

FORCED MIGRATION

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review

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Going home: land & property issues

- rights, rehabilitation and restitution in Lebanon, Kosovo, Bosnia, Guatemala and Colombia
 - the disputed return of Bhutanese refugees
 - forced relocation in Uganda, Rwanda and Burundi
- plus:* • migration strategies in Ghana and Sri Lanka
• conferences • updates • publications • news



Forced Migration Review

provides a forum for the regular exchange of practical experience, information and ideas between researchers, refugees and internally displaced people, and those who work with them. It is published three times a year in English, Spanish and Arabic by the Refugee Studies Centre/University of Oxford in association with the Global IDP Project/Norwegian Refugee Council.

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August 2000: Accountability & evaluation

December 2000: Gender issues

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from the editors

Scott Leckie, director of the Geneva-based Centre on Housing Rights and Evictions, joins us as Guest Editor for our feature section on land and property rights of displaced people. In his introduction (page 4), he stresses: "Few procedures are more complex, subject to controversy and difficult to implement than ensuring that those who have a right to return to their original homes are actually allowed to do so." The eight articles that follow illustrate this point from around the world and draw out recommendations for building awareness and encouraging better practice in the future.



Corinne Owen

If you would like to respond to any of the points raised – or indeed to raise new points – please consider writing for the Debate section of the following issue. Deadline for Debate submissions: 12 June. Email us at fmr@qeh.ox.ac.uk or write to us at the address opposite.

Forced Migration Review issue 8, due out early September, will include a feature section on Accountability and Evaluation, including articles on the accountability of research (and researchers), the responsibility of NGOs towards the communities in which they work, corporate responsibility for displacement, and the changing role and potential of evaluation. If you would like to contribute, please contact the Editors as soon as possible. Deadline for article submissions: 1 June.

Have you or has your agency worked on these or related themes? Would you be willing to share your insights? We all want to avoid having to 'reinvent the wheel' with each new emergency. If you have any internal reports, discussion/policy papers or guidelines that you think could be of use to others around the world, please let us know.

Our *December* issue will include a feature section on Gender issues. If you are interested in writing for it, or have suggestions for contributors, please contact us as soon as possible.

We would like to thank the Brookings Institution Project on Internal Displacement for their generosity in distributing free copies of *Exodus within Borders* to all our readers in March. We have received many letters and emails of thanks in response. If any other agencies are interested in disseminating appropriate publications (or fliers) in this way, please contact the Editors.

Do visit our website at www.fmrreview.org. We have just launched a new feature called News, Events and Resources, for publicizing useful information that the hard copy FMR is not able to include. We welcome your announcements (up to 250 words) and also your suggestions for our greatly expanded Links section.

With our best wishes.

Marion Couldrey & Tim Morris
Editors

Cover photograph: Mitrovica, Kosovo. UNHCR/R LeMoyné

contents



Introduction: land and property issues 4

At the heart of the return process: solving property issues in
Bosnia and Herzegovina 5
by Catherine Phuong

The rehabilitation of homes and return of minorities to
Republika Srpska, Bosnia and Herzegovina 8
by Guy Hovey

Resolving Kosovo's housing crisis 12
by Scott Leckie

Unfinished business: the IDP land question in Guatemala 16
by Cecilia Bailliet

Bhutanese refugees: rights to nationality, return and property 20
by Ratan Gazmere and Dilip Bishwo

Women's rights to land, property and housing 23
by Leilani Farha

Forced relocation in Uganda, Rwanda and Burundi: emerging policy 27
by Jon Bennett

Resolving the issue of war displacement in Lebanon 31
by Georges Assaf and Rana El-Fil

People abroad and people at home in societies under strain 33
by Nicholas Van Hear

Regular features

Update 37

Global IDP Project 40

Conferences 42

Refugee Studies Centre 44

Publications 46



Introduction by Scott Leckie, Guest Editor

Issues around restitution of housing and property to refugees and the internally displaced wishing to return to their original homes have attracted increasing attention in recent years.

There has been a growing realization that resolving housing and property claims forms a key element of any successful repatriation, and a determination that ethnic cleansing, arbitrary displacement and unlawful secondary occupation of homes must be reversed and not allowed to take on features of permanence. As property disputes continue to confound policy makers in Bosnia, Kosovo, Georgia, Rwanda, Palestine, Guatemala, East Timor, Azerbaijan and elsewhere, housing and property restitution has emerged as one of the most important components of post-conflict reconciliation and rehabilitation.

Both peace agreements and international human rights standards are increasingly explicit about the right to restitution and the right of refugees and IDPs to return to original homes. The UN Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1998/26 clearly reaffirms the right of all refugees and IDPs 'to return to their homes and places of habitual residence in their country and/or place of origin, should they so wish'.

Increased attention to restitution rights has not come about because the process is an easy one. Far from it. Few procedures are more complex, subject to controversy and difficult to implement than ensuring that those who have a right to return to their original homes are actually allowed to do so. Even when conditions may be secure and stable enough for return to occur, many millions of people continue to be prevented from returning to their homes of origin, recovering property or receiving compensation.

Despite these difficulties, making a reality of restitution rights is so fundamental that one could argue that 'conditions of safe and dignified return' cannot exist unless appropriate laws, procedures and

enforcement mechanisms are firmly in place in countries of return. There are compelling grounds for asserting that organized repatriation efforts should not be undertaken unless clear legal and procedural safeguards are in place to ensure returnees either recover their property or are compensated. While care must be taken to ensure that property rights are not maliciously 'prioritized' to provide a smokescreen for *refoulement* or other human rights violations, there is little to suggest that sidelining or ignoring restitution will produce harmonious societies based on the rule of law, human rights and justice.

Heed should be taken of the experiences of countries such as Tajikistan, South Africa, Germany, Latvia, Estonia and others where restitution programmes have been reasonably successful. Establishment of institutions such as the Commission on Real Property Claims (CRPC) in Bosnia, the Housing and Property Directorate (HPD) in Kosovo and the Land Claims Court in South Africa mark a new departure.

Difficulties associated with initiatives in the Balkans, the Caucasus, Cambodia, Guatemala and elsewhere should not be used to undermine the importance of restitution but seen as graphic reminders of the importance of preventing the circumstances leading to forced displacement.

This issue of *Forced Migration Review* deals with many of the difficult issues arising from schemes to restore property to returning refugees. **Catherine Phuong** outlines the groundbreaking work of the CRPC in Bosnia and Herzegovina and the difficulties in implementing restitution rights set out in the Dayton Accord. My article looks at the major housing and property challenges facing the people of Kosovo while **Guy Hovey** explores how

housing rehabilitation and return of minorities in Serb-controlled Bosnia has been facilitated by international agencies.

Cecilia Baillet examines some of the inadequacies of the Guatemalan return process, particularly the land reform programme for returning IDPs, and suggests that much more should have been done to secure rights to restitution and land for returnees. **Ratan Gazmere** - himself a refugee from Bhutan now living in eastern Nepal - writes about an innovative self-help project seeking to promote eventual restitution and return. **Leilani Farha** outlines the results of a meeting held in Rwanda in 1998 looking at how customary and formal laws further complicate housing and property restitution claims of women around the world. **Jon Bennett** looks at the dilemmas surrounding forced relocation policies in Uganda, Rwanda and Burundi, while **Georges Assaf** and **Rana El-Fil** explore the politicization of the IDP question in Lebanon. And finally, in our regular GIDP Project section, **Bjorn Pettersson** highlights some IDP land issues in Colombia.

It is hoped that this issue of *Forced Migration Review* will contribute to promoting discussion in the international refugee and IDP community about housing and property issues and highlight the importance of protecting the housing and property rights of all returnees, wherever they may be.



At the heart of the return process: solving property issues in Bosnia and Herzegovina

by Catherine Phuong

The Dayton Peace Agreement, signed in November 1995, explicitly put property issues at the heart of the return process and the overall peace framework for Bosnia and Herzegovina.

Between 1992 and 1995, conflict displaced half of Bosnia and Herzegovina's population of 4.4 million. While a million people fled to other countries, principally to other republics of the former Yugoslavia, at least a further million were internally displaced. In Annex 7 of the Dayton Peace Agreement (DPA), Article I states that "all refugees and displaced persons have the right freely to return to their homes of origin. They shall have the right to have restored to them their property of which they were deprived in the course of hostilities since 1991 and to be compensated for any property that cannot be restored to them."¹

For the first time it was stated that not only should refugees be able to repatriate to their country of origin but also that IDPs should be able to return to their pre-war homes. Such an ambitious explicit commitment to ensure that each refugee or IDP is able to return to pre-war accommodation was made in the aftermath of ethnic cleansing which resulted in the creation of almost entirely homogenous territories in communities which had been ethnically mixed. An implicit objective of the DPA has been the reversal of ethnic cleansing via promotion of the return of populations forcibly displaced during the war.

In order to solve property issues, the parties to the DPA took the unprecedented step of creating a specialized institution: the Commission on Real Property Claims of Refugees and Displaced Persons (CRPC). The CRPC is not the only international institution to

be concerned with property issues, however; its work has been complemented by the active role of UNHCR, OSCE and especially OHR (Office of the High Representative in Bosnia and Herzegovina).

Some returns cannot take place without the current occupant being evicted. Eviction orders, however, are not being executed by those local authorities opposed to the return of minorities. Property issues have therefore become an extremely sensitive political issue. The emphasis which international organizations have put on achieving more minority returns² has had the result of diverting attention from discussions on relocation and compensation for loss of property.

The Commission on Real Property Claims of Refugees and Displaced Persons (CRPC)

The mandate of the CRPC is defined in article XI of Annex 7 of the DPA: "the Commission shall receive and decide any claims for real property in Bosnia and Herzegovina, where the property has not voluntarily been sold or otherwise transferred since 1st April 1992, and where the claimant does not now enjoy possession of that property. Claims may be for return of the property or for just compensation in lieu of return." The CRPC deals only with property claims and not with personal property lost during the war.

Most of those who abandoned their homes between 1992 and 1996³ but did not go abroad ended up occupying flats or houses abandoned by members of

other ethnic groups. Those who now wish to return to their homes thus sometimes find their property is occupied by other displaced persons. Large numbers of people were either forced to sign documents transferring their property to municipal ownership or lost legal documents in the course of the war. It is the task of the CRPC to assist IDPs to reclaim their property by issuing certificates certifying the identity of legitimate property owners.

The CRPC has six national members and three international members appointed by the President of the European Court of Human Rights. The great majority of CRPC administrative staff are locally recruited. The CRPC started its activities in 1996 and by the end of 1999 had received 175,000 claims from IDPs in Bosnia and Herzegovina and from refugees resident abroad. In order to process claims from refugees the CRPC has opened offices in several other countries. Claimants are encouraged to first pursue local remedies before lodging a claim with the CRPC. For 'socially-owned' apartments (those once owned by companies and rented to employees) this is a mandatory requirement. The CRPC has issued almost 50,000 certificates confirming property rights, covering both private and socially-owned properties. CRPC decisions are final and cannot be contested.

The CRPC has been given wide-ranging powers in order to solve property claims. Its unrestricted access to all property records in Bosnia and Herzegovina has allowed it to gather impressive amounts of information including a complete cadastral⁴ record of properties in all municipalities. The CRPC also has the authority to declare invalid any property transfer which was made under duress.

However, in the overwhelming majority of cases, the mere possession of a CRPC

certificate has not enabled claimants to recover lost property. Lack of enforcement mechanisms has threatened to rob the CRPC of credibility. In response, the High Representative (charged by the UN with overseeing implementation of all civilian issues set out in the DPA) imposed in October 1999 a Law on Implementation of CRPC Decisions in the Federation. Such an overt external intervention in national property law marks a new departure in international conflict resolution.

The role of UNHCR, OSCE and OHR

The main role of the other international organizations concerned with property issues has involved monitoring the implementation of property legislation and, where necessary, intervening on behalf of claimants attempting to recover property.

UNHCR has played an active role in helping each entity in Bosnia and Herzegovina (the Muslim-Croat Federation and the Republika Srpska) to draft necessary legislation to harmonize return procedures throughout the country. During the war, changes to property law legitimized occupation of 'abandoned' property. Post-war affirmation of these regulations threatened to endorse the rights of the current occupant (invariably a member of the ethnic majority in the area) to the detriment of the restitution claim of the pre-war owner seeking to return. In 1998 pressure from UNHCR, OSCE and OHR led to new property

legislation, adopted in both entities, which suspends the application of these laws. Four new laws relating to housing, tenancy and abandoned property were adopted in the Federation and one in the Republika Srpska; some were subsequently amended by the High Representative. Instructions have been issued establishing procedures for the return of IDPs and repatriates. This new basic legal and administrative framework for processing applications for return is still in its infancy and progress in implementation has been painfully slow.

The broad powers given to the High Representative to ensure compliance with the DPA include the right to unilaterally dismiss officials who repeatedly obstruct the implementation of property laws in order to prevent minority returns. The High Representative has intervened to suspend provisions relating to property and housing matters deemed contrary to the spirit of the DPA and to solve property problems.⁵ Thus in April 1999 he over-ruled decisions taken during and after the war to permanently reallocate some flats which had the effect of preventing the return of the former occupant. In October 1999 he made a series of major amendments to property legislation.

Developments in the town of Mostar have provided an interesting example of partnership between international

organizations and local authorities to solve property disputes. Cases of double and even multiple occupancy resulted from families who continued to occupy abandoned housing units while still retaining ownership of their own property. The large number of cases of double occupancy offers the possibility of carrying out evictions which, at least in theory, should not be problematic. Evictees have alternative accommodation to go to and are in illegal occupation of somebody else's property. In Mostar a double occupancy commission has been created which brings together local housing officials and international staff from UNHCR and OHR. A 'hotline' for the reporting of double occupancy cases has proven rather successful. Once reported, cases are then investigated by the commission. Such a structure has allowed local and expatriate stakeholders to work together. As of February 2000, 72 cases of double occupancy have been identified and seven evictions have taken place.

The resolution of property issues to allow for minority returns

International organizations operating in Bosnia and Herzegovina have attached special importance to resolution of property disputes in order to facilitate minority returns and lay the basis for recreating a multi-ethnic society. It follows that if the ultimate objectives of international intervention in Bosnia and Herzegovina are non-consolidation of the ethnic partition of the country and establishment of a lasting peace, then every effort should be made to encourage minority returns.

Often the main obstacle to resolution of property disputes, and thus to minority returns, lies in non-implementation of eviction orders. As success of the whole return process hinges on securing agreement on property issues, national and local politicians wishing to prevent minority returns have refused to carry out eviction orders. Local politicians are frequently



unwilling to support the removal of their loyal displaced supporters; for many such leaders, obstruction of minority returns has become an important means of bolstering their local power base.

It is not uncommon for claimants filling in a voluntary return application form to be asked to pay an unauthorized fee or requested to submit additional documentation. Local authorities do not carry out evictions, on the pretext that no alternative accommodation is available

for the current occupants. Often the local police force does not attend evictions or only offers limited support. While

all actors agree that resolution of property issues is essential to enforcing the rule of law, what is at stake in each municipality is maintenance of systems of political control which have been painfully gained or defended during the years of war.

The result is that the massive level of international involvement in Bosnia and Herzegovina has only brought about 120,000 minority returns since 1996. More than 800,000 persons are still displaced within the country. Among these 800,000 are some who have returned from abroad, mostly from Germany and Austria, but who have been unable to return to their former place of residence and have thus become IDPs.

Operational international agencies, looking at property issues as part of their overall strategy to recreate a multi-ethnic country, have emphasized minority returns. Relocation and compensation for loss of property have not been overtly promoted lest they be seen as contrary to the strategy to reverse the consequences of ethnic cleansing. Despite the fact that the DPA envisages the possibility of compensation for loss of property, funds have not been made available by donor countries.

For those displaced persons who do not wish to return but instead prefer relocation to a majority area, securing international assistance has not been easy. One can readily understand why some displaced persons do not wish to

return to a hostile environment where they fear not only for their safety but also for their economic survival. More efforts are needed to create conditions for safe and sustainable return.

Conclusion

The problems encountered in post-war Bosnia and Herzegovina illustrate the centrality of property issues in a return process in an ethnically divided society. Property issues are not merely perceived

in terms of legal niceties. For those who seek to consolidate ethnic partition, as for those who seek to challenge it, what is at stake when property

is discussed is a change in the ethnic mix of communities. It is this which explains the acute sensitivity of property issues.

Determined efforts have been made in Bosnia and Herzegovina to resolve property disputes against a background of war and ethnic division. The number of minority returns has been less than anticipated. The same problems, and the same dilemmas, will recur in Kosovo should displaced Serbs one day decide to try to return to homes now occupied by Kosovans.

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- 1 A full text of the DPA is available at www.ohr.int/gfa/gfa-hom.htm.
- 2 'Minority return' describes the return of displaced people to areas where they would now belong to the minority group. They can be differentiated from the less problematic 'majority returns', most of which have, in any case, already taken place.
- 3 Movements of population continued to occur throughout 1996. For instance, the great majority of Bosnian Serbs who were living in Sarajevo left the city following the DPA-authorized transfer of territory to the Muslim-Croat Federation in March 1996.
- 4 Legal term defined as "showing the extent, value and ownership of land".
- 5 For more information on property legislation and the activities of OHR in this area, see www.ohr.int/property.htm.

For more information on IDPs in Bosnia and Herzegovina, go to the Global IDP Project database and click on 'List of sources used' at the following URL:
<http://www.db.idpproject.org/Sites/idpSurvey.nsf/wCountries/Bosnia+and+Herzegovina>

Demining of agricultural land in Bosnia & Herzegovina

An average of 50 people per month are killed or injured by landmines in Bosnia and Herzegovina. Former wartime confrontation lines, which continue to contain the highest concentration of landmines and unexploded ordnance, correspond to some of the most productive agricultural areas of the country. As many residents of these former confrontation zones were forced to flee during wartime, these areas are now among the highest priority locations for refugee and IDP return. The presence, or suspected presence, of landmines in these areas reduces agricultural production possibilities and contributes to continued reliance on imported agricultural products.

