the individual vulnerabilities of those in situations of displacement. Full social and economic normalization is essential to claiming membership as a social and economic actor, and exercising rights to the fullest extent possible, ensuring participation and inclusion.

It is a false dichotomy to look at long-term durable solutions while separating those from the situation of people while waiting for a solution. Ensuring the proper legal status and a protective environment for displaced persons, where human and social capital is invested, is imperative. It was noted that many refugees are denied access to jobs and land. Unless we provide them with access to these rights, they will be prevented from contributing to the host countries in which they are living.

Regional mechanisms

Cross-border implications of displacement necessitate a **holistic approach** that allows us to work in ways other than geographical silos that go beyond the country level.

Moreover, it was noted that **regional cooperation to address root causes** is necessary, even where this might invite criticism of interference, and that regional protection frameworks can fill protection gaps in individual countries.

The importance of regional mechanisms facilitated through relevant bodies was welcomed. The opportunity provided by the **Solutions Alliance** allows for critical stakeholders and interests to come together, notably host countries as well as countries of origin, which are important to engage. In that regard, the question was raised whether structures and methodologies currently in place at country level could be used to function in a regional context, including through regional organizations. Notable **regionalized approaches** include, for example:

1. Abidjan Declaration of Ministers of ECOWAS Member States on Eradication of Statelessness
2. Addis Ababa Commitment on Somali Refugees (a solutions-centred document)
3. Brazil Plan of Action

Signal steps

A number of signal steps were identified in order to arrive at the overarching objective of addressing protracted situations. They were:

1. The **centrality of protection at all stages of displacement and while we pursue durable solutions** as well as the need to employ the variety of capacities and all of the tools in the ‘toolbox’ to the fullest extent, noting that rights attach - not disappear - when someone is in a situation of displacement. The full spectrum of human rights legislation, conventions and frameworks is available and should be implemented. In fact, human rights attach and follow the individual, however many political boundaries he or she crosses.
2. The need to look at all the issues from the perspective of those who have been displaced was emphasized. Similarly, the **rights of displaced victims in terms of reparations** and land restitution was noted.
3. It is important to ensure **an adequate and secure humanitarian response**, given that we are witnessing a generally weakening humanitarian response, including provision of relief, basic life-saving services, nutrition, health and education.
4. Participants stressed the imperative of **expanding the legal, social and economic space** for people to encourage membership in it, noting in particular, access to education, livelihoods, labour markets, empowerment and self-reliance. The importance of adequate standards of living, freedom of movement, the right to work and education – now also a Sustainable Development Goal – was underscored as crucial to social cohesion with host communities. Displaced persons can be social and economic actors, contrary to the pervasive characterisation of them as ‘burdens’; they are consumers, producers, job creators as well as workers.

Legal frameworks

The need to approach situations of displacement with a **human rights lens** was emphasized. Moreover, enhancing rule of law and human rights tools is important when addressing challenges, particularly in host countries, to complement existing frameworks and fill gaps. Normative frameworks and theories of law must be translated into practice and good policy, lest they become purely aspirational. It was also noted that what is lacking is not an absence of law and legal frameworks, but the implementation of existing bodies of human rights and refugee law.

Statelessness

It was noted that commendable actions have been taken by several States in the past decade to ensure that statelessness is not further created as well as to address existing cases of statelessness.

While the magnitude of global statelessness is likely to be underrepresented (largely as a result of a lack of accurate data and statistics on the problem, compounded by a widespread lack of documentation, which is often inherent to statelessness) and resolving statelessness requires political will, the costs of resolving the issue are often relatively low.

Noting the enormous impact of statelessness on the individual and societies as a whole, statelessness was observed to be both a cause of displacement and a consequence of displacement. In order to break the links between forced displacement and childhood statelessness, and to prevent the vulnerable of today from becoming the refugees and migrants of tomorrow, the implementation of important safeguards and measures to ensure that everyone enjoys the right to a nationality must be put in place. This includes:

- (i) Granting nationality to stateless populations who have strong links with a country, including through birth and long-term residence;
- (ii) The right to documentation to prove nationality and identity;
- (iii) The right to birth registration of children born in situations of displacement;
- (iv) Nationality law reforms to ensure that necessary safeguards to prevent statelessness and provisions for naturalization of stateless persons and refugees are in place. It was acknowledged that important strides in this area have already been made by several countries in recent years;
- (v) Establishment of statelessness determination procedures to identify stateless migrants which lead to the granting of a legal status. Since only around 12 countries in the world have dedicated statelessness determination procedures, this requires further attention; and
- (vi) Establishment of legal frameworks for the protection of stateless persons.

Sustainability

- In assessing the link from humanitarian to development approaches, it is important to recognize that the mandates and missions of humanitarian and development actors are fundamentally different, as are their endgames and exit strategies. The example was given of the refugee who integrates and is naturalized, signalling the end of a humanitarian intervention, but who may still require social and economic support to enjoy full integration, signalling the need for further development interventions.
- Calls for sustainability noted the need to **boldly review the whole-of-system architecture** that brings together humanitarian and development responses, noting the importance of looking at all policies to ensure they are “fit for purpose.”
- **Early engagement of development actors at the strategic level** at the point at which programmes are designed was also stressed. This early entry requires facilitation by humanitarian actors as well as flexibility on the part of development actors to capitalize on synergies and avoid parallel structures.

