



The ‘National Framework for Return, Relocation and Reintegration of Displaced Persons’ in South Sudan: Durable Solutions and a Safe Environment for IDP Returns?

This blog analyses the ‘National Framework for Return, Relocation and Reintegration of Displaced Persons’ and its implementation in South Sudan, focusing particularly on the safety of returning IDPs.

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In the recent years, according to its Ministry of Humanitarian Affairs and Disaster Management (MHADM), South Sudan has experienced protracted conflict and disasters that have uprooted its population, causing massive internal and external displacements. Those displaced have continued to be exposed to numerous challenges and risks caused by uncertainties. Hence finding a solution to the plight of displaced persons is crucial at the time when the country is going through the implementation of the Revitalized peace agreement after the completion of the South Sudan National Dialogue in November 2020 that produced several recommendations on durable solutions.

While a significant volume of research addresses the situation of Internally Displaced Persons (IDPs) and refugees in South Sudan and the East African region, concerns about safety in areas of IDP returns remain understudied in South Sudan. This is in spite of the fact that, in 2019, South Sudan adopted a National Framework for Return, Reintegration and Relocation of Displaced Persons (IDPs) in achieving Durable Solutions in South Sudan. This paper addresses the challenges facing the implementation of National Framework for Return, Reintegration and Relocation of IDPs in South Sudan, focusing particularly on the security environment for returning IDPs.

Overview of IDPs in South Sudan

South Sudan has a long history of internal displacement associated with conflict precedes its independence in 2011 and which has led to both internal and cross border displacements in generations (OHCHR). According to the Internal Displacement Monitoring Centre (IDMC, 2020), 271,000 new conflict displacement were recorded in 2020 despite the signing of the South Sudan peace deal in September 2018. About 1.4 million people were living in displacement because of the conflict at the end of 2020 alone. The (IDMC) recorded 443,000 new displacements from floods in South Sudan in 2020.

According to the Internal Displacement Monitoring Centre (IDMC) majority of the IDPs in South live in spontaneous sites and informal settlement with the host communities. Other IDPs live alongside the former Protection of civilian sites or in churches, small villages isolated from fighting areas and IDPs in areas more exposed to violence often hide in swamplands or bushes. IDMC notes also the recurring nature of the main displacement triggers and the fact that the intensity of conflict in South Sudan tends to vary with the seasons also means that many people have been displaced a number of times. Porous borders and lack of coordination between the neighboring countries have enabled circular cross border displacement in which people move back and forth between South Sudan and the neighboring countries when they are unable to find safety, food and basic needs.

Such situations pose challenges to finding an adequate response to populations of concern. IDPs are part and partial of the bigger civil population that remained entitled to the same rights that every citizen enjoys. However, in armed conflict situation IDPs find themselves in territories over which the state authority is absent or hard to enforce, or where IDPs are let down by the same national authorities that are supposed to protect them as the case in South Sudan. IDPs from the Protection of civilians' sites in Juba, Malakal and Bentiu have decried

lack of safe and secure environment for them to return in their places of origin.

Institutional Frameworks and Policies on IDPs

The United Nations (UN) Guiding Principles on Internal Displacement of 1998 have been a focal point for the development of normative frameworks for the protection of IDPs in domestic laws and policies. They reflect international law and recognize that the primary responsibility lies with the national governments to prevent the suffering of IDPs. Principle 15 (d) of the Guiding Principles states that IDPs have the “right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and /or health would be at risk. Under no circumstances should IDPs be encouraged or compelled to return or relocate to areas where their life, safety, liberty or health would be at risk”. Policy makers often contend with the question as to when conditions are conducive to begin assisting returns, local integration, or resettlement elsewhere in the country.

According to the Inter-Agency Standing Committee (IASC, 2002) not all conditions for durable solutions need to be in place for humanitarian or development actors or national and local authorities to begin assisting IDP return or resettlement. However, it says that even when return, local integration or settlement elsewhere in the country are entirely voluntary, they should not be promoted if they endanger the life, safety, liberty, or health of IDPs or if a minimum standard of agreeable living conditions bearing in mind local conditions cannot be ensured. It is crucial to have constant monitoring, including the independent monitoring of conditions in return /relocations areas. Conditions at the site of displacement that may push IDPs to accept unsafe return or relocation also need to be monitored.