An FAO-directed mission to assist the Government in selection of priority locations for demining of agricultural land was conducted during the spring and summer months of 1998. The objectives of this project were to:

- establish priority areas for agricultural demining
- identify land allocated to returnee populations
- review with the Bosnian Ministry of Agriculture and the Mine Action Centre in Sarajevo the location of highly productive agricultural land which is, or is thought to be, mined
- formulate activities within an overall demining strategy aimed at requesting the international donor community to provide funding or assistance in kind
- draw up a work plan specifying costs and manpower requirements



This report is extracted from a 16pp report entitled Selection of Priority Locations for Demining of Agricultural Land in Bosnia and Herzegovina, written by J Scott Pilkington. To obtain the full report, contact the RSC Library (rsdoc@qeh.ox.ac.uk) or email the author on scott.pilkington@rheinmain.af.mil

The rehabilitation of homes and return of minorities to Republika Srpska, Bosnia and Herzegovina

by Guy Hovey

In 1997, the US State Department's Bureau for Population and Refugee Migration funded two pilot projects in Bosnia and Herzegovina, each providing for the rehabilitation of 40 homes (20 for Serbs and 20 for Muslims) and the return of pre-war owners and families to the town of Sipovo in the Republika Srpska entity of Bosnia.

These contentious projects, implemented by the American Refugee Committee and the International Relief Committee, have had far reaching implications. In an ideal world, conditions conducive to return would have been established prior to return of the displaced. Donors, however, were unable in the early stages to risk the large sums of money needed to rebuild infrastructure such as schools and hospitals or to fund programmes aimed at re-establishing civil society. This article is a field-view analysis of the programme, strategies employed and problems encountered

Sipovo Municipality is situated in south-western Republika Srpska in the area known as 'The Anvil'. The pre-war population of 15,250 consisted of 12,480 Serbs, 2,488 Muslims, 32 Croats and 250 'others'.¹ Some 1,400 Muslims and all the Bosnian Croats fled in 1993 following incidents of house burning and random killings of minorities; remaining members of minority communities fled when the area fell to Bosnian Croat forces in September 1995. Sipovo Municipality was returned to Serb control under the Dayton Peace Accords and handed over in February 1996. Before vacating the area, departing Bosnian Croat forces looted, damaged infrastructure and destroyed 65 per cent of the buildings in

the municipality. In the aftermath of these events the majority population returned to occupy their former homes and those belonging to members of minority communities which had been spared destruction. By early 1997 some rehabilitation work of Serb houses had been undertaken, most notably by the Salvation Army, and some infrastructure repaired by IFOR (NATO's Peace Implementation Force).

The political agenda

The strongly nationalist sentiments of the returned Serb population were reflected when the first post-return municipal elections gave a majority to SDS, the hard-line Serb nationalist party headed by Radovan Karadzic. However, it was soon apparent during discussions with local authorities on the issue of return that anti-minority feelings were tempered by pragmatism, general war weariness and a desire for a return to normality. While nationalist arguments were used to block minority return, the authorities did have genuine concerns. As Carl Hallegard pointed out in an earlier issue of *Forced Migration Review*,² a common complaint was that Serbs were not being allowed free return to other areas of the Federation of Bosnia and Herzegovina such as Sarajevo and Drvar. Why, asked the Sipovo authorities,

should they then be asked to allow minorities to return to Serb controlled areas?

Broader nationalist/ethnic considerations became less important to local Serbs as they were given the opportunity to improve their well-being. Repercussions were expected in Sipovo when the internationally-driven return of Serbs to Drvar led to rioting and re-expulsion of Serb returnees but these did not materialise. Discussions revolved around such issues as the ability of limited health facilities to cope with an increased population and the ability of the police to control any attacks on minorities.

Negotiating strategy

Building on the pragmatism of nationalist politics, project implementators decided on a multi-level and conditional negotiating strategy. The need to gain the trust of the local population was imperative as was the importance of transparency of operations and accurate dissemination of information. Rumours of land swaps with the Muslim Croat Federation and large-scale evictions of Serbs from minority homes abounded, and there was genuine fear of Muslims on the part of many Serbs, following massacres of local Serb civilians at the end of the war. Governments and other donors launched an advocacy campaign and programme managers regularly participated in interviews, discussions and phone-ins on the non-partisan local radio station. It became evident that ordinary people were less concerned with the return of minorities than with their own survival. Most beneficiary questions were about reconstruction, agriculture and micro-credit assistance. It was impressed upon the general public that future aid levels were conditional

upon the peaceful sustained return of minorities and meeting UNHCR's criteria for the award of Open City status³ to those municipalities which allowed peaceful minority return. It was explained that UNHCR would give priority to an Open City when appealing to donors (and that such municipalities would, in principle, thus receive increased assistance, while non-Open cities would receive only emergency relief). Only if minorities returned in peace and safety and with dignity could Sipovo become an Open City.

The US Bureau for Population and Refugee Migration, UNHCR and major donors were invited to visit the local authorities and impress upon them the conditionalities of aid. A British battalion with NATO's Stabilization Force (SFOR) launched a pro-active 'hearts and minds' operation which combined a visible armed presence with small-scale assistance programmes. The UNHCR protection officer was instrumental in explaining human rights obligations to the local authorities, and contact meetings between the Displaced Persons group leaders and local municipal officials were facilitated. These discussions and accompanied home visits helped rebuild trust between groups. Coordination between NGOs, UN agencies, OSCE, SFOR and other stakeholders was impressive.

Selection criteria

Once authority had been secured, the next step was to agree a feasible area of return. To reinforce legal institutions, legitimize the return process and win credibility, it was important to be seen to be working in cooperation with returnees from all ethnic groups, the local authorities and the refugee ministry. Many factors had to be considered when selecting the return area. The area had to have been ethnically mixed prior to the war; houses had to be empty or repairable within budget; owners had to be willing to return; and all stakeholders had to indicate willingness to be involved in the process.

In cooperation with all interested parties, the rural area known as Volari was selected as the area for first return. Volari was a collection of seven small hamlets with a pre-war ethnic mix of 55 per cent Serb and 45 per cent Muslim. Conversations with the Serbs who had

already returned showed that they were not violently opposed to the return of former neighbours. Homes of eligible displaced Serbs and Muslims were repairable within the budget of an average \$8,000 per home. Creation of local employment opportunities helped to demonstrate the beneficial effects of minority return.

Eligibility criteria were developed, prioritizing those with insufficient resources to fund repairs, the unemployed, the lowly paid, single parent families and those with children. Homes would be rehabilitated to an agreed minimum standard: seal the structure with roof, doors and windows on one floor (other openings to be sealed with plastic) and rehabilitate one bedroom, one living

room, one kitchen (including water, sink and drainage) and one bathroom (including toilet, sink/bath and running water - hot if the budget allowed). Homes more than 65 per cent damaged were regarded as totally destroyed.

A tripartite agreement, setting out the obligations of each signatory and signed only after extensive consultations, was entered into by the NGO, municipal authorities and the returnee. It was important that returnees had sufficient information to make an informed decision. The NGO undertook to rehabilitate houses to a certain standard, the authorities to guarantee the security of repaired properties and returnees to settle in the repaired house within one month of their house being satisfactorily



Panos Pictures/Heldur Nelsoy

rehabilitated. A penalty clause allowed the local authorities to re-allocate a house to another displaced family if the family refused to take up residence.

Reluctance to return

Throughout the negotiation process, constant contact was maintained with the Displaced Persons group based in central Bosnia. At all meetings and visits, information exchange was encouraged and concerns addressed.

The characteristics of each family, their priorities and anxieties were identified.

Displaced people living in displaced persons homes were contacted.

Unsurprisingly, the main concern for returnees was security and safety, with employment prospects of secondary importance. What surprised programme implementers was that, despite declarations of willingness to return, there was a marked reluctance to actually do so. Burning desires to return cooled over time. When the prospect of return became a reality, many backed away from the opportunity offered them.

The reasons were more social than security-related. Many of the displaced had been forced to abandon a harsh rural lifestyle and had relocated to towns such as Zenica in central Bosnia. In towns they had greater employment and commercial opportunities, better schools, electricity and shops. It was typical to hear a family head say:

“Why do I want to return to a place where in order to get milk I have to milk a cow that I no longer have? Here in Zenica I just go downstairs and to the shop next door and buy a litre.” Exposure to the comforts of urban life had removed desire to return to the villages. The resultant acceleration of urbanization was mirrored throughout Bosnia and shared by all ethnic groups. It, and not security, has become the strongest barrier to return.

Reluctance to return was also based on worries about schooling, employment and how to get by without humanitarian aid. Although eventually better-funded programmes

provided returnees with agricultural and other inputs, the first returnees were under-funded.

IDPs had been displaced in large groups, had maintained contact through kinship networks and wished to return together or in groups. The realities of the situation meant that this was not possible.

Although ‘packages’ of five homes were contracted out together, differences in the amount of damage and repair work required together with contractors’ lack

of resources made it difficult to coordinate rehabilitation work and ensure that several houses were finished on the same day. Batches of homes were generally finished within one week. Security

concerns meant that as homes were completed they required immediate occupation before they were damaged or a different family moved in.

Security

Returnees were understandably nervous about going back to an area from which they had been forcibly evicted. To increase returnee confidence, security was reinforced with a large SFOR presence and regular International Police Task Force patrols. SFOR in particular were outstanding in their understanding of the issues at stake and their cooperation was pivotal to the project’s success. It was, nevertheless, repeatedly stressed that ultimate responsibility for returnee security rested with the local majority

population and the (totally Serb) local police force. Fear worked both ways. While the Muslim minority was anxious about returning, many Serbs were fearful of the implications of minority return and the risk of revenge attacks against those Serbs thought to have participated in ‘ethnic cleansing’.

Resistance to return

Resistance to return was encountered from the very people who should have been encouraging it – the leadership of the Displaced Persons group itself. These non-elected leaders represented the interests of those displaced from Sipovo. Their power arose from the perception of members that those in the leadership could influence the allocation of assistance. Development of direct links between implementing NGOs and their membership threatened the leadership and brokerage role to which they had become accustomed.

Misconceptions regarding building standards were another difficulty. Many returnees believed (despite briefings to the contrary) that their homes would be restored to pre-war conditions. This expectation, impossible to meet due to funding and other constraints, was to dog the programme.

Throughout Bosnia, the Displaced Persons group objected to assistance being given to refugees returning from abroad. They argued that refugees had not fought, had been working abroad and had received generous financial

Burning desires to return cooled over time.



A Muslim returning family invites their Serb and returned Muslim neighbours to dinner.

assistance to return from host countries. The fact that some visiting refugees conspicuously displayed their wealth exacerbated this tension. European Union programmes prioritizing the return of refugees caused friction with IDPs. Tensions eased once it was understood that those with funds were not eligible for the project but it was indicative however of the animosity felt towards some returnees from Western Europe.

First returns and problems

The first Muslim family returned to Sipovo Municipality in October 1997. Others followed and by the end of January 1998, the International Rescue Committee and the American Refugee Committee had facilitated the return of some 30 minority families. Families maintained kinship and commercial links with relatives living elsewhere in Bosnia and Herzegovina. Return followed a pattern: older members returned first, followed by younger members as confidence increased. Problems occurred and are sure to continue to occur. Houses owned by minorities had windows smashed, threats were made and one house was burned. Local police were uncooperative and only made sham investigations of incidents. Excavation in nearby Jajce of a mass grave containing the bodies of 27 Serb civilians from Sipovo heightened tension. Some returnee families attempted to sell homes after they had been rebuilt and to continue to occupy homes of other minorities. Fortunately, coordinated and robust action by the international community, together with cooperation from local authorities and the general public, largely countered these incidents, and these initial returns led to many more minority families returning in 1998.

In early 1998, the socialist SPRS party defeated the nationalist SDS in the local elections and UNHCR awarded the area Open City status. Success of the pilot projects led to Sipovo receiving increased funding in 1998. An integrated multi-agency aid package, with programmes ranging from house rehabilitation to income generation, was made available to all ethnic groups and further helped create conditions conducive to return.

donor-imposed conditions have brought results

The future

Neighbouring municipalities followed the Sipovo lead and by mid 1998 a host of municipalities, from Sipovo in the south to Banja Luka in the north, were open to minority return. Only long-term evaluation will allow us to judge the sustainability of return. Ongoing donor commitment is needed. As returnee numbers increase so the supply of less damaged houses has fallen. Richard Jaquot's predictions in *Forced Migration Review* issue 1⁴ that the supply of less damaged houses would decline, and that increased funding would be required to repair more badly damaged and destroyed homes, have been borne out by events. The principle of minority return has been firmly established. However, without expanded employment opportunities and development of industry, it is doubtful if many more families will make the transition. This will have an impact on the long-term viability of all IDP returns.

Conclusion

The return of IDPs from minority communities generates many lessons and raises policy questions. Though transferability of the Sipovo experience to other regions of Former Yugoslavia is debatable, an analysis of return projects within the Sipovo Municipality does highlight key issues for consideration. Factors conducive to success have been:

- integrated cooperation of all stakeholders in transparent and community-based planning and decision processes
- clear explanation of decisions and dissemination of information
- pragmatism of local authorities
- proactive SFOR Battalion
- stakeholder involvement in identifying conditions for return
- high profile of human rights/zero tolerance of human rights abuses
- establishment of trust between the personnel of the implementing agencies, local authorities, the general public and returnees
- the fact that project implementers lived in the project area
- dedication of local staff

- effort to ensure that implementation is undertaken by the legitimate recognized authorities

It appears that in Sipovo donor-imposed conditions have brought results. The number of spontaneous, self-funded minority returns has increased and intimidation of minorities is much reduced. The question remains, however, whether it is legitimate to target aid to areas which comply with Open City criteria and deny aid to others in need because they are under the rule of a hard-line local authority. Should members of minority communities be put at risk in order to create momentum in a peace process? Is conditionality sustainable, given the need for long-term donor commitment and monitoring?

At some point the policy of return will need re-evaluating. If the number of returns continues to be low, mechanisms for mutually agreed cross-entity property exchanges could be initiated. (This is already happening informally.) The question of how to assist those who feel that they can never return needs to be addressed. Lastly, as the EU puts greater pressure on refugees to return home, there has been a corresponding decrease in funding for minority return programmes. If this continues there is a real danger that the return criteria set out in Annex 7 of the Dayton Peace Accords will not be met.⁵ Should this happen, nationalist politicians would be provided with an ideal pretext for distorting and exploiting the reasons for non-return. Is the international community ready for the subsequent consequences?

Guy Hovey wrote this article in 1999 while working for the International Rescue Committee. He is now based in Sarajevo and works for the United Methodist Committee on Relief as Shelter and Return Project Director. Email: guy@bih.net.ba

1 1991 Yugoslav census
 2 *Forced Migration Review* issue 1, p22. See www.fmreview.org/fmr017.htm for full text of article.
 3 For a history of the Open City process and an analysis of progress to mid 1999 see www.unhcr.ba/opencity/9908BH1.html. An alternative source of information on Open Cities and the minority returns system in general is at <http://www.crisisweb.org/projects/bosnia/reports/bh33main.htm>
 4 *Forced Migration Review* issue 1, p26. See www.fmreview.org/fmr018.htm for full text of article.
 5 However, the other (often-neglected) two clauses of Annex 7 deal with the right to remain and the right to seek settlement in a third country.

Resolving Kosovo's housing crisis: challenges for the UN Housing and Property Directorate

by Scott Leckie

Armed conflict in Kosovo in 1998-1999 led to the destruction of tens of thousands of homes and the mass occupation of abandoned homes as refugees were repatriated.

This housing crisis came after a decade of widespread violation of housing rights. Throughout the 1990s, discrimination against the Albanian majority was manifested in irregular tenancy arrangements, arbitrary forced evictions and restrictions on property transactions: factors which substantially contributed to the subsequent conflict.

The enduring post-conflict consequence is uncertainty about rights to occupy and to legitimately own a considerable proportion of the housing stock in Kosovo. There is no Kosovo-wide housing rights policy. The severity of housing and property problems is exacerbated by illegal occupation of land and property owned by departing Serb and Roma residents, lack of legally secure tenure and title for the majority of Kosovo citizens, absence of adjudicative measures for redress of violations and unchecked further daily violation of the housing and property rights of minority groups. Effectively addressing key housing and property issues will be a fundamental challenge of the United Nations Mission in Kosovo (UNMIK) in the months and years ahead.

Establishment of the Housing and Property Directorate

Initially the UN moved relatively rapidly on property issues. In October 1999 UNMIK repealed two particularly draconian laws of the Federal Republic of Yugoslavia (FRY) which had placed discriminatory restrictions on the rights of

people to buy or sell their homes. The following month UNMIK established a Housing and Property Directorate (HPD), staffed and managed by the UN Centre on Human Settlements (Habitat). This is the first time that Habitat has been involved in creating such an institution. The HPD, which is to have a staff of 110 people, faces the daunting task of rectifying past housing rights violations, resolving the complex issues of disputed residential rights and developing an inventory of abandoned private, state and socially owned housing. A counterpart Housing and Property Claims Commission, comprising two international experts and one local expert in housing and property law, is to be responsible for adjudicating claims submitted to the HPD.

Though not yet fully staffed or financed, the HPD already has its hands full. More than nine months after the end of the NATO-led war, the HPD has barely begun the gargantuan task of offering Kosovans recompense for a decade of housing and property rights violations. Despite delays caused by financial and bureaucratic obstacles and recalcitrance from hard-line Kosovans, the process which has begun - the repeal of unjust housing laws and creation of an entirely new institution to resolve housing and property problems - is a welcome development. If the HPD succeeds, then Habitat's Kosovo programme may serve as a model for future initiatives in similar circumstances where housing and property rights of refugees and IDPs are under threat.

UNHCR and the European Union are jointly responsible for winterization of houses and house reconstruction. Habitat's programme is comprised of several elements in addition to the coordination of the HPD, including the massive task of re-establishing a system of cadastral¹ and property records in Kosovo and administrative systems for municipalities. Habitat is also working to collate and analyse housing and property legislation, repeal discriminatory housing and property laws, develop proposals to ensure local legislation is compatible with international standards, advise the international military force on housing security matters and facilitate solutions to housing and property disputes. Above all else, Habitat has sought to ensure housing security for all ethnic groups and to promote the rights of return and restitution so that all refugees and IDPs are able to return to their original homes.