- A more nuanced picture emerges from an **evidence-based approach**. In this regard, the oft-quoted figure of the average number of years in displacement highlights at once the challenges in resolving the root causes and finding solutions as well as the need for **strengthening collection and use of data**. In this regard, it was noted that “characterization” is important, that is, to know the situation of the displaced better enables us to know who and what to provide for. The role of national institutions in implementing human rights and refugee law, and in finding solutions for those displaced within or to their territory, was noted, as was the need for data-driven responses to finding solutions to displacement. In this respect, further data collection, trends mapping and analysis was noted as necessary to ensure programme design matches needs. There is a need for a continuous link between data and planning and programme design and National Development Plans.

The importance of “traditional” solutions

- It was acknowledged that **the most appropriate durable solution depends on the context, an analysis of the root causes, as well as the wishes of the displaced population**, especially when ties with the country of origin no longer exist or the social and economic situation in the host country is favourable to those in the country of origin. Because current approaches **address symptoms rather than root causes** this has led to a failure of the international community to address protracted situations.
- **Greater support to host and countries of origin** is required to give life to respective solutions and the importance of **focusing our attention on the starting point of displacement (i.e. countries of origin)** was underscored. It was also noted that the **political implications for host** as well as **countries of origin** should be taken into consideration when durable solutions are planned and implemented, noting that political solutions to humanitarian crises are essential. Moreover, **countries of origin should receive adequate attention, encouragement and support**.
- **Voluntary repatriation requires conducive conditions of return**. Safe, successful and sustainable voluntary return requires political support as well as humanitarian and development support. **The importance of creating an enabling environment for return and seeing refugees as enablers of peace and stability** was underscored, noting that failed return can result in more conflict and displacement. This was noted as a shared responsibility between humanitarian, development and political actors. First and foremost, refugees want to go home; giving up on refugees’ right to return would be tantamount to giving up on resolving displacement-inducing conflicts. Similarly, support should be given to enable displaced persons to become economic actors and exercise their rights. Moreover, the **brain drain** that is often a result of protracted displacement was noted as having serious consequences for the situation of the country of origin for those returning, as is the question of whether the human rights of those returning will be respected.
- The strategic use of and emphasis on **resettlement** was noted, recognizing that it enables host countries already hosting many refugees to provide better protection for those on its territory. Moreover, it also provides an important alternative to dangerous journeys and can be achieved through alternative, innovative means such as private sponsorship and allowing diaspora communities to support those left behind through the costs associated with resettlement rather than smuggling. However, emphasis on resettlement should not rule out efforts to promote safe and dignified voluntary repatriation and local integration.
- The extent to which **local integration** is successful is closely linked to the level of support extended to the host country. In this respect, it was noted that there is a need to create incentives for host countries to play a greater role in finding durable solutions. There was a general question raised about how to promote further opportunities for local integration.

Host community inclusion and National Development Plans

- Participants noted that the potential of humanitarian and development cooperation exceeds current realities and acknowledged the need for **systematic inclusion of host communities in**

humanitarian programmes and in National Development Plans, with efforts supported by grants and soft norms to: (i) reduce discrimination; (ii) build social cohesion and trust, as well as economic resilience and growth; and (iii) strengthen host communities. The importance of factoring in responses to the economic situation of host countries was noted, particularly in the context of the economic and development impacts of protracted and large-scale displacement and the increased vulnerability of displaced persons when donor funding dries up. Ensuring more development aid to areas hosting refugees and identifying the mutual benefits of increased inclusion of displaced communities in local structures and services can positively influence policy and rights frameworks, and thereby directly expand the protection space for the displaced.

Funding

- The importance of reviewing donor funding cycles to ensure that they can support a secure humanitarian response system and to support the link to development funding was underscored. It was noted that **strategic and multi-donor approaches including flexible funding instruments and multi-year funding cycles** are necessary, ensuring that development funding and programmes are “fit for purpose,” especially in protracted refugee situations where humanitarian and development agendas meet, and where humanitarian funding may be short term but development funding continues over the longer term.
- The need for sufficient resourcing, able to support programmes, and **the need for development financing of targeted projects** was also noted, as well as the need for more **sustainable, holistic, evidence-based and analysis-driven programming**.
- The need for **better alignment of development programmes with regular development strategies** with host countries was called for, noting that political discussions should become integrated in **national development planning** over time.

“Partnership package”

Solidarity, responsibility sharing and political will were noted, as was the need to ensure that humanitarian and development actors work in partnership with host countries and countries of origin. In this regard, the need for **“partnership packages”** in the context of an overloaded system was underlined, including more inclusive and more simplified refugee status determination systems and the possibility of group determinations. This is notwithstanding the balancing act that is to be achieved with the exclusion clauses, noting its link with peace and security. Aid, assistance, solidarity and political will all form part of the package to ensure multifaceted and coordinated action. Long-term political will as well as financial commitment is needed to successfully implement solutions and sustain positive achievements. The need for more incentives to enable refugees to work and to open the door to admission possibilities of a more pluralistic kind is also essential, including labour mobility schemes such as the one initiated between Brazil and Ecuador. However, it was noted that humanitarian admission schemes and **alternative legal pathways including private sponsorship, work and education visas**, must be seen as *complementary* instruments rather than substitutes. In this regard, increased possibilities for legal migration and other alternative legal pathways were noted as important aspects of a broader multilateral agenda.
