IDMC Modules on Durable Solutions (2013)

Module two: Durable solutions – basic concepts, principles and process

Time	150 minutes maximum (2H30'')
Overview	This session aims to provide a solid grounding in the basic concepts associated with durable solutions – understanding them as a process and an end to displacement, the key principles guiding their achievement and the three settlement options. This is a particularly heavy module and requires a seamless transition from topic to topic – from the general sources for concepts to an understanding of the process and a focus on the IASC framework's principles. As such, it is important to vary methodologies - inputs, plenary discussions and group activity. Some parts of the module can be shortened or left out, depending on the length of time available, the number of participants and the organisers' objectives, but adjustments should be weighed carefully.
Objectives	By the end of this session, participants will: • Have learned the sources of durable solutions concepts • Understand the achievement of durable solutions as a process that culminates in an end to displacement • Be aware of the challenges inherent in the pursuit of durable solutions and parallel approaches to a particular displacement situation • Be able use a human rights lens to determine whether durable solutions principles are applied • Be clear that the three settlement options are not durable solutions in and of themselves
Key messages	• The concept of durable solutions is important to IDPs' protection. It has been developed based on experiences worldwide and is enshrined at the international level in the IASC framework and by the UN Human Rights Council • The achievement of durable solutions is a process that culminates in an end to displacement • Durable solutions principles are most effectively applied using a human rights lens: only by respecting general human rights standards durable solutions can be achieved in a voluntary, safe and dignified way • The three settlement options should be voluntary and sustainable and refer to physical movement of IDPs; they are not durable solutions in themselves
Documentation	• Guiding Principles • IASC framework on durable solutions
Equipment and materials	• LCD/computer for PowerPoint slides • Space for participants to work in four groups • Flipcharts and markers • Stand to present group reports summarised on flipcharts

Module two: Basic concepts Title slide	**Durable solutions for IDPs: Challenges and way forward** Principles and process IDMC training workshop (Place/Country) (Inclusive dates) NRC NORWEGIAN REFUGEE COUNCIL — iDMC internal displacement monitoring centre
Module two: Basic concepts Learning objectives 5”	**Introduction to durable solutions** Learning objectives: - Learn the sources of durable solutions concepts - Understand the achievement of durable solutions as a process that culminates in an end to displacement - Distinguish principles and criteria in durable solutions processes - Use a human rights lens to determine whether DS principles are applied NRC NORWEGIAN REFUGEE COUNCIL — iDMC internal displacement monitoring centre Go through the learning objectives one by one. Refer to participants’ expectations as appropriate. Explain that the session will entail substantive discussions in both plenary sessions

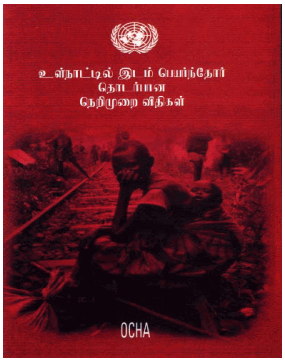
	and working groups, and that it is important to understand the basic concepts for application later.
Module two: Basic concepts Normative frameworks 5”	**General normative frameworks on internal displacement** – International law, including human rights law and humanitarian law – Regional and national bodies of law – Regional and domestic policies – Guiding Principles on Internal Displacement NRC NORWEGIAN REFUGEE COUNCIL iDMC internal displacement monitoring centre Recall briefly that IDPs’ protection is based on international legal and policy frameworks. Explain that such frameworks are applicable in national jurisdictions via international customary law and the international obligations countries accept when they ratify human rights treaties. Cite examples of international and regional treaties, if any. If applicable, emphasise that in X country, guarantees on IDPs’ protection are enshrined in the constitution and other legislation. Ask participants what the constitutional guarantees and legislation may be.

Module two: Basic concepts

Guiding Principles

20”

The Guiding Principles



Translated and disseminated in more than 45 languages

Summary of contents

- Introduction
- Part I: General principles
- Part II: Protection against displacement
- Part III: Protection during displacement
- Part IV: Humanitarian assistance
- **Part V: Return, resettlement and reintegration**

30 principles in total

NRC NORWEGIAN REFUGEE COUNCIL

iDMC internal displacement monitoring centre

Reiterate that the Guiding Principles are an important sources of normative guidance on IDPs’ protection, drawn from international legal frameworks and endorsed by the international community. They have formed the basis for national legal and policy frameworks in many countries, and are referred to in regional instruments such as the Kampala Convention.