Each of these housing and property activities is vital for the restoration of a semblance of normalcy in Kosovo and in other fragmented post-conflict societies. It may be helpful to set out the main issues that the HPD is likely to face in creating a society where wanton violation of property rights and destruction and demolition of property becomes a thing of the past.

Consequences of discriminatory housing legislation

Housing and property discrimination against the Albanian population of Kosovo was widespread under Yugoslav rule. This process was first formalized in 1990 when the authorities retroactively annulled sales of property to Albanians by departing Serbs.² Adoption of the 'Programme for Establishment of Peace, Liberty, Equality, Democracy and Prosperity in the Autonomous Province of

Kosovo³ consolidated the dominance of the minority Serb population. The Programme systematically outlined how repression was to be achieved in a number of policy areas, among which were housing and property. With the abolition of autonomous government in June 1990, housing and property sectors in Kosovo became bastions of ethnic discrimination. A host of legal instruments formed the politico-legal basis for the adoption and application of further laws that have had profound consequences for property owners in Kosovo and constituted one of the major contributing factors to the conflict itself.

In the early 1990s, some 135,000 Albanians were dismissed from their jobs on grounds of ethnicity.⁴ As occupancy rights in socially

owned housing (the predominant form of housing in the early 1990s) were almost invariably linked to employment, large numbers of Albanians were thus evicted from their homes. Many of

the properties Albanians were forced to leave were re-allocated to Serbs and Montenegrins on preferential terms. In addition to losing the roof over their heads, evicted Albanians also lost financial assets deposited in employment-linked housing funds and any right to buy the socially owned apartment they lived in which they had accumulated during years of employment.

As a consequence, there are now many instances where both an Albanian and a Serb possess documentation ostensibly giving both parties the right to occupy or own the same property. Resolving such disputes is bound to figure prominently in the work of the HPD. Albanians who have re-occupied the flats they consider to be theirs will seek legal recognition of their rights. Serb occupants who have fled may also seek the right to return, lodge a claim with the HPD or agree to a facilitated sale or compensation.

Unofficial transactions

The Law on Changes and Supplements on the Limitations of Real-Estate Transactions, together with persistent discrimination directed against the Albanian population of Kosovo, resulted in a large number of highly irregular

housing and property transactions between 1989 and 1999. Many were neither officially sanctioned nor legally registered. Under this law (repealed by UNMIK Regulation 1999/10 in October 1999), ethnic considerations were uppermost. Both ethnic groups felt discriminated against. Serbs were prohibited from selling property in order to discourage and restrict Serb emigration while Albanians who complied with the law had requests to buy and sell property routinely denied. The effect was to drive housing and property transactions underground with the result that today many legitimate occupants and owners do not possess any legally recognized documents other than an unofficial 'contract' between the parties. Private real estate transactions between members of

different ethnic groups were so restricted that it was virtually impossible for a Serb to buy an Albanian

home and even harder for an Albanian to buy from a Serb.

To circumvent these restrictions Albanians often used trusted Serb middlemen to facilitate unofficial transactions. This practice gave the misleading impression that the middleman was the owner as it was his or her name that featured on contracts of sale. In other instances, 'fictitious' lawyers were involved in drawing up equally 'fictitious' contracts, which were similarly not officially recognized by the land registry.

The number of such irregular housing and property transactions during a decade of underground transactions makes any determination of legitimate ownership exceptionally complicated. Land, housing, tenure and property records in Kosovo are incomplete and substantially inaccurate. A fair system designed to regularize these informal contracts will need to be developed to protect the rights of the legitimate owners and occupants of housing and property which changed hands in this way during the 1990s. Many people will have difficulties proving ownership or tenancy rights over a particular house, apartment or plot of land.

These problems have been worsened by the deliberate destruction of cadastral records by Yugoslav forces prior to and during the NATO bombing campaign and by the subsequent confiscation and transfer to Belgrade of a large volume of these records.⁵ Preliminary estimates indicate that more than 50 per cent of property records are no longer in Kosovo.

Unlawful secondary occupation

The HPD needs to scrutinize ownership certificates issued by the FRY authorities during the NATO bombing campaign. These documents transferred 'ownership' rights to homes temporarily vacated by Albanian refugees or IDPs. The legal problems involved should not be onerous as UNMIK Regulation 1999/1 declared null and void any official documents or laws approved by the FRY Government from 24 March onwards.

Since June 1999 many Serb and Roma families have been forcibly evicted or otherwise compelled to leave their homes. A large number of houses and apartments owned or occupied by Serbs and other minorities have been unlawfully occupied by returning Albanians and other illegal occupants. All over Kosovo there have been reports of arbitrary occupation of primarily Serb-occupied housing and property carried out in a common pattern of intimidation, physical assault or even murder. Frequently unlawful occupiers simply cover or remove Serbian nameplates and write their names on the door of a dwelling they want to confiscate. In some instances KFOR troops have intervened to restore legitimate residents to their homes. KFOR troops are required to report forced evictions and unlawful entry and have where possible sought to halt these activities but they claim - not without reason - that they have neither the manpower nor the intelligence capability to be 'everywhere at once'. Even in cases where those guilty are arrested, the lack of detention centres has meant that they are generally neither prosecuted nor incarcerated.

Coercive sales and rentals

Since July 1999 evidence has also emerged of forced evictions (primarily of Serbs and Roma but also sometimes of Albanians) using falsified documents.

housing and property sectors in Kosovo became bastions of ethnic discrimination

Legitimate owners and tenants are shown bogus documents as a means of forcing them out. Often these coercive evictions are accompanied by an 'agreement' in which victims are compelled, on pain of violence or death, to sign that they have disposed of property or tenancy rights 'willingly and without any pressure'. There are also reports that counterfeit title deeds are in circulation, designed to deceive KFOR and their civilian police counterparts into allowing occupiers to remain in illegitimate possession.

Compensation

Another issue that will need to be addressed by the HPD is the provision of compensation for those whose property has been damaged and who have been victims of human rights violations. International pressure is sure to demand that the FRY compensates victims of human rights violations directly attributable to the FRY or para-military forces under its control.⁶ This responsibility and obligation of the Yugoslav state to compensate victims will continue even if the Milosevic regime is replaced. How this will be implemented in practice and what the role of the HPD is to be remain to be seen.

Undamaged housing stock

A great deal of information has been collected on housing damage and destruction in Kosovo.

While it is generally agreed that 50 per cent of the housing stock was either destroyed or seriously damaged, far less is known about the number of undamaged housing units. It is not known how much intact housing is within each tenure type (private, socially-owned, social, cooperative, etc). The HPD plans a Kosovo-wide investigation leading to compilation of housing-related statistics on access to water, electricity and solid waste services, property prices, access to housing credit, the scale of homelessness and building repair and maintenance needs. Without such information development of a comprehensive and pro-active housing policy will not be possible. UNMIK will need to have reliable information on the existing housing stock in order to determine which, if any, properties will need to be acquired by UNMIK so that it will have access to sufficient property to provide alternative accommodation for those currently in illegitimate possession. As all people need protection against homelessness (even if they are unlawful occupiers), it will be important for UNMIK to identify and allocate such

accommodation. It will not be able to do so until a clear picture of available housing stock emerges.

Need for transparent legal and regulatory framework

Discriminatory laws and regulations and the traumas of the conflict have led to a situation where there is neither a hous-

ing policy nor a clear legislative framework in place in Kosovo today. Though the HPD will have many vital functions designed to regu-

larize the housing and property sector, there is still no nascent local institution designated to take eventual responsibility for monitoring transactions, protecting people from forced eviction, organizing social housing construction, issuing building permits, allocating land for housing and guaranteeing housing security. This lack of institutional clarity is disturbing when considered in terms of rights such as security of tenure, protection against eviction, the peaceful enjoyment of possessions and protection against arbitrary deprivation of

there is still no nascent local institution designated to take eventual responsibility



property which are set out in international human rights law. Basic legal components to enshrine these property rights in local legislation are required in Kosovo.

In the light of the events of the past decade (during which few new housing units were constructed) there is a need for a concerted effort to streamline Kosovo's housing law and policy and bring them into line with international standards. An attempt should be made to consolidate housing and property rights into a single piece of legislation, the Kosovo Housing and Property Rights Act. The initiative of drafting and implementing such a law would ensure participation by the Kosovo people and further enable the development of a consolidated law guaranteeing housing and property rights set out in international law.

The regularization of housing and property policy, legislation and practice in Kosovo constitutes a fundamental feature of the larger aim of establishing a stable and democratic society, built on the foundations of justice, the rule of law and the protection and promotion of human rights. Unless viable solutions can be found to these problems, ethnic and political tensions will continue, economic development and the establishment of democratic institutions will be severely hindered and the threat of future conflict will linger. Given the lawlessness and irregular climate in which housing and property relations are currently transacted and the ongoing legacy of discrimination and destruction, the urgency of remedying this situation cannot be over-emphasized. Failing to redress these issues will only contribute to increased insecurity, threaten attempts to realize housing and property rights and destabilize the peace-building process. It is to be hoped these lessons learned in Kosovo can be applied in other contexts of refugee and IDP return.

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This article is based on the more detailed *Housing and Property in Kosovo: Rights, Law and Justice: Proposals for a Comprehensive Plan of Action for the Promotion and Protection of Housing and Property Rights in Kosovo*. Copies can be obtained from the author at sleckie@attglobal.net

- 1 Legal term defined as "showing the extent, value and ownership of land".
- 2 Noel Malcolm Kosovo: *A Short History*, 1998, Papermac, London, p346.
- 3 *Official Gazette of Serbian Socialist Republic*, 15/90 of 30 March 1990.
- 4 The Programme set out many grounds for dismissal, among which was that: "All of those who have participated in demonstrations, shall be discharged immediately from managing posts in enterprises and social institutions." (Para 17)
- 5 Indicating the importance attached to housing and property records, the Yugoslav Justice Minister announced in July 1999 that the records of people and property for Kosovo were "removed to safer areas" and that "According to property records, the Serbs own around 70 per cent of the property in Kosovo which does not suit the Albanians who are of a separatist orientation and part of the international community". (*VIP Daily News Report*, Issue No 1559, Belgrade, 28 July 1998)
- 6 Interestingly, Article 123 of the Yugoslav Constitution states that: "Everyone shall be entitled to compensation for damages sustained as a result of unlawful or improper actions of an official or state agency or organization which exercises public powers, in conformity with the law. The state shall be obliged to pay compensation for damages. The injured party shall have the right, in accordance with law, to demand compensation directly from the individual responsible for the damage."

Workshop on Compensation as Part of a Comprehensive Solution to the Palestinian Refugee Problem (14-15 July 1999: Ottawa)

The question of Palestinian refugees represents one of the most difficult issues to be addressed in permanent status talks between Israel and the Palestinians. This workshop, organized by the Palestinian Refugee Research Net/International Development Research Centre, examines only one element of what must be a much larger package of elements comprising a comprehensive solution to the refugee issue. The workshop was convened in the view that compensation is important, and that discussions of the topic can be sustained among technical experts without in any way compromising the other inherent rights of the refugees.

The workshop report is available at www.arts.mcgill.ca/mepp/prtn/prcomp3.html and includes links to workshop papers. Printed copies are also available. Contact: Eileen Alma, Project Assistant, Middle East Initiatives, Program & Partnership Branch, IDRC, PO Box 8500, Ottawa, ON K1G 3H9, Canada. Tel: +1 613 236 6163. Email: ealma@idrc.ca

COHRE publications

The following publications are all available from: COHRE, 83 Rue Montbrillant, 1202 Geneva, Switzerland. Tel/fax: +41 22 7341028. Email: sleckie@attglobal.net Website: www.cohre.org Please add \$5.00 for postage and handling.

Sources Series (US\$15.00 each)

- No 6: International Events and Forced Evictions, Dec 2000
- No 5: Women and Housing Rights, May 2000
- No 4: Legal Provisions on Housing Rights: International and National Approaches, 2nd ed, April 2000
- No 3: Forced Evictions and Human Rights: A Manual for Action, 2nd ed, Oct 1998
- No 2: Selected Bibliography on Housing Rights and Evictions, March 1993

Global Surveys on Forced Evictions: Violations of Human Rights

- No 7: July 1998, US\$10.00
- No 6: Aug 1994, US\$10.00
- No 5: June 1993; No 4: Aug 1992; No 3: Feb 1992; No 2: Aug 1991; No 1: Aug 1990 [free photocopies; please add \$5.00 p&p]

Country Reports

(US\$10.00 each) on: Latvia (Jan 2000); Solomon Islands (May 1999); St Vincent and the Grenadines (Nov 1997); Japan/Kobe (Feb 1996); Palestinians/East Jerusalem (Sept 1995); Philippines (Nov 1993).

Books

- Leckie S *When Push Comes to Shove: Forced Evictions and Human Rights*, 1995, Habitat International Coalition, 139p, US\$15.00.
- Leckie S *Destruction by Design: Housing Rights Violations in Tibet*, 1994, COHRE, 199p, US\$20.00.

Unfinished business: the IDP land question

by Cecilia Baillet

*The campesino was born with his land; the war took it away.
The land is his destiny - life and death.
We will not stop being displaced until we have a plot
of land to sow and live on.*

Vidal Jutzutz

In 1999 12,000 peasants marched 70 kilometres to Guatemala City to protest lack of government progress in implementing the 1997 Peace Accords. They demanded greater efficiency in issuing land titles, enforcement of labour rights for rural workers and a review of the performance of the Land Fund and the Presidential Office for Legal Assistance and Resolution of Land Conflicts (CONTIERRA), the institutions responsible for providing credit for land purchase and for resolving land disputes. The fact that the number of demonstrators was four times that of the previous protest in 1997 indicates waning faith in the government's commitment to remedying the root causes of the conflict.

A representative from the Land Fund has admitted that only 39 of 500 requests for credit assistance have been approved. The key dilemma facing the Land Fund is the speculative land market which has inhibited donors from financing the programme. While other economic sectors suffer from excessive legal regulations, the land market remains curiously unregulated. Though CONTIERRA concedes that it has been ineffective, it places blame on its lack of human and material resources and the fact that final settlement of land disputes requires provision of alternative land financed by the Land Fund.

In February 1998 the Land Fund entered into an agreement to provide IDPs with access to credit for land purchases but refused to consider restitution. The Land Fund law recognizes three categories of eligibility for assistance: peasants with-

out land, peasants with insufficient land and those living in poverty. IDPs seeking credit are eligible to apply under these criteria, and do not need to apply as IDPs.

As of April 1999, the Technical Commission for the Execution of the Accord on Resettlement of the Populations Uprooted by the Armed Conflict (CTEAR) was processing 20 IDP community claims (each on behalf of between 20-145 families) for credit assistance from the Land Fund. Also under consideration were 30 IDP claims (25-100 families each) for recognition of title to land and three IDP claims (32-80 families each) for compensation. Most IDPs live in dispersed groups and do not know about assistance programmes and procedures for filing restitution claims. The government's failure to advertise its services and the absence of adequate legal aid worsen the problem.

Questionable validity of IDP classification

In 1998 the US Committee for Refugees (USCR) estimated that there were 250,000 IDPs in Guatemala. While organized collectives of IDPs, *Comunidades de Pueblos en Resistencia* (with a total of 15,000 members), have been able to gain international attention and purchase new land, the needs of the much larger number of dispersed non-organized IDPs have not been adequately addressed.¹ The Guatemalan government admits the failure but denies the need to recognize an additional category of protection arguing that "the internally displaced person ... is not in a special situation.

... he is in the same general situation as the rest of the population facing extreme poverty."

UNHCR's Guatemala office maintains the position that there is no longer an IDP problem in Guatemala.² They question the validity of the category itself, stating that it is difficult to prove who is an IDP due to the length of time and cyclical nature of internal displacement. Their attitude is shared by IOM and USAID representatives.

The general perspective is that it is a more holistic form of protection to provide socio-economic assistance to marginalized communities composed of diverse groups rather than focus on one category to the exclusion of others. The reality that CTEAR and the various land institutions have lists and files of IDPs, and that additional information is continually being received from applicants, carries little weight with donors. Review of this data, combined with additional investigation, would enable a more accurate determination of the actual number of IDPs dispossessed of land.

Clearly, the Guatemalan state lacks sufficient resources to provide full reparation to all and has to design strategies which are practical to implement. However, I would argue that it is discriminatory to state that the identification of a refugee, which also often entails questions of proof, is somehow more legitimate than that of an IDP. We must not ignore the reality that IDPs were dispossessed of their property in like manner to refugees.

Those dispossessed of their homes deserve either restitution of property or compensation. As long as neither remedy is offered, the infringement on the right to freedom of movement, choice of residence, freedom from arbitrary interference with one's home, equal protection of the law, and right to property has not ceased. As the Inter-American Court of Human Rights has noted, any State which fails to investigate and prosecute human rights violators and does not provide reparation to victims is itself in violation of its duties under the American Convention.³

Practical concerns

Courts and agencies pay heed primarily to formal title to land, not to how land was obtained. There has been little action to explore the validity of titles attained via corruption, theft, fraud or violence. In general, title is recognized at face value. As long as the government is unwilling to expropriate, or litigate for, the return of land illicitly obtained by the elite, it will be difficult to offer restitution of land to those persons illegally deprived of property. CONTIERRA has a mandate to resolve conflicts between various claimants and arrange for the sale/rent of land, issue of usufruct⁴ rights and resettlement of possessors. Intense pressure not to probe corruption

risks making CONTIERRA ineffective. The property registry and cadastral⁵ land registration system supported by USAID, GTZ and the World Bank is considered by some to be the primary vehicle for an ultimate solution to the land problem. Although the majority of handwritten ledgers have been transferred to computers (reducing the risk of tampering and increasing access to information), complaints have arisen about excessive delays in registering new titles. Recognition of title is not equivalent to land redistribution; persons whose title is confirmed may actually be usurpers. Delays in completing the cadastral survey have caused a mismatch between registered and de facto property. There are cases in which private security groups are sent to take possession of a property based on registration, only to find the land claimed by those who argue that the registry refers to another location. Insufficient attention has been paid to customary rights and historic title, the basis of many IDP property claims.