Regional instruments: the Kampala Convention

The first legally binding regional instruments for IDPs' protection were developed in Africa. The 2006 Pact on Security, Stability and Development in the Great Lakes Region, known widely as the Great Lakes Pact, and its protocols on IDP protection and assistance, require member states to incorporate the Guiding Principles into their national legislations. In 2009, the African Union (AU) adopted the Kampala Convention, a landmark instrument that established a common regional standard for IDP protection. The Convention also draws on the Guiding Principles but takes an innovative approach by formulating responses tailored to the specifics of displacement in Africa. These treaties echo key tenets of IDP response, including the primary responsibility of national authorities to provide protection and humanitarian assistance to IDPs within their jurisdiction. They require national governments to create a legal framework upholding the rights of IDPs' and to develop a national policy on internal displacement. In 2019, South Sudan became the 28th African Union member state to accede to the Kampala Convention, although it has not yet been domesticated.

National frameworks

In 2018, South Sudan embarked on the development of a national IDP law entitled the Protection and Assistance to Internally Displaced Persons Act 2019, which is pending being passed by the parliament. This draft national legislation sought to domesticate both the Kampala Convention and the Guiding Principles to make both applicable in South Sudan (Beyani et al, 2020). However, at present, the adoption of this law seems to have stalled.

In the meantime, South Sudan, as an IGAD member state, adopted a National Framework for Return, Reintegration, and Relocation of Displaced Persons in 2019 as a tool to address internal displacement and resolve IDP situations. According to South Sudan's former minister of

Humanitarian Affairs and Disasters Management, Hussein Mar Nyout (2019), the adoption of the Framework is an important momentum for the country to move forward for robust implementation to find a durable solution for IDPs.

It is worth noting that the National Framework itself builds on Chapter three of the Revitalized Agreement on the Resolution of Conflict in South Sudan (R-ARCSS, 2018) on Humanitarian and Reconstruction, which also tasked the parties to the agreement to provide physical, legal, and psychological protection to refugees and IDPs to return in safety and dignity and allowing refugees and IDPs to return to their places of origin or live-in areas of their choice (R-ARCSS, 2018).

Finally, according to November 2020, South Sudan National Dialogue Conference Final Communique and Resolutions under Repatriation, Reintegration, Rehabilitation, Resettlement, and Reconstruction the government shall undertake the repatriation of IDPs and Refugees before the end of the Transitional period, address land disputes to facilitate the return of IDPs and Refugees (Article 78).

Implementing the National Framework in South Sudan

Interviews by the author with practitioners working in the field on internal displacement in South Sudan helps to shed light on how implementation of the National Framework is proceeding. The general consensus seems to be that it faces significant challenges.

One expert on displacement in South Sudan working with IDPs and refugees as a senior government official affirmed that little or nothing has been achieved in the way of implementing the National Framework. This is attributed to the fact that the National Framework on Returns is not really government-led and there has not been a commitment by partners to provide resources, like funding, to implement the 2019 National Framework on Returns (Interview 1, Sept 2021 - anonymised).

Another respondent, also working for the government on IDP issues, agreed that *“the government of South Sudan has not achieved anything in implementing the National Framework”*. However, this interviewee ascribed that situation to the fact that *“most of the returnees were worried about the security of their areas of return and presence of cattle in their farmlands”* (Interview 2, July 2021 - anonymised). However, the signing of the R-ARCSS in 2018 motivated a number of IDPs and Refugees to spontaneously return home or register to do so and discussions on assisted returns have increased despite UNHCR’s advisory that *“sustainable conditions are not in place for the safe and dignified return of refugees and IDPs in South Sudan”*. For some, return is envisaged as a coping mechanism more than a durable solution because of the difficult displacement conditions.