Emphasise that the Guiding Principles cover all phases of displacement, and that part five specifically covers durable solutions.

The Guiding Principles

- The Guiding Principles are not legally binding, but reflect provisions in international human rights and humanitarian law.
- Over 20 states in the world have developed national laws and policies on internal displacement, in many cases incorporating or making reference to the Guiding Principles.
- The Great Lakes Pact's protocol on IDPs requires states to incorporate the Guiding Principles into their legislation

NRC NORWEGIAN REFUGEE COUNCIL

IDMC internal displacement monitoring centre

Get the latest number of countries, and name some of them.

Putting the Guiding Principles into practice

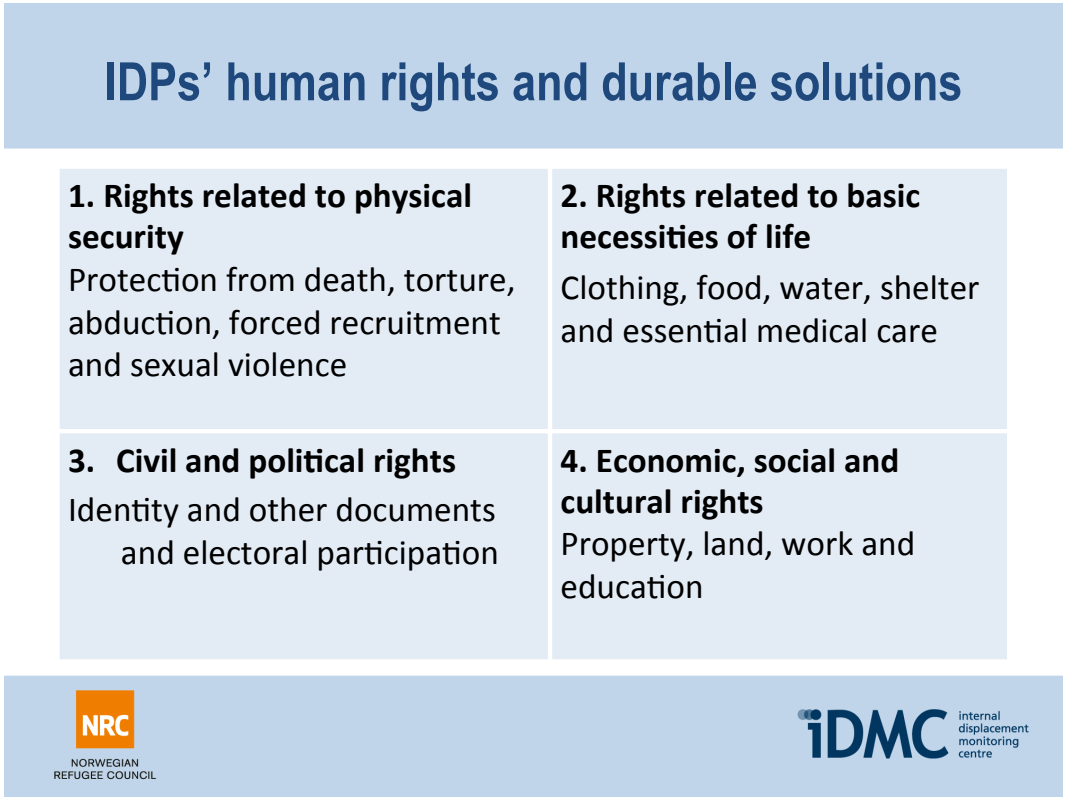
- Starting point: IDPs' human rights, not only their needs
- IDPs as rights holders, authorities as duty-bearers
- International community strengthens national capacity to protect IDPs

NRC NORWEGIAN REFUGEE COUNCIL

IDMC internal displacement monitoring centre

Go through the slide line by line, inviting participants to provide inputs / explain what these concepts mean as you go.

Choose one or two principles and explain the structure of their provisions - how a general statement of recognition of human rights or an IHL norm is followed by an articulation of the kind of measures that states and others should put in place to ensure fulfilment of that right.



This slide recalls the human rights-based approach of the Guiding Principles.

Emphasise that durable solutions are achieved by protecting IDPs' human rights, based on international treaties, a state's obligations under international law and its constitutional and national guarantees.

Explain that table was devised by the former special rapporteur on IDPs' human rights, Walter Kälin, as means of putting the Guiding Principles into practice.