Forced evictions

Forced eviction has been recognized as an element of genocide committed against indigenous populations. During the Guatemalan civil war, indigenous leaders who claimed land rights were

persecuted as communists and subversives. Violent forms of dispossession deprived indigenous people of their means of survival and imperilled cultural traditions. While indigenous rural groups persistently call upon the state to uphold Article 67 of the Constitution (protection of indigenous land), the judicial system routinely recognizes individual claims thus exposing indigenous land to expropriation, sale or break-up. Many indigenous groups retain some form of collective title/claim to the land but divide property into individual family plots in order to prevent usurpation by non-community members. By doing so they lose a collective right to protection. Some indigenous groups have pursued claims to force the state to implement the expropriation clause in the Constitution but found the clause more often used against them. IDPs are deterred from returning to seized land by fear of physical attack by current occupants. Both land-owners and landless peasants have been frustrated by delays in processing cases and investigating acts of violence.

Cessation of IDP status

No international instrument, including the UN Guiding Principles on Internal Displacement, addresses when an IDP ceases to be such. It is curious that an



UNHCR/26209/12. 1996/IB Press

instrument designed to plug gaps in international law should omit such an important aspect of protection. Provision of protection to persons as a result of a temporal event requires an analysis of when such action is no longer required. Cohen & Deng recommend a case-by-case analysis and cite various scenarios for cessation status, including:

- 1 *Renewed security and possibility for IDPs to return and reintegrate in their areas of origin*
- 2 *Prevalence of socio-economic factors as a cause for displacement, rather than conflict and persecution*
- 3 *Resettlement (including socio-economic integration in another area).*⁶

The first and the third are akin to the cessation standards in Article 1 C of the 1951 Convention on the Status of Refugees and are equally valid in the context of internal displacement. The second standard is disturbing because it calls into question the validity of recognizing socio-economic factors as root causes of displacement.

The UN Guiding Principles' definition of IDP includes those "forced or obliged to flee or to leave their homes or places of habitual residence, in particular or as a result of or in order to avoid the effects of ... violations of human rights... and who have not crossed an internationally recognized State border." There is no limitation regarding applicability only to civil and political rights. One may deduce that the general reference includes social and economic rights as well, and the right to property as enshrined in, *inter alia*, the Universal Declaration of Human Rights (Article 17), the International Convention on the Elimination of All Forms of Racial Discrimination (Article 5) and the American Convention on Human Rights (Article 21). The UN Guiding Principles prohibit arbitrary deprivation of property and call for recovery of lost property or compensation/reparation (Principles 21 & 29).

Given that agriculture is the primary form of subsistence in Guatemala, the state's failure to respond to restitution claims by the dispossessed is a form of discrimination which may at best be categorized as promotion of impunity and at worst as a form of persecution threatening the survival of large sections of the rural population.⁷



Campesinos defend occupied land against eviction by Guatemalan police.

Cohen & Deng cite USCR categorization of Cypriots and South Africans as examples of how to determine cessation status. In Cyprus, although IDPs have been resettled for over two decades, the absence of a solution to the conflict, the continued presence of the UN and the desire of many of the displaced to return home are noted as factors for the continued validity of the IDP label.⁸ They consider South Africa to be a different case, despite admitting that a change of government has not resolved land problems resulting from the apartheid era. Their argument that "since the end of apartheid ... the displacement of many is now a land and economics issue"⁹ ignores the reality that land conflicts are often the root causes of displacement. The key difference between an IDP and a person who remained in his or her home is the dispossession of property. The fact that land conflicts are unresolved should not be used as a reason to end IDP status.

Cohen & Deng's suggestion that "displacement across generations" may be a legitimate basis for non-inclusion in the IDP category is at variance with Deng's statement that "the issue is not so much one of duration of time as one of solution - that is, whether the fundamental problems connected with uprootedness have ceased to exist or at least been significantly alleviated."¹⁰ In the case of the Palestinian refugees the span of time in exile has only intensified demands for restitution. Would it not be discriminatory to deny IDPs the same right to seek restitution?

In short, the current explanations offered for cessation of IDP status seem shaky because they appear to rest on subjective political considerations regarding the regime in power rather than objective legal determinants with respect to IDPs themselves.

A case by case approach may not be advisable for the determination of IDP status because it leads to *ad hoc* responses, which is exactly what the Guiding Principles were intended to avoid. Given that international organizations and states have criticized the IDP label as being vague and hard to apply, failure to explain how to put the IDP definition into practice and failure to define the conditions for terminating IDP status renders the pro-IDP case more vulnerable to those who, like James Hathaway¹¹, dispute the validity of the IDP category.

USCR has noted that, without guidelines, application of cessation status to IDPs is necessarily subjective. When they de-categorized groups of Nicaraguans and El Salvadorans as IDPs, USCR argued that they considered people no longer displaced if a) they "voluntarily returned home to live", b) "the conditions that led them to flee improved sufficiently that most observers considered that the displaced could safely return home" and c) "refugees from those countries repatriated from neighboring states."¹² Inclusion of refugee repatriation among the factors to take into account when analyzing the continuing validity of the IDP label is disturbing. Whereas refugees are organized and have support from

the international community, IDPs are generally dispersed, anonymous and lacking advocates. Refugee return is usually based on protection guarantees and specifically negotiated arrangements. The fact that a group of refugees has been offered the chance to return has no relevance to the situation of an internally displaced population still awaiting a response from a State.

In 1998, a year after USCR had estimated there were 250,000 IDPs in Guatemala, it was decided not to list them. USCR's justification is that "displaced Guatemalans who wish to return home are no longer prevented from doing so by conflict or fear of persecution. For most the barrier is the government's lack of political will and/or resources to provide the displaced with the land and assistance they would need to return home."¹³ Given that the deprivation of access to a domestic remedy is itself a basis for international protection, it is surely inconsistent to argue that such a situation constitutes grounds for exclusion from international protection.

Any argument that IDP numbers have been reduced requires a cogent analysis which explains how human rights violations have ceased, among which is deprivation of the right to property. The complexity of this issue reveals the inherent difficulties with respect to transferring the IDP notion from guidelines to policy on the ground. Worthy of consideration is the suggestion by the attorney Steve Hendrix that Guatemalan IDPs should be entitled to apply for restitution and/or socio-economic assistance for the duration of the implementation of the Peace Accords. The World Bank has proposed that the deadline for the implementation period be extended until 2006.

Restitution

The Commission for Historical Clarification has called for restitution, particularly in the form of land. While the Secretariat for Peace has only \$1.6m available for restitution, claims for damage to cooperatives in Ixcán and Peten alone have been estimated at \$45m. The Commission has found the Guatemalan Army responsible for 85 per

cent of cases of human rights violations, including dispossession of land. Ongoing displacement caused by para-statal narco-military groups goes unchecked. The fact that the government has changed does not mean that the state can avoid responsibility. Lack of sufficient economic and human resources, institutional capacity and political will make it unlikely that significant numbers of IDPs in Guatemala will have property restored.

The process of democratic transition necessitates tackling many of the root

IDPs are generally dispersed, anonymous and lacking advocates.

causes of displacement, reforming the judiciary, addressing socio-economic inequality and removing impunity. These

issues do not require the use of the IDP category, other than in presentation of evidence as to how property was illegally attained.

Increased funding to the Land Fund, CONTIERRA and other related agencies should be combined with improved access to justice and anti-corruption programmes, regulation of the land market, financing of legal aid services, action against unscrupulous lawyers who offer title processing services to the landless but who disappear after being paid, and investigation and prosecution of landowners whose holdings were coercively obtained. Land claims based on customary rights need to be investigated. There should be greater emphasis on retrieving information from CTEAR, investigating claims, disseminating information via radio to dispersed IDPs, and investigating the establishment of a compensation fund for the remainder of the dispossessed. Those dispossessed who choose not to return to rural areas should be able to opt for monetary compensation, alternative urban housing and vocational training. In addition, education reform is of fundamental importance in a country with the highest illiteracy rate in the region (51 per cent of women and 38 per cent of men).

Donors who have financed land programmes for refugees need to consider similar action for IDPs. Reduction of funding, justified by a partial implementation of the Peace Accords, would destroy the reconciliation process. The

measures proposed above would benefit all persons, not just IDPs, and would reduce the sense of injustice harboured by the poor.

Conclusion

Rather than considering the attainment of solutions for refugees as the final chapter, it would be better to view it as the penultimate step in the process of attaining justice for all victims of forced migration in Guatemala. As the international community seeks to promote recognition and categorization of IDPs, it should reflect from the Guatemalan experience whether agreement on a definition has any value in the absence of enforcement strategies and mechanisms. The process of considering when IDP status ceases must include rigorous analysis of ongoing human rights violations, in particular those rights to property restitution. Should such a task prove impracticable, then perhaps the IDP definition should not be utilized at all.¹⁴

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1 Some IDPs have been able to have land restored or received compensation for lost land when their claims were combined with those of a returning refugee population. UNHCR has assisted IDPs in these negotiations.

2 Telephone interview with Paula Worby, UNHCR Guatemala Office, 13 April 1999.

3 Garrido & Baigorria case, Reparations, I/A Court H/R Series C No 39, 1998, para 72; Velasquez Rodriguez Case, Judgment, 29 July 1988, para 174, 176.

4 Legal term defined as "the right of enjoying the use and advantages of another's property short of the destruction or waste of its substance".

5 Legal term defined as "showing the extent, value and ownership of land".

6 Roberta Cohen & Francis M Deng, *Masses in Flight*, Brookings Institution 1998, p37-8.

7 See UN Special Rapporteur on the Question of Impunity of Perpetrators of Human Rights Violations (economic, social and cultural rights), Mr El Hadji Guisse Scott, Final Report to the Commission on Human Rights, E/CN.4/Sub.2/1997/8 para 140, 27 June 1997, calling for restitution for illegal dispossession. See also UNHCR *Handbook on Refugees* p54 noting that discrimination may amount to persecution when affecting the right to earn one's livelihood.

8 Cohen & Deng, *ibid*, see footnote 9, p38.

9 *Ibid*, p39.

10 Francis M Deng, 'Dealing with the Displaced: A Challenge to the International Community', in *Global Governance* 45, 51 (1995).

11 Commentary by James Hathaway, in Proceedings of the 90th Annual Meeting of ASIL, 562 (1996).

12 US Committee for Refugees, *Colombia's Silent Crisis: One Million Displaced by Violence*, March 1998, p18.

13 US Committee for Refugees, *World Refugee Survey*, 1999, p266.

14 UNHCR and the University of San Carlos hosted a seminar on IDPs in March 2000.

Bhutanese refugees: rights to nationality, return and property

by Ratan Gazmere and Dilip Bishwo

The Bhutanese government disputes the citizenship of the 96,000 Bhutanese refugees currently in Nepalese refugee camps. A new project - the Documentation of Bhutanese Refugees - sets out to disprove their argument.

In 1990-91, about a sixth of Bhutan's population were expelled from their homes from the southern districts bordering India. Today over 96,000 reside in seven refugee camps in Nepal, while another 30,000 live outside these camps in Nepal and India. Having spent ten years in exile, the refugees want to go back home. The Bhutanese government, however, has been unwilling to allow the refugees back. In negotiations with the government of Nepal and in its international pronouncements, the central argument of the Bhutanese government has been that the refugees have not come from Bhutan and are therefore not Bhutanese citizens.

AHURA Bhutan - a non-partisan and non-governmental human rights group formed in 1992 by Bhutanese refugees in exile - has developed a project, entitled Documentation of Bhutanese Refugees, to prove the falsity of the Bhutanese government claim. Through their Digitalized Database of Bhutanese Refugees, AHURA Bhutan presents incontrovertible evidence of the place of origin and nationality of the refugees in the camps of southeast Nepal.

Forced out

The refugees are ethnically, culturally and religiously distinct from the ruling Bhutanese elite. They have been persecuted for protesting the implementation of discriminatory Bhutanese government policies targeted at the southern Lhotshampa or Nepali-speaking Bhutanese in the 1980s. The 'One Nation One People' policy required all the different ethnic

groups to accept the culture, language and dress of the ruling elite, while 'New Citizenship' arbitrarily revoked their Bhutanese nationality. Demonstrations against these policies in September 1990 were followed by thousands of arbitrary arrests, torture and detentions without trial, raids on villages, degrading treatment, gang rape, closure of almost all schools in southern Bhutan, restriction of health services, a ban on the movement of essential commodities and people, confiscation of citizenship cards, termination of employment and burning and demolition of houses. People previously classified as bona fide citizens were pressurized into leaving Bhutan because they had relatives who had been detained as political prisoners or who had participated in the democracy movement.

In the early 1990s the local district authorities, with the full backing of the armed forces, began ordering villagers to leave the country - or face severe consequences. Families were ordered to submit an application requesting the government to 'allow' them to leave the country by signing the 'Voluntary Migration Form'. The whole painful exercise of submitting the application for migration was videotaped with the petitioner required to 'smile' to the camera. More than 60 per cent of the families currently in the camps in eastern Nepal had to undergo this process.

Most families in these southern districts had little choice but to comply. In several cases, whole villages were uprooted. Families were given so little time to leave the country that most did not even have time to collect their basic belongings.

By the end of 1992, more than 80,000 Lhotshampas found themselves seeking asylum in the UNHCR-established camps in eastern Nepal. These people were forced to leave behind millions of dollars worth of property accumulated over generations and are now reliant on assistance from the international community.

Reallocation of land and property

Prime lands in most of the six southern districts of Bhutan, the area of origin of the bulk of the refugees in the Nepalese camps, have been reallocated to northerners, most of whom are ex-servicemen and their relatives. Strategic and commercially valuable land has been given to senior officials serving the present regime. More remote fertile land that has

lain fallow since the original inhabitants were forced out is now being given to northern Bhutanese. In order to entice them to settle in the south, the government is providing free building materials and

financial assistance and re-opening facilities closed in 1990. More such reallocation of land and other property to the northern Bhutanese is in the offing, thus sealing the fate of those Bhutanese stranded in Nepal and India.

The Bhutanese government has also been busy renaming places in the south of Bhutan to make them sound more like places in northern Bhutan. Chirang, for example, is now known as Tsirang, Sarbhang as Sarpang.

Prime lands have been reallocated to northerners



Promoting return: the Documentation of Bhutanese Refugees project

Various efforts to promote the early return of these refugees have so far not been very successful. Ten years and numerous bilateral meetings of Bhutanese and Nepali ministers have so far only succeeded in dividing the refugees in the seven camps into four categories. While ongoing resettlement and expropriation schemes in Bhutan further complicate the talks, the Bhutanese government is succeeding in its efforts to avoid the refugee issue coming under international scrutiny.

The best course of action to promote the early return of the Bhutanese refugees would be through the establishment of an impartial and independent verification commission. The international community, with the involvement of UN agencies, should encourage the Bhutan-Nepal bilateral committee and their respective governments to demonstrate their willingness to resolve this protracted problem, rather than continue to

hope that the problem will be solved solely through the bilateral negotiations.

AHURA Bhutan's Documentation of Bhutanese Refugees project aims to be a useful and effective advocacy tool to authenticate the Bhutanese refugees' nationality status and to promote their rights to nationality, return and restitution of property.

The primary objectives of the project are to prove that residents of the seven refugee camps are bona fide Bhutanese citizens with incontestable documentary evidence of their origin, nationality and property rights in Bhutan. (Electronic storage is being used to safeguard this evidence from risk of loss or deterioration.) The project further aims to seek support for establishing a mechanism for an impartial and independent verification of the property and return rights of Bhutanese refugees which is based on internationally accepted human rights norms and principles. The goal of the project is the early return of Bhutanese refugees and full restitution of their property and other fundamental rights.

Methodology

Work on the Digitalized Database of Bhutanese Refugees started in January 1999. 18 full-time staff members worked from January 1999 to March 2000: three in organization and management; three in computing; five in research; seven as general volunteers. Information was collected in the camps with assistance from volunteer camp residents and was subsequently verified by former village headmen, deputy headmen and village elders resident in the camps.

Information about the documentation project was disseminated to the refugees through leaflets, sample demonstrations, and verbal information through volunteers. The project team developed a standard information collection format. Refugees came to the project office in Damak and were interviewed by volunteers trained in interviewing; any other information which could not given by the interviewee then involved a camp visit.

All the relevant information about the refugees is stored in such a way that it is

easy and fast to access and retrieve. Each *Thram*¹ holder's family and property details, plus important documents, are organized and collated on a family, block and district basis. Documentary evidence, including Citizenship Identity Cards, Land Tax Receipts and photographs of houses and land, can be readily accessed.

The project officially ended in February 2000. Although AHURA Bhutan had hoped to cover the whole refugee population (96,000+), it was only possible to complete the documentation of about 51 per cent of the Bhutanese refugee population. Before proceeding with further documentation, AHURA Bhutan will review the project to assess any changes that need to be made.

Obstacles

The project met with some obstacles along the way although it is possible that these problems are endemic to the Bhutanese refugee context only. Occasionally the project experienced some technical (computer) and planning/implementation hitches but these were successfully resolved and there were no problems relating to human resources. Yet the project team was unable to complete the documentation of 100 per cent of the refugee population, due mainly to the unwillingness or apathy of sections of the population. There is evidence that some of the population were misinformed and misguided by various factions; others appeared genuinely unconvinced as to the

usefulness of the database. The team's decision to release the work completed to date is an attempt to gauge whether it will motivate the rest of the population to see the benefit of this exercise and participate in the next stage of the documentation. The project team has not yet been able to identify how this obstacle might have been overcome earlier in the project implementation.

Results

The main project output - the Digitalized Database of Bhutanese Refugees, Part I - was released in early April on a CD-ROM which is being distributed to concerned governments and international human rights bodies. A sample of the database is accessible on the internet [see details below], with a summary report and background information on the database which includes district-wide samples of details of families, properties and documentary evidence of Bhutanese origin and nationality.

It is hoped that the project will assist the Bhutanese refugees by

- dispelling doubts as to the identity of the refugees residing in eastern Nepal
- helping solve disputes during possible verification exercises between Nepal and Bhutan
- presenting easy-to-use and effective lobbying material
- providing verifiable substitutes for lost documents (thereby reducing anxiety about loss/theft)
- facilitating compensation payments and property restitution after repatriation

The results of this project should definitively establish the rights of Bhutanese refugees to return to their homeland and to reclaim their land and property.