The first respondent also noted that:

The government is working to address the root causes of the displacement and ensure people are given an environment where they can perform. It is good to start preparation to ensure that we address the challenges so people can come home. They shouldn’t wait for 100% peace, disaster-free in the country. They should start coming back now and be part of the development of South Sudan (Interview 1, Sept 2021)

Indeed, according to several media reports (e.g. Sudan Tribune, 2018), South Sudan President Salva Kiir has ordered those still occupying the residential houses of those who are displaced and sheltering in the UN Protection of Civilians sites (PoCs) to be evacuated immediately to allow the rightful owners to return home, but nothing has been done to date.

UNHCR’s South Sudan Country Representative in his address during a validation workshop on durable solutions in Juba, South Sudan on July 28th, 2021, called on donors, development actors and private sectors to support the solutions particularly projects in areas of high return known

as “Pockets of Hope”. However, the official noted also that “distribution of relief is not enough to resolve the problems of South Sudan but increasing investment in people through livelihood programs and proving skills that will enable those who return to rebuild their communities and country is the solution”.

On the challenges that faced the smooth implementation of the 2019 National Framework on Returns, both government experts acknowledged, there were challenges. For example, one stated:

The challenges were people returned and were not supported, lack of basic services like health, water and education. But in spite of those challenges they (Returnees) remained. This has given us a hope that the durable solution will reinforce the spontaneous return to increase actually, we are hoping for the 2.2million people in the neighboring countries to return and settle back home (Interview 1, Sept 2021).

The above perspectives suggest that South Sudan’s National Framework on Return, Relocation and Reintegration has suffered setbacks and remains not yet fully implemented. Indeed, they indicate that little or nothing has been achieved since the National Framework was adopted by the government in 2018.

Conclusion and recommendations

Despite the adoption of a National Framework on Return, Resettlement and Reintegration in South Sudan, it lacks the comprehensiveness of a national legal framework as envisaged by the Guiding Principles and the Kampala Convention. Pushing forward with proper national legislation thus presents a unique opportunity to deal with the needs of IDP protection based on both a whole of government and a whole of society approach.

Moreover, numerous obstacles impede the smooth implementation of the National Framework on Return, Reintegration and Relocation of IDPs as a durable solution for South Sudan. They include lack of funding, lack of safety and a conducive environment, recurring inter communal violence, slow implementation of the security arrangement as stipulated in the 2018 peace agreement, flooding, lack of basic services in the areas of return, cattle raiding, poor coordination between the policy makers and implementers of the Framework and pockets of insecurity in most of the areas of return.

To achieve durable solutions for South Sudan:

- There should be a continued commitment and momentum in enacting and implementing the national law if IDPs are to be adequately protected and assisted and if they are to achieve durable solutions in South Sudan.
- The durable solutions initiative for South Sudan, with its focus on the “pockets of hope”, will have to address the challenges faced in relations to safe and secure areas of return and strategize how best it can be achieved by delivering the most needed services to the areas of return.
- There is a real need for the government and other supporting actors to harmonize and cement the relationship between the returnees and the host community.

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Bibliography

Chaloka Beyani, Gatwech Peter Kulang and Rose Mwebi, ‘The potential of South Sudan’s national law on protection and assistance to IDPs’, Forced Migration Review, November 2020.

Framework for Return, Reintegration and Relocation of Displaced Persons: Achieving Durable Solutions in South Sudan, available at: <https://www.refworld.org/docid/5b72a64a4.html>, accessed Sept 2021.

Internal Displacement Monitoring Center, South Sudan, available at: <https://www.internal-displacement.org/countries/south-sudan>, accessed Sept 2021.

Revitalized Agreement on the Resolution on the Conflict in South Sudan, available at: <https://igad.int/programs/115-south-sudan-office/1950-signed-revitalized-agreement-on-the-resolution-of-the-conflict-in-south-sudan>, accessed Sept 2021.

Sudan Tribune, ‘South Sudan’s Kiir directs to vacate newcomers from IDPs’ land’, 10 December 2018, available at:

<https://reliefweb.int/report/south-sudan/south-sudan-s-kiir-directs-vacate-newcomers-idps-land>; accessed Sept 2021.

United Nations Commission on Human Rights (UNCHR), Guiding Principles on Internal Displacement, Report of the Representative of the Secretary-General on Internally Displaced Persons, Geneva, UNHCR, 1998, E/CN.4/1998/53/Add.2, Annex.