Facilitate an open discussion on how the table could be applied to the achievement of durable solutions. Focus the discussion on which rights in each box are relevant and how.

National instruments

What are the relevant laws, policies and frameworks in country X?

NRC NORWEGIAN REFUGEE COUNCIL

iDMC internal displacement monitoring centre

Asks participants to name national instruments they know of that is relevant to internal displacement. Ask them too if they are relevant to durable solutions specifically. Record their answers on a flipchart.

Module two: Basic concepts

IASC framework

5”

IASC framework on durable solutions (2010)

- Guiding principle 6: “displacement should last no longer than required by the circumstances”
- Framework based on guiding principles 28 to 30
- Sections:
  - Introduction
  - What is a durable solution?
  - Key principles
  - Human rights-based approach
  - Criteria
- Why a framework?

NRC NORWEGIAN REFUGEE COUNCIL

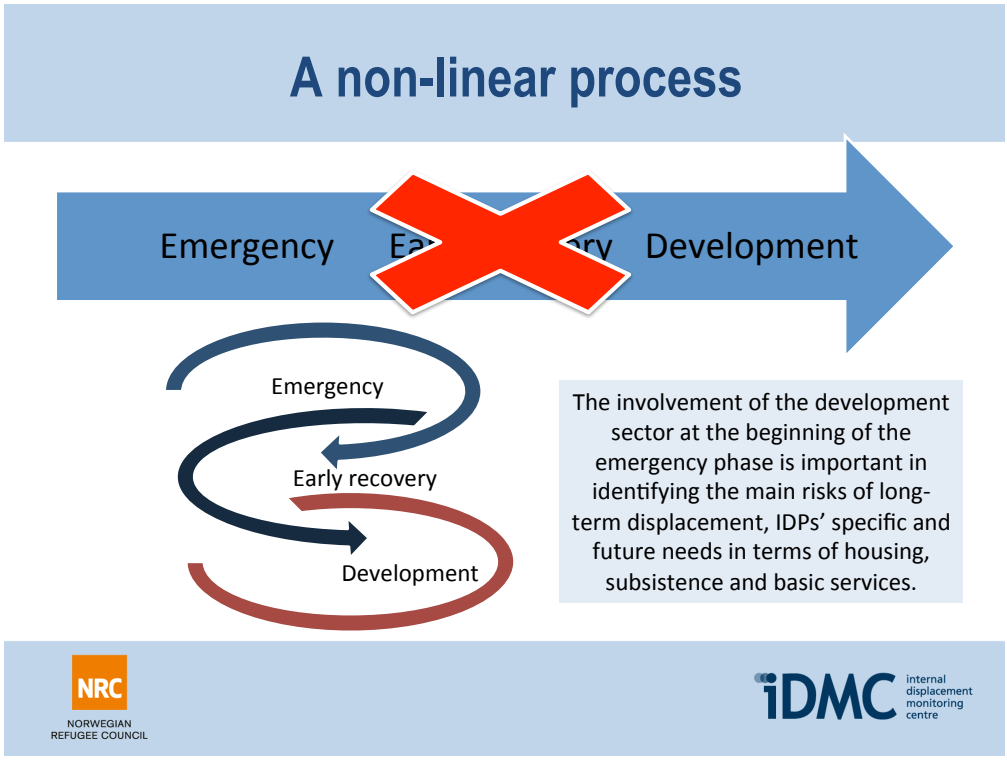
iDMC internal displacement monitoring centre

	Explain that the IASC framework is the source of concepts for IDPs' durable solutions. Mention that, whereas the principles relevant to durable solutions are to be found in the last section, there is at least one principle (GP 6.3) on which the whole concept of durable solutions is grounded: "displacement should not last longer than required by the circumstances". Explain that it is based on guiding principles 28 to 30, the development of state practice, the operations of international agencies and international human rights discourse. It was finalised in 2009, and endorsed by the UN Human Rights Council in 2010. Refer to the Brookings publication of the IASC framework, pp.1-3. Emphasise that the framework: - addresses durable solutions in the aftermath of conflict and disasters - sets out the rights-based principles that guide the pursuit of durable solutions - establishes the criteria that determine the extent to which durable solutions have been achieved - offers examples of indicators that, if properly adapted to the local context, can inform efforts to monitor progress Tip: Ensure participants have a copy of the IASC framework. This will underline its importance as a source and its human rights-based approach.