Ratan Gazmere is Chief Coordinator of the Association of Human Rights Activists (AHURA), Bhutan. Dilip Bishwo is Secretary for the International Campaign.

For more information, visit the AHURA Bhutan website (<http://ahurabht.tripod.com>). To obtain a copy of the CD, contact Ratan Gazmere at ahurabht@wlink.com.np
Tel/fax: +977 23 80382.
Address: AHURA Bhutan, Damak 11, Jhapa, Nepal.

¹ *Thram* means land deed number.

Primary school (run by refugees) in Sanischare camp, Nepal.



Women's rights to land, property and housing

by Leilani Farha

For many women, rights to land, property and housing are essential to their livelihood and survival, and this is particularly so in the aftermath of war and conflict.

As a result of activities at local, national and international levels, these rights are finally being recognized and included on the political and legal agendas of national governments and regional and international human right bodies. This article focuses on one of the international activities which contributed to this growing momentum: an international conference on women's rights to land and property during conflict and reconstruction.

Kigali Conference

The government of Rwanda took an important step toward the realization of women's rights to land, property and housing in February 1998 by hosting a four day Inter-Regional Consultation on Women's Land and Property Rights During Situations of Conflict and Reconstruction in its capital city, Kigali. The Consultation was co-sponsored by a number of UN agencies¹ and was attended by more than 100 participants from Africa, Asia, Latin America, Europe, the Middle East and the Caribbean. The Consultation was specifically organized to augment and support the Women for Peace Network, the motto of which is 'No Homes Without Peace, No Peace Without Homes'.²

Recognizing that a broad range of actors needed to be engaged, the Consultation gathered grassroots women, NGOs, activists, legal experts, government ministers and parliamentarians, and representatives of a number of UN agencies to interact, to discuss the status of women's rights to land, property and housing in countries experiencing conflict, and to develop strategies for the future. The Consultation devoted equal time to an exploration of women's experiences with

respect to land, property and housing, and to the development of plans of action to address these experiences.

Obstacles

Throughout the world, women's relationship to land, property and housing during conflict and reconstruction is characterized by their ongoing displacement, often beginning at the onset of conflict and continuing indefinitely.

Sabine Sabimbona from the Association of Women Lawyers in Bujumbura described this phenomenon in the context of Burundi. As in so many wars,

economic hardship and the fear of violence forced thousands of Burundi women to take their children and abandon their land. With nowhere to go, these women joined the internally displaced and sought refuge in camps. Most of these women will not be able to return to their original homes even if peace and security are restored because, under customary law, as applied in Burundi, a widowed woman cannot inherit land from her husband, and her brothers and sisters-in-law will not welcome her back.

According to participants at the Consultation, this experience of customary law as a barrier to land and property ownership is shared by women in many parts of Africa, Asia and the Middle East, whether during peace, conflict or reconstruction. Under most systems of customary law, women are prohibited from owning, renting or inheriting land, property and housing in their own names, and access to and control over land, property and housing commonly depends on their relation to male relatives. In several African countries, for example, customary land and housing registration systems require proof of a husband's authorization for a woman to acquire title independently of her husband and single women or single parent women are obstructed from acquiring loans to secure housing, land and property on the basis that there are risks in lending outside of marriage or without the support of their husbands or male relations.³

While this greatly constricts women's rights to land, property and housing during times of peace, in the post-conflict situation - upon the death of a husband or male relative - these limited land, property and housing rights are eliminated. Furthermore, though traditionally widows were permitted to stay on the matrimonial land and in the home until death or remarriage, today male heirs prefer to sell off the land and housing for



Participant at Kigali Conference

their own economic gain, leaving widows landless and homeless. This shift is a reflection of the move away from customary land titling systems toward a market-based, private property system which is common in the post-conflict period as it is often a pre-condition for receiving financing from international financial institutions for reconstruction.

A participant from Rwanda, Conessa Nibogore, told the Consultation of her efforts to claim land upon the death of her father and mother during the 1994 genocide:

My life has been very bad since my parents died. Since their death I have not had access to my forest or to my fields. When I went to court, I was told I had lost even before they started my case. I was not given a chance to speak. I couldn't even cut a tree on my property or grow a potato.

After several confrontations with her nephews, some of which resulted in her being physically attacked, Ms Nibogore applied to the Ministry of Gender for assistance. When a representative went to investigate, he was told by her nephews that Ms Nibogore had to go, stating "no woman has ever inherited land".

A participant from Palestine exposed the impact of the intersection of armed conflict and customary law on women's rights. On the one hand, for Palestinian women living under occupation, their rights to land, property and housing are violated in a number of ways by Israeli forces who routinely confiscate Palestinian land and carry out house demolitions and forced evictions, and who raid homes and villages, terrorizing and injuring women. At the same time, because of the tremendous social pressure on women to renounce inheritance rights, Palestinian women's rights to land, property and housing are also threatened, especially upon the loss of a husband or father to the conflict. In turn, security of tenure and access to and control over land, property and housing for many Palestinian women depend on the benevolence of their brothers or husband's male kin.

Successes and lessons learned

Alongside stories of injustice, the Consultation included stories of hope and progress. Though women experience

extreme trauma and hardship both during and following conflict, such situations can offer women new opportunities and roles in relation to land, property and housing which may be the germinating seed for structural change and the realization of their rights.

One of the most inspiring examples presented was that of Guatemalan women in refugee camps in Mexico. Despite incredible barriers - lack of a lingua franca and the practical demands of everyday camp life - Guatemalan refugee women managed to unite and establish women's organizations. In the camps, with the assistance of the UNHCR local staff, the refugee women's organizations undertook a variety of activities to empower themselves and improve living conditions for all within the camps.⁴ After the signing of the 1992 Peace Accords, the refugee women's organizations analyzed the Accords and discovered that married women or those in common law relationships were not being granted independent title to land and housing. By this time, the refugee women's organizations were well established and in a good position to undertake political activities; they started a campaign for co-ownership of land and housing upon their return to Guatemala and, as a result of their efforts, these rights were formally recognized in law.

The Consultation also highlighted that, in a number of countries, steps had been taken during reconstruction to amend existing laws or enact new laws to protect women's rights with respect to land and property. For example, in Eritrea, during the transition to a constitutional government, the central government enacted new amendments to the Civil Code which fundamentally alter the status of women in Eritrea. Women are now granted the legal right to own and

inherit land and housing, and married partners have equal rights within the family to land, property and housing.⁵

In post-apartheid South Africa, the new Constitution is formally committed to gender equality, the right to housing and to land reform. Within the land reform legislation there is specific commitment to gender equity and the Department of Land Affairs has established a sub-directorate responsible for gender affairs.⁶

The 1994 Ethiopian Constitution also recognizes women's rights to use land on the same basis as men, stating that "any Ethiopian who wants to earn a living by farming has a right, which shall not be alienated, to obtain, without payment, the use of land ...".⁷

In Mozambique, the new Land Law of 1997 confirms the constitutional principle that women and men have equal right to occupy and use land. It also states that women have the right to inherit land. For the first time since national independence, it recognizes the right of local communities to secure a collective title to their lands, including cultivated, grazing and common lands,



and it foresees that such land may be governed according to customary law, so long as these laws do not contradict the Constitution of Mozambique. Men and women have joined forces and are working together in Mozambique through the National Peasant's Movement to ensure that these laws are implemented and enforced.⁸

Of course many of the success stories were accompanied by cautionary tales.

Participants from Guatemala indicated that though they had achieved formal recognition of co-ownership rights to land, property and housing, having these rights recognized in practice has proven difficult.

Representatives from South African NGOs also warned that formal recognition of women's equality and rights to land, property and housing in law and policy is not always unproblematic. Participants at the Consultation were surprised to hear that, despite the formal commitment to gender equality and the right to housing and to land reform in the new South African constitution, women's rights to land, property and

housing are not adequately protected and promoted. Though the post-apartheid South African government developed what appears to be gender sensitive legislation, the NGO representatives at the Consultation expressed concerns. They noted, for example, that the legislation is based on an inadequate understanding of gender, with the term 'gender' being used interchangeably with 'women'. That is, they have failed to understand that 'gender' refers to the socially prescribed, structurally reinforced roles for women **and** men, whereby the term 'women' merely refers to their sex. South African women fear that without this basic understanding of the term 'gender' and its significance to women's disadvantage, it is unlikely that the structural causes of inequality between men and women will be adequately addressed. They also noted that a concern for gender is not integrated throughout the policy: it is restricted to those sections dealing with objectives and principles but is not referred to in those sections on implementation, monitoring, evaluation, economic considerations and constraints to land reform.

Moving forward

To move the Consultation from contextual overview toward the development of plans of action, participants were divided into three regional groups: Africa (subdivided into anglophone and francophone groups), Asia/Europe, and Latin America/Caribbean. The regional groups agreed that all actors - men and women, grassroots organizations, women's groups, lawyers, government officials, judges - should be educated about the importance of rights to land and property for the survival of women, families and communities.

In particular, it was suggested that government officials and politicians be further encouraged to develop the political will necessary to draft and adopt laws and policies which promote and protect women's rights to land and property. Each of the regions also highlighted the role of women and women's organizations in promoting conflict prevention and resolution and in ensuring that their own interests are included on legal and political agendas. In turn, all agreed that the establishment of women's organizations should be fostered and that existing organizations require ongoing moral and financial support. Each of the regional groups also suggested that organizations working on women's land and property rights could learn from the experiences of others and that this could be facilitated through inter-regional exchanges and the dissemination of information between regions. It was also agreed that international campaigns, networks and support can provide benefits to local struggles and therefore should be utilized where possible and appropriate.

There has been some follow-up since the Consultation. At the international level, human rights and women's rights groups have been lobbying since 1999 to have a resolution on women's rights to land, property and housing adopted by the UN Commission on Human Rights. Such a resolution would be the first pronouncement by this important human rights body on women's rights to land, property and housing and would reinforce resolutions on this same issue adopted by its sister body, the UN Sub-Commission on the Protection and Promotion of Human Rights.⁹ According to the UN Centre for Human Settlements, at the national level, many individuals and organizations that participated in the Kigali Consultation continue to struggle to have women's rights to land, property and housing recognized and enforced. Activities have included political lobbying and advocacy, and education and training. In Colombia, for example, an open letter was written (to organizations such as NGOs, human rights institutions and other civilian bodies), encouraging the inclusion of women guerrillas in the peace dialogue. Now that the Secretariat of the Women for Peace Network has established its Secretariat in the Arias Foundation in



The Rwandan conflict left few families intact; many are now headed by single parents, primarily women. UNHCR/L Taylor

Costa Rica, we can expect to see more regional and international networking and exchanges.

Reflections

The four days in Kigali devoted to women's rights to land and property during conflict and reconstruction were an important contribution to women's struggle for equality. Those who attended were aware that this was a rare opportunity to focus on an issue that has received scant attention, despite its relevance to women's lives and livelihood, particularly in the post-conflict context. Perhaps it was this awareness that motivated participants at the conclusion of the Consultation not only to contribute to the development of national and regional plans of action but also to undertake personal commitments to promote women's rights to land and property.

To synthesize and expand upon the issues raised at the Consultation and to encourage future action, a paper was commissioned by the UN Centre for Human Settlements entitled, *Women's Rights to Land, Property and Housing: A Preliminary Inquiry*. This paper will be published and released at the 56th Session of the Commission on Human Rights in April 2000 and is available on the UNCHS website.¹⁰

Leilani Farha is the Women's Housing Rights Programme Coordinator for the Centre on Housing Rights and Evictions.

1 UNHCR, UNIFEM (UN Development Fund for Women), the UN Commission on Human Settlements (Habitat), and UNDP (UN Development Programme).
 2 This Network was originally founded by six NGOs at the UN Second World Conference on Human Settlements, *Habitat II*, in Istanbul, 1996. It was established to respond to the need for specific measures to protect women's lives and livelihood in war situations, in particular, rights to land, property and housing.
 3 See Beyani's paper as listed opposite.
 4 A number of projects were undertaken such as: a literacy campaign designed with women's organizations as a tool for raising women's self-esteem and contact with one another; training in communication skills and radio access for refugee women as a vehicle for spreading information and increasing women's capabilities; and protection and rights training covering human rights, women's rights, land rights and sexual and domestic violence including education on mechanisms to report violations of these rights to UNHCR. See Worby's paper as listed opposite.
 5 See Tekle's paper, opposite.
 6 See Mhago and Samson's paper, opposite.
 7 See Mwangiru's paper, opposite.
 8 See Ossemame's and Waterhouse's paper, opposite.
 9 Resolution 1999/15, Women and the right to development; Resolution 1998/15, Women and the right to land, property and adequate housing; and Resolution 1997/19, Women and the right to adequate housing and to land and property.
 10 www.unchs.org/tenure/Publication/Womrights/pub_1.htm

Resources

The following resources are, firstly, a summary report and a publication of the Consultation and, secondly, those papers written for the Consultation. All are on file with UNCHS. **Contact: Sylvie Lacroux, Land Management Programme, UNCHS (Habitat), PO Box 67553, Nairobi, Kenya. Email: Sylvie.lacroux@unchs.org See also UNCHS website at www.unchs.org**

Summary *Record of Proceedings* entitled *Peace for Homes, Homes for Peace, Inter-Regional Consultation on Women's Land and Property Rights in Situations of Conflict and Reconstruction*. UNCHS. Kigali, 16-19 February 1998.

Women's Right to Land Housing and Property in Post-conflict Situations and During Reconstruction: A Global Overview. UNCHS. Text available at www.unhcs/tenure - click publications

Arias Foundation for Peace and Human Progress *Land and Property Rights of Women in Situations of Reconstruction: The Central American Experience*

Dr.Chaloka Beyani *Women's Land and Property Rights Under Situations of Armed Conflict and Reconstruction: Summary Paper on Key Issues*

Edna Calder Chaves *Working with Populations Affected by the Civil War in Guatemala*.

Jeanette Ebba-Davidson *Lobbying for Legislation to Overcome Discrimination Against Women in Inheritance in Liberia*.

Maria Garcia Hernandez *Implementation of the Guatemalan Peace Accord with Special Reference to Women Returnees from Mexico*.

Jasna Lojo *Women's Land and Property Rights in Bosnia and Herzegovina*.

Fanelwa Mhago and Melanie Samson *A Gender Analysis of Recent South African Land Reform*.

Makumi Mwangiru *Critical Issues on Women's Land and Property Rights in Situations of Conflict and Reconstruction in the Horn of Africa: A Review and Evaluation*.

Anette Occeus *The Role of Women Farmers in Influencing Land Legislation in Haiti*.

Ismael Ossemame *The Role of the Union of Peasant Farmers in Securing Land for Returnees in Mozambique*.

Mariam Hussein Owreeye *Women's Rights to Land and Property in Somalia*.

Asteya Santiago *The Socio-Economic and Cultural Factors Affecting Women's Rights to Land and Property in the Asia Pacific Region*.

Tsehainesh Tekle *Women's Access to Land and Property Rights in Eritrea*.

Rachel Waterhouse *Women's Land Rights in Post War Mozambique*.

Paula Worby *Organising for Change: Guatemalan Refugee Women Assert their Right to be Co-Owners of Land Allocated to Returnee Communities*.

Other relevant resources:

Susana Lastarria-Cornhiel 'Impact of Privatization on Gender and Property Rights in Africa', *World Development*, 1997, Vol 25, No 8, p1317.

Shamim Meer (ed) *Women, Land and Authority: Perspectives from South Africa, 1997*.

Sub-Commission on the Prevention of Discrimination and Protection of Minorities, Resolution 1997/19, 'Women's Rights to Adequate Housing and to Land and Property', E/CN.4/Sub.2/RES/1997/19 (1997).

Sub-Commission on the Prevention of Discrimination and Protection of Minorities, Resolution 1998/15, 'Women's Rights to Land, Property and Adequate Housing', E/CN.4/Sub.2/RES/1998/15.

Forced relocation in Uganda, Rwanda and Burundi: emerging policy

by Jon Bennett

Forced relocation or 'regroupement' is the forced movement of entire communities, usually by a government, to permanent or semi-permanent sites often directly or indirectly under the control of military units. This is ostensibly to protect the population from political insurgency; in reality, it is more often a means of depopulating whole areas as part of counter-insurgency tactics employed by a government.

There are many conceptual areas of convergence between this and other forms of displacement, notably internal displacement, ethnic cleansing, expulsion, forced removals, house demolition, land expropriation, population transfer, resettlement and slum clearance. The broader term 'forced evictions' is used most widely in UN instruments and documents. For instance, the UN Committee on Economic, Social and Cultural Rights recently defined forced eviction as "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection...".¹ In a previous submission, the same Committee declared that "instances of forced eviction are prima facie incompatible with the requirements of the [International Covenant on Economic, Social and Cultural Rights] and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law".²

It is the "exceptional circumstances" which States frequently claim override international norms. Just as certain human rights obligations are derogated to broadly interpreted security concerns, so too have States been able to argue

that mass evictions are 'security-related', 'unavoidable' or the 'necessary price for progress or development'. The practice is often justified by governments as being consistent with international legal norms, though rarely have such claims been held up to international scrutiny. One of the distinguishing features of forced eviction is that it is often part of a planned process involving scant attention to international law before, during and after a person is forcibly removed from their dwelling.

Article 17 of Protocol 2 of the Geneva Conventions allows for the forced movement of populations where the security of the civilians involved, or imperative military reasons, so demand. It is intended to protect the civilian population from attacks by rebel forces. However, stringent conditions are attached to Article 17, including the adequate provision of food, water, shelter and freedom of movement. Without these pre-conditions - reiterated in the Guiding Principles on Internal Displacement - the action is illegal under international law. A worrying aspect of recent relocations in Uganda, Rwanda and Burundi is the manner in which international aid agencies have been co-opted into fulfilling these basic preconditions of survival. Their actions, albeit justified as life-saving interventions, may in fact legitimize,

or at least 'legalize', the original infringement of international law.

Displacement in northern Uganda

IDPs in northern Uganda number about 320,000. In the northern districts of Gulu and Kitgum, the Lord's Resistance Army (LRA), with its rear base in south Sudan and allegedly supported by the Government of Sudan, has been active since 1986. The LRA's human rights record is notorious: it systematically conducts attacks on the civilian population, including the mass abduction and forcible recruitment of children. A common theme throughout this devastating period of Acholi history has been the strategic use of civilian control by both sides, including the calculated enforcement of displacement. In February 1996 the LRA issued an edict banning settlement within four kilometres of roads and prohibiting the use of bicycles. Their intention was the tight control of a population inaccessible to government troops which would provide cover and supplies for the rebels. To enforce the edict, hundreds of people were killed, villages and food stocks were burned, and thousands drifted towards the relative safety of Gulu town.

Meanwhile, the government's Uganda People's Defence Forces (UPDF) shelled villages they suspected of containing LRA units, discouraged the return of IDPs from the towns and conducted a number of 'clearances', particularly from Aswa and Kilak counties in northern Gulu District. By early 1997, the Gulu District Council estimated that 270,000 IDPs were in Gulu town, trading centres and around army barracks. The policy of creating camps (introduced in October 1996) intensified and by mid-1998 the majority of IDPs were in 20 official camps. In neighbouring Kitgum District, a further 80,000 people were displaced in five camps.

Once established, Uganda's 'protected villages' became, for some, a permanent settlement heavily dependent on freely distributed food (provided mainly through the World Food Programme) and other assistance. Most people were ignorant of the security situation in their home areas. They received no clear indication that lasting protection would be offered by the army and although army contingents accompanied some returnees, this was *ad hoc*, with no firm commitment to stay near the villages. In the absence of any central government directives, the displaced were receiving contradictory advice from army, civil authorities, aid organizations and camp leaders. Some politicians were not anxious to lose the political advantages of population concentrations in the camps. Semi-urban and urban settings potentially provided better security, employment, transport, schooling and medical assistance promised by the government. In some areas, people were offered land for resettlement near the camps.

'Protected villages' were officially endorsed by President Museveni in September 1996 to help neutralise the 'intelligence centres of insurgency'. The manner in which displacement is characterized is part of the propaganda associated with the war. Government opponents, including the LRA, have used the phrase 'concentration camps'. Certainly, there was an element of coercion in their creation. A significant number of civilians moved to the camps on their own initiative but those who chose to remain were ordered to move to the camps by UPDF officers, and in some cases were beaten if they refused to move. There were reports of UPDF shelling near reluctant villages in order to create fear and force the civilians to move.³

In the camps themselves, random violence, particularly against women, has been reported. To its credit the Ugandan army has recently begun to take seriously allegations against its own officers. Yet, one of the unforeseen effects of the creation of camps has been the extension of violence to other communities

not under army protection. Neighbouring areas such as Lira and Apac Districts where people have remained in their home villages and cultivated their land have seen increased incidents of violence and looting by the LRA. Conventional standing army approaches to security, even with resources that the UPDF can ill-afford, cannot be effective against highly mobile LRA units travelling usually by foot in areas with no roads or communications.

In April 1999 the Ugandan government officially renounced its policy of 'protected villages', arguing now for voluntary return as a permanent solution in line with its amnesty and reconciliation with the LRA. Local pressure on land and a relative lull in fighting had already encouraged the return of IDPs. Again, however, adequate

provisions of food, shelter and health facilities upon return would depend heavily on external assistance, with the government promising few incentives.

To date, it is unlikely that any form of compensation for lost or destroyed property, crops or land (as called for in Principle 29 of the Guiding Principles) will realistically be available to returnees.

IDPs and villagization in Rwanda

Following the massive return of refugees from the Democratic Republic of Congo from June 1997 onwards, the security situation deteriorated in north-west Rwanda.

Information on the initial stage of displacement in the north-west is scant. Tens of thousands of people fled to the Virunga forest area north of the Ruhungeri-Gisenyi road and 'disappeared' for months; others fled to border areas controlled by the rebels. Still others apparently hid in caves in the sloping valley approaching Goma. Large areas of the north-west were deserted and eight out of 16 communes in Ruhungeri were abandoned by the end of 1997. Although a skeleton UNHCR staff remained in Gisenyi town, insecurity forced UN and NGOs engaged

in rehabilitation and reintegration programmes to suspend activities in the area. The UN Human Rights Field Operation was disbanded in May 1998 and in July the government refused to allow it to continue to monitor human rights abuses in the country.

What little evidence there is suggests that atrocities were caused by both sides of the conflict. In some regions, RPA (Rwanda Patriotic Army/government) soldiers ordered people to destroy banana plantations and other crops that might provide cover for the rebels, thus causing food production to fall. As the insurgency intensified in late 1997, the government was unwilling to acknowledge the severity of the humanitarian crisis. To have requested international assistance at that time would have been tantamount to admitting the precarious security of the country when the RPF was already being criticized for military manoeuvres in neighbouring DRC.

The full extent of the IDP crisis became apparent when, in April 1998 (after several months of hardly any international access to the north-west), the Prefets of Gisenyi and Ruhungeri finally requested World Food Programme (WFP) emergency food aid assistance to some 100,000 IDPs who initially gathered in makeshift camps around commune offices. The camps were not, however, spontaneous settlements. By the time international agencies were granted access, military and local government authorities had organized mass settlement in extremely crowded and ill-equipped centres. By the end of 1998, the IDP population in the north-west had risen to a massive 650,000, representing 44 per cent of the total population of the two prefectures. Although numbers were notoriously difficult to verify, approximately 450,000 were in 17 makeshift camps, with the remaining 200,000 living with friends or relatives or in public buildings.

The encamped IDP population of 450,000 created needs far beyond what a handful of agencies were able to cope with. From July to October, WFP and two NGOs (CONCERN and Food for the Hungry) were the only international agencies on the ground. It soon became clear that the crowded camps presented major health and nutrition hazards. Malnutrition, particularly among young children, had reached alarming levels, and inadequate water and sanitation were causing enormous problems.

it is unlikely that any form of compensation for lost or destroyed property, crops or land will realistically be available to returnees



UNHCR/26112/12.1996/R.Chalasan

Rwandan refugees returning home in 1996

The government's response was to swiftly implement its *imudugudu* (grouped settlements) policy, initially in those communes where large camps had been created.

Imudugudu is not unique to the north-west. It had, in fact, been government policy since 1995 when Rwandans returning from outside the country and IDPs were settled in such 'villages'. Economic development and improved delivery of services were presented as the main rationale. In the north-west, however, the programme appears to have been primarily to avoid insurgency. Today, almost all IDPs in the north-west are resettled in new *imudugudu*.

The process has been relatively straightforward and orderly, though accompanied by very little consultation with international agencies. Sector by sector, families were relocated to new sites where they were allocated housing plots, usually near to an access road and in close proximity to their original plot of land or to land that was to be allocated for cultivation. In some areas of Gisenyi, relocation was accompanied by land redistribution from the outset. As the security situation improved through 1999, many (but not all) farmers were again walking back to the hills to work during the day, returning to the relative safety of the settlements in the evening.

The logic was simple: clearing the hinterland gave the army unimpeded access to rebel hideouts while ensuring that the farming population was more secure in valley settlements. Scattered homes across inaccessible hills was conducive neither to protection, nor to the reintegration of a politically volatile population.

Local government structures in Rwanda often lack the financial and material resources necessary for the kind of ambitious resettlement programme envisaged. Central government resources are overstretched and, unlike Uganda, there is no decentralized tax revenue available for local use. In effect, the success of the resettlement depends on three indeterminate factors: political compulsion and leadership; local initiative and enterprise; and sustainable external aid. The first is assured, the second unproven and the third, in the current international climate, is probably unlikely.

Many land claims from the relocation remain unresolved. In Ruhungeri prefecture, farmers are cultivating less than 60 per cent of available arable land and, with half a million people still depending on foreign food aid, malnutrition rates are higher than elsewhere in the country. In contrast to many other major donors, the EU has explicitly voiced

concern over villagization in Rwanda, affirming the need for planning, popular consultations and equitable distribution of land in order to avoid human rights violations.⁴

The *imudugudu* process presents significant challenges to the international community. In December 1998, the UN affirmed its commitment to address the crisis in the north-west and to engage in dialogue with the government over resettlement policy, providing technical and material assistance as necessary. Several NGOs have demurred from involvement in the process, being uncomfortable with complicity in villagization. At least one international NGO⁵ decided to "engage with, but not embrace, the policy of villagization", by seeking to meet the immediate basic needs of IDPs while simultaneously commissioning rapid research into villagization experiences in Ethiopia, Tanzania and Mozambique. These findings were subsequently shared with the Government of Rwanda in an attempt to highlight the potential pitfalls of the policy and to gain assurances that it would not exacerbate poverty and discontent, thereby entrenching the need for on-going external assistance.

Meanwhile, conditions on the ground oblige international agencies to provide shelter, health and food to a majority of

people reduced to total dependency by constant displacement over many months and still unable adequately to access and cultivate land. It is precisely the 'emergency' state in which *imudugudu* has been introduced which allows many agencies to proceed without reflecting too deeply on the developmental consequences of their action.

'Regroupement' in Burundi

The negative consequences of forced relocation are most starkly demonstrated by a ruthless policy deployed in Burundi where, since September 1999, some 380,000 people have been forcibly relocated by the government into 53 sites.

High-ranking officials claim that regroupement is not a policy as such but rather a necessary response to intensified

UN and NGO agencies were left with no choice but to provide 'life-sustaining' assistance

attacks by rebel forces on the capital. In February 2000, the government announced a 'phased' closure of an initial 24 camps, though new camps were also created in March. Such evictions constitute clear human rights violations as now widely recognized under international human rights law. The sites lack basic services, are sometimes on the sides or tops of steep hills and, while officially administered by civilian authorities, are in practice under military control. In many cases communities have been moved with no prior notice in the middle of the night, their homes have been looted, and they have arrived at the new sites with only what they can carry. Although they vigorously denounced the government's actions, UN and NGO agencies were left with no choice but to provide 'life-sustaining' assistance, subject to certain specified conditions.

The scaling back of UN assistance since the killing of two expatriate and a number of national staff at Rutana in mid-October 1999 - and the heightened security measures subsequently imposed - means that protection and assistance needs of IDPs have largely fallen to the NGO community. Unable to address the magnitude of needs, NGOs and the wider donor community expressed frustration at the lack of active UN involvement, claiming that the 'Phase IV' security imposition (no expatriates in the field,

only armed convoys and restricted visiting times) had, by February 2000, lasted too long. Protection activities in particular had been neglected, with widespread reports of extra-judicial killings, sexual abuse and harassment in the camps.⁶

Burundi has caused heightened concern and an evolving dialogue between aid organizations on how, and in what circumstances, they should challenge governments over forced relocation. In January 2000, following a statement by the UN Secretary-General to the Security Council, the Inter-Agency Standing Committee issued a policy statement on Burundi.⁷ Although it noted the pledge of the Burundi government to start dismantling the

relocation sites, the IASC agreed to continue seeking resources for humanitarian aid to the camps based on the following conditions:

- i Assistance should be life sustaining only: food, essential health services, water and sanitation. The only exceptions would be the provision of seeds and tools for those with access to land and educational supplies for temporary (or hosting) schools.
- ii Assistance should be provided to people returning to their homes or, in exceptional circumstances, to those voluntarily resettled elsewhere. Both should be provided alongside support for the host communities.
- iii No permanent site structures should be supported (apart from those required for delivery of water and sanitation).
- iv Existing local services should be supported, especially where they also service the IDP population.
- v No assistance should be given to the creation or administration of the camps.
- vi Assistance should be provided on the basis of an independent assessment of needs, independent monitoring of distribution and unhindered access of humanitarian workers to the sites.
- vii Assistance should be provided on a case by case basis, with each stage of assistance dependent on a fresh assessment of needs.

viii Full and free access of Human Rights Observers to the sites must be ensured, to allow them to monitor and report any abuses which may occur there. A forum in which these reports can be reviewed and action taken should be established by the government.

These conditions provide something of a blueprint for aid organizations obliged to intervene on behalf of the 'victims' of forced relocation. In part, they reflect the Comprehensive Human Rights Guidelines on Development-Based Displacement, developed by the UN High Commissioner for Human Rights in 1997.⁸ The Guidelines go further than the above conditions; they cover specific preventative obligations of States as well as issues of compensation and restitution for those subjected to forced evictions.

Case study literature on agency responses to forced relocation is sparse, not least because in very few cases has a clear inter-agency position been elucidated. Current UN policy reflects two important, but not sufficient, components: legal instruments and documents defining government responsibilities and obligations in particular, and diplomatic approaches - again primarily at State level by, among others, the Special Representative of the UN Secretary General on IDPs (who visited Burundi in February 2000) - promoting the concept of 'sovereignty as responsibility'. Basic operational dilemmas remain. What is needed now is for the international community - perhaps best represented through the UN Resident/Humanitarian Coordinator - to clearly advocate a context-specific range of viable alternatives to regroupement/villagization, rather than simply react to unpalatable government policy.

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1 UN CESCR *General Comment* No 7, 1997.

2 *General Comment* No 4, 1991.

3 *World Report 1999/2000*, Human Rights Watch, New York.

4 *ibid.*

5 Oxfam GB

6 'Report of the Mission to Burundi of the Representative of the Secretary-General on Internally Displaced Persons', Francis M. Deng, 6-11 February 2000.

7 'Policy on Forced Relocation ("Regroupement") in Burundi', IASC, February 2000.

8 For the full text, see *Forced Evictions: Violations of Human Rights* (Global Survey on Forced Evictions, No 7), COHRE, Geneva, Sept 1998.

Resolving the issue of war displacement in Lebanon

by Georges Assaf and Rana El-Fil

Internal and regional conflicts have led to massive and repeated waves of displacement in Lebanon.

At the height of the complex seventeen year-long war, up to one million people were internally displaced. Ten years after the Taif Agreement brought an end to conflict there are still some 450,000 IDPs¹, almost 14 per cent of the entire Lebanese population. The IDP question is one of the most pressing and contentious post-war issues and for many years it was highly politicized. Though huge funds have been allocated to resettling the displaced, remedies have generally been both ineffective and unjust.

Background

The first large-scale displacement began in 1975 and was characterized by confessional divisions. A quasi homogeneity of religious affiliation was violently imposed in different regions of the country and the capital was divided into Christian and Muslim sectors. In 1985 the largest and most destructive wave of forced internal migration (displacing an estimated 367,000 people) took place in Mount Lebanon. The displacement occurred in tragic conditions and struck a severe blow to the national unity of the country. Further massive displacement was caused by repeated Israeli invasions. The Israeli military operations in 1978 displaced more than 120,000 persons from the south to Beirut's suburbs where they often illegally occupied vacant houses, hotels and plots of land. The Israeli invasion of 1982 caused a temporary massive wave of displacement especially from the capital. While the withdrawal of Israeli forces from Beirut permitted a significant return movement, their withdrawal from Mount Lebanon was followed by severe internal clashes and further displacement.

During the years of conflict nothing could be done to put a halt to numerous instances of illegal occupation of property. The fragmentation and disintegration of the government and the power of the militias made it impossible to provide IDPs with shelter, security, food and medical care.

The disastrous effects of displacement have had ongoing social and psychological consequences. The fact that large numbers of families have had to live in one house has created tension and conflict. Overcrowding has increased the spread of disease. Drug abuse and delinquency have become prevalent among young people. As moral values have generally deteriorated squatting in somebody else's property has come to be regarded as normal. Indeed, some of the displaced even claim the right to squat as one of their legitimate rights. Illegal occupation of property has implicitly been condoned by political factions.

According to the Ministry for the Displaced there are still 70,735 displaced households. 62 per cent of IDP families are from the governorate of Mount Lebanon and 23.7 per cent from the South.²



Panos Pictures/1 C Tordai

The Taif Agreement

The Document of National Understanding (known as the Taif Agreement after the Saudi city in which Lebanese parliamentarians met to agree it) was signed in 1989. It put an end to the fighting and declared the return of displaced persons a necessary condition for permanent reconciliation and sustainable peace: "The Lebanese territory is one and undivided land for all the Lebanese people. Every Lebanese citizen has the right to live anywhere on this territory under the sovereignty of law; there is no division, no separation and no settlement of people on the basis of their belonging."³

The document sought a just and enduring solution to the dilemma of the displaced. It required the government to "solve completely the problem of IDPs, and acknowledge the right of every Lebanese citizen displaced since 1975 to come back to the place from which he/she was displaced; to establish the legislation that safeguards this right and ensure the means of reconstruction."⁴

The Taif Agreement thus stressed not only the right of IDPs to return to their place of original residence but also pledged financial support to enable them to reconstruct their homes and villages. This has always been a major issue in all attempts to put an end to conflict in Lebanon. It was one of the main concerns at the Lausanne Conference in 1984. It was also an important feature of the abortive Tripartite Agreement between militias under the aegis of Syria, which provided for the return of IDPs within a period of "three months after the formation of a new Cabinet".⁵

The right of IDPs to return to their homes was formalized in 1990 through an amendment to the 1926 Constitution. The right of Lebanese citizens to unrestricted freedom of movement and residence in all parts of the country was enshrined in the constitution. An implicit corollary was rejection of any kind of partition of the territory of Lebanon.

Initial plan of return

Following ratification of the Taif Agreement, the Ministry for the Displaced was created to deal with the issue of war-displaced persons and a Central Fund for the Displaced founded to finance projects of return. A range of ministries agreed to contribute to the reconstruction of infrastructure in areas of return. While these initiatives seemed promising, the nomination of the former militia leader Walid Jumblatt as Minister for the Displaced was highly controversial. The same war leader who had played a role in the largest displacement (that from Mount Lebanon) was now given national responsibility for IDP return.

The government estimated that \$400m was needed to cover the return of all the

displaced in Lebanon. Figures indicate that although \$800m was spent from 1991 to 1999, only 20 per cent of the displaced were able to return to their villages.⁶ Only nine per cent of those who returned were fully reimbursed for expenditure on house reconstruction, the great majority of returnees having to pay for reconstruction from private funds. Overt and blatant mismanagement and embezzlement of funds led to tension between the former Prime Minister Rafic Hariri, the parliamentary speaker Nabih Berri and the Minister for the Displaced.