Module two: Basic concepts The concept of durable solutions as a process that culminates in an end to displacement 15"	**When is a durable solution achieved?** When IDPs "no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement". *IASC framework on durable solutions* NRC NORWEGIAN REFUGEE COUNCIL — iDMC internal displacement monitoring centre The slide recaps the definition provided in the previous session. Ask participants whether they are satisfied with it, whether anything is missing?

Does it help to answer the question “when”?

Gather a few answers, and then restate the IASC framework’s definition and encourage a brief discussion about how it is applicable to X country. Participants will likely mention the fact that it does not mention the three settlement options.



Establish the link between humanitarian and development response and ask if and how we can establish the end of a humanitarian phase and the beginning of a development phase. Present the concept of early recovery and encourage participants to think about it in the context of X country. Refer to the definition in the Brookings publication of the framework, p.9.

Challenge the classic linear view. Discuss whether it is valid in X country, and if not how it would be better considered, where the overlaps are and how IDPs’ human rights are protected both early and later in the pursuit of durable solutions.

Introduce the idea that the pursuit of durable solutions should be seen as a complex process that involves many responders.

World Bank study (2009)

- Post-emergency and development support generally fail to target IDPs as a specific group or to meet their specific needs.
- Governments often lack control, are in denial or do not have the political will to resolve displacement. They tend to focus on physical return, and institutional gaps are also a problem.

NRC NORWEGIAN REFUGEE COUNCIL

iDMC internal displacement monitoring centre

This slide highlights the role of development efforts in the pursuit of durable solutions, and as such helps to underline the fact that many responders are involved in the process.

Emphasise the focus of the World Bank's 2009 study on the development sector's role in responding to displacement and facilitating durable solutions. Refer to pp.13-19 of the study, Forced Displacement, the Development Challenge.

Post-conflict vs. post-disaster

- According to IDMC's 2008 Global Overview, durable solutions tend to be better organised following disasters than post-conflict.
- Factors:
  - Better government capacity
  - Fewer political barriers
  - Safer and better access

NRC NORWEGIAN REFUGEE COUNCIL

iDMC internal displacement monitoring centre

	Optional, if relevant. Ask participants for their views on the fact that durable solutions efforts are better organised after a disaster. Collate their inputs as political, economic, cultural or security issues.

Module two: Basic concepts The concept of durable solutions as a process 20”	Focus the participants on the concept of durable solutions as a process. Reiterate that the Guiding Principles and IASC framework provide for three settlement options that can lead to durable solutions, but that none is a solution in and of itself. Rather they constitute a significant step in the process. Tip: If participants want to talk about the settlement options, aim to put the discussion off until later. Insist on proceeding with the next activity and reassure them that there will be time later. Keep hold of any points or questions you feel are relevant enough. Trainer’s substantive reference: Brookings publication of the IASC framework, pp.5-7.

Challenges to durable solutions

There are many challenges inherent in the pursuit of durable solutions:

1. Human rights
2. Humanitarian
3. Development
4. Peace-building

NRC NORWEGIAN REFUGEE COUNCIL

iDMC internal displacement monitoring centre

Use this slide to reiterate that the achievement of durable solutions is a gradual and complex process involving many responders. Refer to the Brookings publication of the IASC framework, pp.7-8. Initiate short plenary discussions on each of the challenges, maximum ten minutes in total.

Move to the first part of the exercise. Ask participants to number off 1 to 4 to

	determine the type of challenge they will work on. If it is felt beneficial, the challenges could also pre-assigned according to the type or interests of the organisations the participants are drawn from. Ask the participants to go back to the list of challenges they identified in the context-building session and classify them according to the different types. Participants assigned human rights should identify all challenges that have clear human rights implications etc. The group discussions should be brief - five to ten minutes – and each group's feedback in plenary should also be around ten minutes. Each groups should simply state why the challenges they selected belong to their assigned category.