Shortcomings of the initial plan

Implementation of the IDP return plan was characterized by deficiencies and inconsistency. There was a lack of coordination between the Ministry for the Displaced and the ministries in charge of

infrastructure and social services. Cash payments were made to rebuild and restore houses in regions where the infrastructure and social services

were inadequate or non-existent. Elsewhere in areas where such services existed, no restoration or reconstruction payments were available. Some returnees proceeded to rebuild properties without receiving payments while some who received reconstruction grants did not return and spent the money on other things.

The absence of planning and coordination for infrastructure projects was a major impediment to return. Some regions were provided with electricity but not with potable water. Many properties remained inaccessible as feeder roads were not rehabilitated. Insufficient attention was paid to building the socio-economic basis for sustainable return, providing social services and encouraging employment. The participation of NGOs was not encouraged despite their experience and wealth of human resources. Reconciliation and practical measures to restore civil peace and coexistence were not prioritized although of vital importance in those villages which had witnessed violent conflicts before and during the displacement.

The major obstacle to return of IDPs - the illegal occupation of their houses -

has primarily been resolved by paying squatters to leave. The level of payment has varied enormously from place to place and for properties of a similar nature. Total expenditure on evacuation has taken a disproportionate 61 per cent of all funds allocated for IDP return in the period 1993-1998.⁷

The complex issue of the return of IDPs to the South, and particularly to villages occupied by Israel, is on hold due to the absence of significant progress in the regional peace process.

A new approach

The presidential election in October 1998 and the formation of a new government pledged to put an end to corruption have offered new hope that serious efforts can be made to deal with the issue of the displaced.

Anwar Khalil, the Minister for the Displaced appointed in December 1998, has set a target for the return of all IDPs to their homes by 2001. The Lebanese Cabinet has approved his plan, and allocated \$750m to achieve this goal.⁸ The Ministry's initial plan was amended in November 1999 to allow payment to the children of IDPs to enable them to construct or purchase dwellings and to recompense IDPs who have repaired their properties at their own expense. The Ministry is continuing to work on the reconstruction of schools, health centres and places of worship. IDPs have been exempted from paying electricity and water bills while reconstructing their property and some zoning regulations have been waived.

Despite austerity measures resulting from a huge budget deficit, the new government has put the issue of return high on its list of priorities. Shadi Masaad, the new head of the Central Fund for the Displaced, has admitted that most past irregularities were the result of political interference: "direct orders from politicians or as a result of political accords".⁹ One of the most important aspects of the new approach is the depoliticization of the IDP issue. It is to be hoped that electoral and other political considerations will no longer be the main determining factors when funds are allocated to IDPs.

A large backlog of applications, for evacuation and for reconstruction, remain unprocessed. Statistics on the exact number of returnees are not available.

the illegal occupation of houses has primarily been resolved by paying squatters to leave

Seventy thousand households are still awaiting reimbursement of money they have spent on reconstruction.

Only time will tell if the newly introduced measures are to be effective. In order to be successful, the reintegration, rehabilitation and development programmes of the Ministry of the Displaced will have to be coordinated with other ministries concerned with infrastructure and social services. Programmes must be based on a comprehensive assessment of needs.

Conclusion

If the issue of conflict-induced displacement is to be resolved effectively, considerable efforts need to be made to develop a broader strategy promoting sustainable development in areas of return. A failure to do so would endanger not only the return process but also the precarious peace in a country whose political life continues to be permeated by confessional sensibilities.

IDPs will have their rights restored only when decisions are no longer made in response to blackmail by factions which threaten to prevent IDP return to areas under their control unless the State pays disproportional amounts to their supporters. The rights of all Lebanese, not just IDPs, will only be respected if there is an official enquiry into the widespread embezzlement of funds which took place over a period of six years.

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Further information may be found on the website of the Ministry of the Displaced: www.lebanon.com/lebanese-republic/displaced/return.htm

1 Khattar Chebli, Displaced Committee Rapporteur, Displacement Issue, unpublished report, February 1998.

2 *op cit*

3 Document of National Understanding, I-H. For a summary of the text of the Taif Agreement see <http://www.techfak.uni-kiel.de/~agh/taif.html>

4 *op cit* III-D

5 Joseph Maïla, *Les Cahiers de l'Orient*, Paris 1992

6 *Daily Star*, 28 January 1999

7 Khattar Chebli, Displaced Committee Reporteur, unpublished report, March 1999.

8 *Daily Star*, 25 May 1999

People abroad and people at home in societies under strain

by Nicholas Van Hear

Over the last three decades, refugee crises have resulted in the dispersal of substantial numbers of people from the world's trouble spots. While much interest has focused on the effects of their presence in the countries that host them, these 'new diasporas' can also influence profoundly what happens at home.

This article looks at how diasporas can help or hinder their homelands, particularly those that are suffering from the effects of conflict or other forms of serious socio-economic strain. One concrete way in which those abroad shape the living conditions of those they leave behind is through the transfer of money home. Many studies, particularly of 'economic' migration, have shown how remittances from abroad can have profound impacts on those at home¹; this article will show that this is true, if not more so, for societies in conflict or otherwise in distress. From the point of view of those at home in such societies, the presence of family members abroad may be a lifeline.

Two countries that have experienced heavy out-migration in recent years are considered here: Ghana and Sri Lanka.² In the last three decades or so, there has been a large exodus of Ghanaians from their homeland, largely as a result of serious socio-economic difficulties at home. Many of those who have left have sought asylum. Since the 1980s the destinations have become much more diverse, so that there is now a large Ghanaian diaspora spread all over the globe. The out-migration continued even when economic, social and political conditions improved at home. Many people aspire to migrate, and many others

depend heavily on money sent by their relatives abroad.

Sri Lanka has also experienced heavy out-migration over the last three decades. At first this was largely labour migration, mainly to the Middle East; the exodus also included a brain-drain of professionals and people seeking educational advancement abroad. Since the civil war between the Sri Lankan armed forces and the Liberation Tigers of Tamil Eelam (LTTE) took off in the 1980s, a large scale outflow of asylum seekers, mainly Tamils, has taken place. While much of this movement was initially to southern India, many Sri Lankan Tamils have sought asylum further afield, so that a far-flung diaspora has developed. There are now large numbers of Sri Lankan households with members abroad, on whom they rely for a large part of their livelihoods.

Household migration strategies

Migration is commonly a matter of household strategy, particularly for coping during times of adversity. When and how to move, who should go, how to raise the resources to travel, how to use any proceeds from migration and other decisions are commonly matters for the whole household rather than the individual migrant. Like other household

strategies, migration involves outlays or investment, and there is an expectation of return from that investment. One of the principal outlays in recent years has been for the services of brokers or agents to arrange travel. As passage to the affluent countries in particular has become increasingly difficult, the agents' charges have become inflated; the resources that must be raised have therefore increased. Looking at migration in this way suggests that remittances are not a simple one-way transfer from those abroad to those at home, but rather that the process may be better viewed as a kind of exchange between those who go and those who stay.

There have been broadly three migration strategies open to Sri Lankans against

the background to conflict since the early 1980s: labour migration, usually to the Middle East; seeking asylum, initially in India and later in Europe or North America; and marriage to a partner abroad in Europe, North America or Australasia. Partly because the different migration strategies require very different levels of outlay or investment, these strategies divide broadly along class lines. Household investment is often large. Resources accumulated for the dowries of daughters might be invested in migration, meaning that marriage might have to be delayed. Substantial numbers of households, especially those displaced or otherwise war-affected, resort to moneylenders, or sell, mortgage or pawn land, equipment, houses, shops or jewellery.

Migration for work in the Middle East and elsewhere requires considerable outlays but is within the reach of farming and working class households who have some resources: it is pursued by poorer rural and urban families, and is increasingly used by displaced households to reconstruct their lives and livelihoods. In the 1980s, poor Tamil households displaced by the conflict were able to find refuge in south India. That option faded with the assassination of Indian Prime Minister Rajiv Gandhi by the LTTE in 1991, after which India's tolerance of Tamil refugees hardened. Asylum migration to other destinations, particularly in Europe or North America, has become increasingly costly, and has therefore become largely the preserve of well-to-do Tamils, who have both the grounds and resources to pursue it. Migration for marriage may also be costly, for the outlay that must be found is likely to be high when the spouse-to-be has residence status abroad. Whatever the form of migration, there is an understanding that those abroad should support those at home, the more so if they have helped in the passage abroad.

Ghanaian migration tends to be more opportunistic than in Sri Lanka but migration strategies are similarly shaped by socio-economic background. Migration of Ghanaians for education or professional advancement is long-established but depends on resources and connections and is largely the preserve of the more prosperous. The less well-off pursue a number of different strategies; asylum migration is one among several in the repertoire, which also includes marriage, stowing away on ships and other forms of illegal migration. Such migration is often very speculative. Some make for certain countries, such as Libya or Lebanon, with the idea of using them as stepping stones to more affluent destinations.

There appears to be less direct household investment in the migration than in Sri Lanka: the necessary funds are commonly raised from the migrant's own resources. Relatives in Ghana or abroad may help but commercial moneylenders are rarely resorted to. Ghanaians commonly send remittances for use 'in their own projects' - usually housing - rather than for collective household use. There is nevertheless expectation by the household of support from the migrant. However, remittances are not built into family finances in the way they are among Sri Lankan households; they are



rather seen as mindfalls, or as a kind of insurance that may be drawn upon in times of need.

Sustaining societies under strain?

Remittances have sustained households against the background of socio-economic near collapse in the case of Ghana and vicious conflict in the case of Sri Lanka. Ghana was in severe political, social and economic straits in the early 1980s. A recovery in the later 1980s faltered but was sustained in the 1990s, and can be seen as similar to the reconstruction undergone by some countries that have experienced serious conflict. The mass exodus precipitated by the socio-economic crisis provided part of the means, through remittances, for the recovery.

It is arguable whether money transferred has been deployed productively but remittances appear to have helped the survival of many thousands of Ghanaian households, by giving them the breathing space or resources needed to claw back and reconstruct. There appears to have been substantial investment in housing and in schooling of family members, and considerable investment in businesses. Those leaving in the later 1980s seem to have been notably more successful in terms of accumulating funds from abroad and investing them at home than those who left in the 1990s. The contribution of remittances to Ghana's socio-economic recovery thus may have peaked in the later 1980s and early 1990s. As opportunities to migrate – particularly seeking asylum – were curtailed in the 1990s, and more migrants were deported, earnings abroad have contracted and will have been less likely to help sustain Ghana's recovery.

At the same time, remittances have arguably had corrosive effects. Socio-economic differentiation has been accentuated, not least between those households with migrant members abroad and those without. There has also been differentiation between those households with successful migrants and those with migrant failures. Furthermore, relations between migrants and those at home may be tense, not least over the deployment of remittances. There are often bitter disputes

within extended families about the ownership or disposal of property, commonly housing, financed from abroad. Conversely, those at home often complain about the lack of reciprocity from migrants for the help they may have been given.

In Sri Lanka, migration and remittances have likewise contributed to the survival of perhaps hundreds of thousands of households – both those directly and those indirectly affected by the conflict.

Remittances from migrants by asylum or marriage have helped to sustain displaced and war-

affected Tamil households in and outside camps, and assisted some in the long haul to reconstruction after displacement or return. However this has increasingly become the preserve of the relatively well-off. While poorer households found refuge in south India and some sought asylum in the west, the cost of asylum migration and the fading of the south India option now mean that poorer households are rather displaced within Sri Lanka. One alternative for such households is for a member to seek employment abroad. Remittances from temporary labour migrants to the Middle East and southeast Asia have helped to sustain displaced Muslim and Sinhalese households who have few if any members abroad, and are not in a position to seek asylum.

Beyond just survival, investment of remittances in housing and particularly schooling are encouraging trends among displaced and war-affected households, as among those outside the zones of conflict. However, there are also socially corrosive aspects of the relations between those outside and those inside the country. The most serious charge is that migration and remittances have helped to perpetuate the conflict in Sri Lanka. Most obviously, exactions from Tamil migrants and their families by the LTTE have been a lucrative source of income for the organization. The LTTE regulates and taxes movement out of the areas they control, and is also said to be involved in migrant trafficking itself. Exactions continue once the migrant is abroad, through taxation of incomes from work and businesses.

Migration and remittances may help to perpetuate the conflict in other ways than finance for arms. It has been suggested that those in receipt of money sent by refugee or asylum seeker relatives abroad live a comfortable life in Sri Lanka – or at least one considerably more comfortable than it might otherwise be. For those abroad, particularly those whose status is uncertain, the attitude to the conflict is, to say the least, ambiguous, for it is the continuation of the war that justifies their asylum claim and therefore their stay – and hence makes possible the sending of remittances.

Some uncomfortable conclusions

As constraints on migration have increased, particularly in destination countries, and the cost of movement (often necessarily clandestine) has correspondingly increased, individuals' and households' migration choices are increasingly constrained by the resources they can mobilize; class is therefore an important determinant of the kinds of strategy pursued. This was less pronounced in Ghana than in Sri Lanka, where asylum migration has increasingly become the preserve of the well-to-do and well-connected; labour migration or internal displacement were the forms of movement that poorer households could afford; and the poorest often could not move at all. One important policy issue that this implicitly raises is the question of who is more deserving of assistance: those who leave, who may be relatively well-off, or those who remain, who may be worse off? If the need for assistance is greater for those who stay than for those who leave as refugees, the current focus of relief and assistance efforts may be misplaced.

As this article has shown, households invest substantially in migration of their members as labour migrants, as asylum seekers, for marriage or family reunion, and those left behind expect something in return from those who go. Asylum seekers and other forced migrants are therefore unavoidably confronted by economic issues (of the livelihood of those left at home as well as their own) similar to those encountered by labour or 'economic' migrants. The evidence from Sri Lanka and Ghana also confirms the ambivalence associated with the use of remittances sent back to societies in conflict or distress that has been noted in numerous studies of conventional

migration and remittances may help to perpetuate the conflict

economic migration, where assessment of the impact of migration in general and remittances in particular ranges from the 'optimistic' - remittances are productively deployed and contribute to 'development' - to the 'pessimistic' - remittances are wastefully spent and do not contribute to 'development'.¹

Ambivalence concerning remittances is still greater in the context of conflict and forced migration. On one hand, remittances and other transfers from abroad have certainly helped to sustain displaced, war-affected or otherwise distressed households and communities, sometimes for long periods. On the other, remittances have sometimes helped sustain the very conditions that lead to forced migration, both directly by funding conflict, and indirectly by giving some of the recipients of transfers an implicit interest in those conditions continuing.

This ambivalence poses serious policy dilemmas for countries that host refugees and other migrants. On one hand, those expatriates may well be fuelling conflict, which governments hosting them may well wish to discourage. On the other hand, the authorities of countries hosting migrants and refugees should be aware of possibly far-reaching consequences if such people are repatriated, or indeed if harsh restrictions are put on immigration. The consequences include the possibility that a diminution of remittances may lead to hardship, instability, socio-economic or political upheaval, and even the provocation of renewed conflict - and then quite likely renewed out-migration. In the longer term, remittances have the potential to be harnessed for the reconstruction and development of societies recovering from the distress of war or economic collapse; diminution of such transfers through repatriation will likely undermine such potential.

Ghana and Sri Lanka are far from the only societies in conflict or otherwise under strain that rely heavily on remittances. Money sent from Palestinians in the Gulf and elsewhere in the diaspora has helped sustain extended families in the Occupied Territories (particularly when access to the Israeli labour market was cut off) and displaced households in Lebanon, Syria and Jordan. The mass exodus of Palestinians from the Gulf in the course of the Gulf crisis drastically reduced such families' incomes.

The Afghan diaspora, both in affluent Western countries and increasingly as labour migrants in the Middle East, has become an important source of income for families in the shattered homeland for Pakistan or Iran, particularly as international assistance has declined in recent years. Since banking and other conventional communication links are difficult or non-existent in Afghanistan, money from the diaspora is routed through traders or through relatives in Pakistan or Iran, from where it has to be taken inside in person.³

A similar, more sophisticated system has developed for the circulation of money within the Somali diaspora: fax companies have developed which can transfer money from, say, London to refugee camps in Yemen or Kenya or to Mogadishu, in a system incorporating Somali traders in the Gulf states.⁴

However, remittances are on the whole conservative in their effects: households and communities have at best been sustained, rather than having their conditions of life transformed by them.



After ten years at the Refugee Studies Centre, Nick Van Hear leaves in May to take up a senior research position at the Centre for Development Research in Copenhagen, joining a unit researching aspects of conflict and migration. He will continue his work on refugee diasporas, building on his comparative study *New Diasporas: The Mass Exodus, Dispersal and Regrouping of Migrant Communities* (London: UCL

Press 1998). Some of the findings of his recent work on this theme, based on fieldwork in Ghana and Sri Lanka, are featured above.

Nick will maintain an association with the RSC, specifically by developing collaborative links on a project on 'Complex Forced Migration Emergencies' with the Institute for the Study of International Migration at Georgetown University, Washington DC. The MacArthur Foundation has granted seed money to develop this project (see page 44).

Nick's email address at the CDR in Copenhagen from May will be nvh@cdr.dk

For many in such societies life is on hold: transfers from those outside to those inside appear to both sustain and perpetuate that limbo. While sustaining households in societies under strain may be a positive outcome, the potential for remittances to reconstruct or transform such societies has yet to be realized. That potential would repay further investigation by policy makers and practitioners.

1 Massey M, Arango J, Hugo G, Kouaouci A, Pellegrino A, and Taylor J *Worlds in Motion: Understanding International Migration at the End of the Millennium*, 1998, Oxford: Clarendon Press.

2 This article draws on fieldwork among about 800 households in Ghana and Sri Lanka in 1998. The support of the Leverhulme Trust for this research is gratefully acknowledged.

3 Mousavi S and Zajaryer L 'People who stay: migration, development and those left behind in Afghanistan', 1999. Oxford: Refugee Studies Centre. Unpublished paper.

4 Perouse de Montclos, M 'Réseaux financiers et *hawilad*: le rôle de la diaspora somalienne dans la reconstruction de leur pays', 1999. Unpublished paper.

update



Changes to UK asylum law

As a new asylum and immigration law comes into force in the UK, the right-wing tabloid press has leapt on instances of refugees caught begging in the streets to fan fear of asylum seekers and to denigrate the few brave politicians and pressure groups attempting to defend refugees' rights and to uphold Britain's international responsibilities to assist them.