Module two: Basic concepts Focus on principles 70"	**IASC framework: principles and criteria** **Principles** ▪ Government responsibility ▪ Access for humanitarian and development initiatives and monitoring ▪ IDPs' rights, needs and legitimate interests are the primary concern ▪ IDPs' inclusion: Information, consultation and participation ▪ Respect for IDPs' options ▪ Prohibition of coercion ▪ Non-discrimination ▪ Support for host communities in cases of local integration ▪ Continued protection under HRL and IHL **Criteria and conditions** ▪ Long-term safety and security ▪ Adequate standard of living ▪ Access to livelihoods and employment ▪ Mechanisms for resolving HLP disputes ▪ Documentation ▪ Family reunification ▪ Participation in public affairs ▪ Remedies and justice NRC NORWEGIAN REFUGEE COUNCIL — iDMC internal displacement monitoring centre Explain that the achievement of durable solutions as a process that culminates in and end to displacement is underscored by principles and criteria. Emphasise that the principles govern the process and ensure that all strategies and activities are based on internationally recognised rights and responsibilities. Reiterate that discussions will now focus on the principles underlying durable solutions as a process. Refer to Brookings publication of the IASC framework pp.11-14), and go through each of the principles on the slide.

Voluntariness

Solutions comply with the right to freedom of movement and choice of residence – guiding principle 14

Essential components:

- Freedom of movement,
- Informed decision-making (including the opportunity to visit return or resettlement Areas)

Explain that three key principles - voluntariness, safety and dignity - underpin the process and particularly IDPs' choice of settlement options.

Voluntariness stems from freedom of movement and choice of place of residence, which is restated in guiding principle 14. It can be broken down into two main components - guaranteeing freedom of choice and providing all the information necessary to take a decision.

Safety

- Forced return and resettlement is prohibited – guiding principle 15D
- Essential components both en route and in settlement areas:
  - Physical safety
  - Legal safety
  - Material safety

The prohibition of forcible return is a principle borrowed from non-refoulement in refugee law, and is enshrined in guiding principle 15.d.
Safety has three dimensions:

1. Physical safety - the right to life and physical security
2. Legal safety – the ability to exercise rights without restrictions
3. Material safety – the opportunity to establish a livelihood and access social benefits

Dignity

Essential components:

- No unconditional return
- At IDPs' own pace
- No manipulation
- No arbitrary separation of families
- Respect for human rights and non-discrimination

Explain that dignity relates to the treatment of IDPs as they integrate locally, return or settle elsewhere in the country. Return or resettlement should not be unconditional. Unconditional returns may result in forced returns, which in certain circumstances could amount to a serious human rights violation. IDPs should be able to return or resettle at their own pace and not according to unreasonable timetables: for example, it hardly makes sense to set return at the beginning of the rainy season or when it is too late for starting a new agricultural cycle. IDPs should be well informed and the information available to responders should not be used to create pull and push factors for returns or other solutions. They should not be separated from their family members in the process of taking up their settlement option, especially when there are members of the family that are highly dependent on others. Finally IDPs' human rights should be respected also in the process and not just at the end of it.

Challenges and principles: Group discussion

- Number off one to four to determine the type of challenge assigned to you
- Identify challenges

In your group:

- Select one of the challenges you identified
- Choose two related principles
- Decide how they are applied or not, and make recommendations

20 minutes before reporting on flipcharts

Introduce participants to the second part of the activity, which will take them into in-depth discussions about the application of the IASC framework in X country.

Their objective is to analyse the relevance of durable solutions principles to the challenges they have identified.

For each challenge, they should choose two of the principles referred to in the IASC framework and discuss:

- Whether they are being applied or not, and how
- Measures that could be implemented to better apply them

Explain the time management of the activity and ask each group to appoint a facilitator and rapporteur. Provide them with flipcharts and markers. Monitor the groups to ensure the activity is proceeding as planned.

Give them 20 minutes maximum, and once they have all finished reconvene in plenary. Before giving the floor to the first group, reiterate the objective of the activity.

Allow 20 to 30 minutes for reporting. After all four groups have presented their outputs, open the floor for questions.

Conclude by emphasising the importance of the principles and go back to the slide where the nine are listed.

Thanks the participants for their contributions and the learning opportunities provided, and offer them a short break before proceeding.

Module two: Basic concepts Conclusions 10''	**Conclusions** ▪ IDPs' rights are laid out in national and international normative instruments ▪ The IASC framework states the pursuit of durable solutions is complex and faces many challenges ▪ The process is not usually linear ▪ Settlement options do not constitute durable solutions in and of themselves ▪ Three key principles: Durable solutions should be voluntary, safe and dignified NRC NORWEGIAN REFUGEE COUNCIL — iDMC internal displacement monitoring centre Recap the main points of the presentation, and allow time for a question and answer session.