Under the new law, asylum seekers are no longer given welfare benefits but instead receive vouchers worth £35 a week. As an incentive to retailers to participate in the controversial scheme they are allowed to keep any change owing to their refugee customers. Announcing that Oxfam shops would not participate, Oxfam GB director David Bryer said the scheme would "pinch pennies from poor people". The government has admitted that the cost of the voucher scheme will be more expensive to implement than the system of social security it has replaced.

Equally controversial are measures to disperse asylum seekers around the country. Forced dispersal risks exposing asylum seekers to racist attack and isolation from compatriots, as well as lack of access to legal expertise which is focused in London and the South-East.

Amnesty International describes the new system as "a missed opportunity to develop a fair and effective asylum system". The Refugee Council has warned that the new asylum clampdown is not just targeted at economic migrants but will prevent those with well-founded fear of persecution from getting to Britain.

For further information on the new law and the asylum debate in the UK go to www.newsunlimited.co.uk/Refugees_in_Britain and www.refugeecouncil.org.uk

Sudan – the forgotten conflict

Nearly two million people are believed to have died in the world's longest running civil war. Sudan has by far the largest population of IDPs (four million according to UNHCR) of any country in the world. As regional food scarcity worsens, 1.7 million Sudanese (mostly in the south) are now dependent on long-term food aid.

Since the beginning of the year, the bombing of hospitals, schools, relief centres and other civilian targets in southern Sudan by the Khartoum government has dramatically expanded. UNHCR blames the significant recent increase in the rate of refugees fleeing Sudan on government air raids, factional fighting and general lawlessness. In the Nuba mountains a polio immunization campaign (the first UN humanitarian

programme possible in the area for 19 years) has had to be abandoned.

Eleven major NGOs (among them World Vision, Oxfam, Save the Children, Care International and MSF Belgium) have reluctantly pulled out of war-torn southern Sudan. The NGOs, working under UNICEF's Operation Lifeline Sudan (coordinator for the 35 agencies involved in the relief operation), have refused to sign an agreement accepting conditions imposed by the Sudanese Relief and Rehabilitation Association (SRRA), the relief arm of the rebel Sudan People's Liberation Army. In a statement condemning the SRRA, the New York-based Human Rights Watch has warned that "hundreds of thousands of civilians in southern Sudan face the cut-off of essential services, including food". The World Food Programme has announced that food for work and school feeding programmes in the Bahr el Ghazal and upper Nile regions have stopped following the withdrawal of NGO implementing agencies.

For an overview of IDPs in Sudan see www.idpproject.org/Sites/idpSurvey.nsf/wCountries/Sudan. Latest information on Sudan is at www.africanews.org/east/sudan/

Ilisu Dam – human rights and environmental disaster in the making?

Environmentalists, archaeologists, human rights activists, the World Bank and the governments of Syria and Iraq have joined local Kurds opposing Turkish plans to construct a dam at Ilisu on the River Tigris. If built, the dam will be the second largest in the string of dams in the massive South-East Anatolia (GAP) hydropower and irrigation scheme in south-eastern Anatolia. The dam will affect some 36,000 people, flood 68 villages and destroy the 10,000 year old city of Hasankeyf.



Turkey controls the headwaters of the Tigris and Euphrates on which Iraq and Syria depend for most of their fresh water. Baghdad and Damascus have complained about the amount of water they have been getting since completion of the first GAP dams in the early 1990s. The World Bank has refused funding for Ilisu because of fears that it would increase the danger of cross-border conflict with Turkey's neighbours and because of Turkey's poor record of providing assistance for the estimated 100,000 people who have already been involuntarily displaced by GAP. What little compensation that has been paid has mostly gone to absentee landlords.

The contract for the Ilisu Dam has been awarded to a Swiss-led consortium that includes the British engineering group Balfour Beatty. In the 1980s Balfour Beatty was involved in the controversial Pergau Dam project in Malaysia (criticised on environmental and ethical grounds as the UK aid package was tied to Malaysian arms purchases from UK weapons manufacturers). The consortium and Turkey are seeking credit guarantees from a number of European states. The UK Department of Trade and Industry is "minded" to provide Balfour Beatty with £200m of export credit guarantees. Critics of British involvement say support for the Ilisu Dam contravenes UK environmental guidelines and that an ethical foreign policy is being abandoned in order to develop business connections with a government whose draconian counter-terrorism measures have created the world's largest population of IDPs.

A recent report of the House of Commons Trade and Industry Select Committee criticized UK government secrecy and recommended rejection of export credit guarantees unless Turkey agrees to consult with Syria and Iraq and accept independent evaluation of its plan to resettle those displaced by the dam. The committee noted that "the principal result of the dam will be the movement of yet more people from the land to overcrowded cities ... the

absence of remedies in the courts for those aggrieved will leave many people without access to justice." To undertake a properly structured, transparent and humane resettlement programme will take massive readjustment in the way that the Turkish state regards its citizens, particularly those who live in the Kurdish regions.

The report can be found at: www.parliament.the-stationery-office.co.uk/pa/cm199900/cmselect/cmtrdind/200/20002.htm

Further sources of information on Ilisu are at RiverNet: (www.rivernet.org/turquie/ilisu.htm), the Kurdish Observer (www.kurdishobserver.com/news-groups/006003001.html) and the Kurdish Human Rights Project (www.khrp.org/). An overview of the cultural, environmental and humanitarian impact of dams in both Turkish and Iraqi Kurdistan is at www.kurdish.com/kurdistan/history/dam.htm. The World Commission on Dams has a collection of papers on dam-induced displacement at www.dams.org/conference3.asp

Muted international response to Chechen displacement

The fall of the devastated Chechen capital, Grozny, to Russian forces has not lessened international concern for those displaced by the conflict. Civilians remain trapped in live fire zones as the war continues to rage. Despite Russian restrictions on media access, reports of summary executions and rapes committed by the Russian army continue to emerge. Human rights organizations have called on Russia to allow greater international access to refugee camps in the neighbouring republic of Ingushetia and to 'filtration camps' inside Chechnya. The Red Cross, charged with monitoring the application of the Geneva Conventions on prisoners and civilians during wartime, has been unable to visit Chechen prisoners. UNICEF has complained of violations of the UN Convention on the Rights of the Child. Though the United States and European Union have criticized human rights violations in Chechnya at the main UN human rights forum, none of the 53 member states has signalled willingness to table a resolution condemning Russia. Following his election victory, the

Russian President Vladimir Putin belatedly approved a visit to the Caucasus by Mary Robinson, the UN High Commissioner for Human Rights. She was denied access, however, to most places she wished to visit. Whether international action on her recommendations will ease the plight of displaced Chechens remains to be seen.

For latest information on Chechnya go to: www.hrw.org/campaigns/russia/Chechnya; www.chechentimes.com; www.amina.com and www.chechnya.xnet.is. News commentary and analysis is posted at www.egroups.com/list/chechnya-sl

African states asked to review laws on refugees

During the last 31 years, Africa has gone from producing fewer than one million refugees to six million today and this growing trend has forced Africa and its partners to take a closer look at solving the problem.

At a three-day continental meeting on refugees, held in March in Conakry, Guinea, African countries were asked to ensure that domestic legislation complies with international conventions on the status of refugees. Resolutions adopted at the meeting also called on governments to take appropriate measures to implement these laws. Although 45 countries have ratified the Organization of African Unity (OAU) 1969 convention on refugees, many have not brought their national laws in line with this document.

Participants at the meeting also called upon the international community to give timely humanitarian help to Africa's six million refugees and to support countries affected by the internal displacement of their people. The meeting suggested that the OAU and UNHCR review situations of IDPs in Africa when linked to refugee issues and then present recommendations at the 'appropriate fora'. The resolution on statelessness, a condition often overlooked in Africa, proposes that the OAU



and UNHCR study the causes and extent of the problem and present its findings for further action. Attended by specialists in refugee and humanitarian law, the meeting was organized by the OAU and UNHCR.

For more information, see IRIN (UN OCHA's Integrated Regional Information Network) for West Africa. Website: <http://www.reliefweb.int/IRIN> or contact IRIN at irin@ocha.unon.org

Suffering of East Timor refugees not yet over

Following the announcement by the UN on 4 September 1999 that nearly 80 per cent of East Timorese voters had rejected continued rule by Indonesia, East Timor was the site of orchestrated mayhem. More than two-thirds of the population was displaced, and an estimated 250,000 East Timorese fled or were forcibly taken, often at gunpoint, across the border into Indonesian West Timor. To date, 157,000 refugees have returned to East Timor, two-thirds of them with the assistance of IOM and UNHCR.

It is thought that about 100,000 (but possibly as many as 150,000) East Timorese may still remain in West Timor. Precise figures are not available because access to camps and settlements has been limited by harassment and

intimidation of humanitarian aid workers by pro-Indonesian militias still dominant in a number of the camps. Many refugees have been subjected to months of disinformation and intimidation by members of the pro-Indonesian militias. Indonesia has recently made some progress in combating intimidation in the camps but lack of security and reliable information continue to be significant obstacles to return.

Indonesian authorities claim that the vast majority do not wish to return to East Timor and are preparing plans for their permanent re-settlement in Sulawesi and Kalimantan. Aid workers in West Timor estimate that one-half to two-thirds of the refugees, if given a free choice, would choose to return to East Timor. Indonesia has announced that delivery of food and other assistance to camps holding East Timorese exiles is to end immediately and has rejected a request from UNHCR to extend the

deadline for the return of the refugees by another 12 months to 31 March 2001. Conditions for many of the refugees are already dire. There have been food shortages, along with health and nutrition problems in many of the camps. Some reports estimate that as many as 500 refugees have died from stomach and respiratory ailments.

Meanwhile (and by contrast with the Great Lakes and former Yugoslavia) there has been no international agreement to bring to justice those who committed atrocities. Several months have passed since the UN inquiry into Human Rights Violations in East Timor submitted a report to the Secretary General recommending the establishment of an international human rights tribunal for East Timor. Indonesia's new democratic government, yet to show that it can hold its military to account, is reluctant to allow a meaningful investigation.

Latest information is at: <http://etan.org>; www.easttimor.com and www.un.org/peace/etimor/etimor.htm



East Timorese IDPs returning to Dili





Arable land and internal displacement in Colombia

by Bjorn Pettersson

Large-scale forced displacement in Colombia is a consequence of more than thirty years of armed conflict, violent pursuit of economic interests and implementation of infrastructure projects. Competition for control of fertile land has been and continues to be intense. One-third of agricultural land is now estimated to be in the hands of drug traffickers. Colombian NGOs estimate that as many as one million Colombians have been displaced in the past five years, and the total displaced since 1985 could be as high as 1.9m.¹ Almost all those displaced prioritize safeguarding their property rights as the most crucial component of a durable solution to the crises in their lives.

Small land owners vulnerable to forced displacement

For Colombian IDPs, land tenure and property concerns are both the consequence of forced displacement and also a cause of displacement. Most IDPs in Colombia have fled gross violations of human rights and humanitarian law as the internal conflict has raged. A large number of small farmers have been displaced by powerful agricultural entrepreneurs who often employ illegal paramilitary groups linked to the Colombian Armed Forces. Such land seizures are common in the Magdalena Medio region and in the Atlantic Coast departments. Armed men arrive at small farms and impose a deadline for the entire family to evacuate the property. If the victims have formal property rights they are sometimes coerced into 'selling' their land, generally receiving only a fraction of the property's real value.

Given the limited independence and effectiveness of the Colombian police and justice system, turning to those institutions for protection would further expose the victim.

An end to this pattern of forced expropriation of small farmers' property does not require a change in the law. What is needed is for existing laws to be enforced and for professional police and military to be deployed in areas where civilians are at risk of attack.

Compensation for abandoned property

When current Colombian legislation on IDPs was drafted in 1997 several national and international organizations pointed to the need for concrete provisions to guarantee that IDPs are able to recover property, gain access to new plots of land or receive compensation from the government. Unfortunately, property and land clauses in Colombian IDP legislation remain vague and ineffectual. As many as 87 per cent of land-owning IDPs have simply had to abandon their land.² Having lost their land, few are able to return to see what has happened as those responsible for their displacement often remain in the area or have managed to get land assigned to cronies.

Given that the Colombian authorities have failed to guarantee security to citizens in rural areas, it is incumbent on the Colombian state to compensate victims and to provide IDPs with agricultural land in safer parts of the country.³ The government, however, has not responded to IDP demands for resettlement or compensation. Resettlement applications from destitute IDPs are processed by the Colombian Agricultural Reform Institute (INCORA) using the same procedures applied to any other landless farmer seeking access to land. IDP 'beneficiaries' are thus charged 30 per cent of the full cost of a new plot of

land. INCORA's painfully slow bureaucracy has meant that only a handful of IDPs have actually been assigned alternative land. As most IDPs have had to abandon all their belongings when they fled, very few will ever be able to pay off the debt to the state. In brief, not only are property rights grossly violated but also a real system of compensation has not been established. IDPs who have lost their land should be compensated with an equivalent plot of land, free of charge, in a different part of the country.

This deplorable situation could be partly reversed if the Colombian government actually implemented the third Action Plan on Prevention of Displacement and Attention to IDPs (CONPES) which it launched in November 1999.⁴ This plan provides for the design of provisions to safeguard property rights and provide IDPs with access to arable land. If ever put into effect they could partially compensate for bureaucratic delays and gaps in legal provision.

In order to safeguard small farmers' property rights, the Colombian government must fulfill its commitment to disarm and disband paramilitary groups and take measures to ensure that local military and police commanders do not allow such groups to continue to forcefully expel farmers from their land.

only a handful of IDPs have actually been assigned alternative land

The international community can, and should, play an important role. That external pressure on the Colombian authorities can produce results was shown by the well-publicized case of the Bellacruz Estate. (The large landowner who had acquired the estate by coercive means happened to be the brother of the Colombian EU Ambassador in Brussels.) Restoring land to larger numbers of displaced IDPs requires pressure to be brought to bear on less high-profile perpetrators.

Bjorn Pettersson is an Information Officer of the Global IDP Project, Geneva. Email bjorn.pettersson@nrc.ch

For Internet sources of information on Colombian IDP issues, see www.codhes.org.co and www.dial.org.co and www.db.idpproject.org/Sites/idpSurvey.nsf/wCountries/Colombia

A report of the Political Violence in Colombia workshop hosted by the Refugee Studies Centre in July 1999 provides further analysis of issues such as internal displacement, the failure of US anti-drug policies in the region, and the connection between drug barons and both guerrillas and paramilitaries. See RSC Meetings/Workshops at www.qeh.ox.ac.uk/rsp

- 1 CODHES *Informa, Newsletter* No 27, 26 January 2000, p5.
- 2 *Newsletter* No 26, CODHES, Bogota, Colombia.
- 3 UN Guiding Principles, Principle 29.2
- 4 The two previous plans (1995 and 1997) have not been successfully implemented.

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Website

Visit our database on internal displacement and get more information about the Global IDP Project on www.idpproject.org

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World Vision (UK)



conferences

Forthcoming

Humanitarian Action and State Sovereignty: IIHL

31 August - 2 September 2000: San Remo, Italy

On the occasion of its 30th anniversary, the International Institute of Humanitarian Law is organizing this international congress. The main subjects will be:

- right to assistance as the basis of humanitarian action
- humanitarian action and the Charter of the UN
- Red Cross and Red Crescent humanitarian action and the Plan of Action adopted by the 27th International Conference of the Red Cross and Red Crescent
- state sovereignty and the protection of refugees and displaced persons

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See also www.iihl.org

Children in Adversity: RSC

10-13 September 2000: Oxford

This international conference on ways to reinforce the coping ability and resilience of children in situations of hardship will be hosted by the Refugee Studies Centre (Queen Elizabeth House, Oxford University) and Brunel University/Royal Anthropological Institute Centre for Child-Focused Anthropological Research. The conference will bring together researchers, practitioners, policy makers and representatives of affected children. The aim is to create a forum in which insights from children, social science research and practical experience are presented

and discussed so as to facilitate the development of new programme and policy approaches to the protection and support of children in situations of extreme hardship. Its specific purpose is to pursue the notion of reinforcing children's own coping ability and resilience, and to find ways to improve policy and practice along this line. Particular attention will be given to the following situations of adversity, each one of which will be addressed separately in a thematic panel:

- armed conflict
- forced migration and displacement
- family incapacity, disharmony and separation
- hazardous and oppressive work
- institutional violations and neglect

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The Geneva Refugee Convention at 50: 7th IRAP conference

8-11 January 2001: South Africa

The 7th International Research and Advisory Panel conference of the International Association for the Study of Forced Migration (IASFM) will be held at the Eskom Conference Centre, near Johannesburg, South Africa. The topic of the conference is the Geneva Refugee Convention at 50. The three sub-themes are:

- the Convention: problems of realization and patterns of circumvention
- regional supplements or additions to the Convention
- integration, cessation, return/repatriation and resettlement

The conference will include daily plenary discussions with major speakers from the field of forced migration research. Confirmed plenary speakers include Gilbert Jaeger (speaking on the main conference theme), Morten Kjaerum (Director, Danish Human Rights Centre, on EU approaches) and Gabriela

Rodriguez (UN rapporteur on Migrants, closing the conference).

For more information, including the call for papers and application forms, go to <http://141.13.240.13/~ba6ef3/nextirap.htm> Or contact Aninia Nadig (Programme Assistant) at: iasfm@pscw.uva.nl

Recent

Humanitarian Principles: Engaging with Non-State Actors

7-10 February 2000: Wilton Park, UK

This four-day conference was one in a series of conferences run at Wilton Park on humanitarian challenges; the next in the series will focus on 'Humanitarian Challenges in the Midst of War', in collaboration with ICRC (15-18 May). The following summary is taken from the full report.

The humanitarian community faces increasing challenges if it is to achieve its objective of delivering emergency relief and protecting people in situations of conflict. As conflicts are now mainly intra-state, those civilians who need help and protection have greater strategic significance. Humanitarian organizations therefore need to engage and negotiate with a wide range of organized armed groups - the so-called non-state actors - and thus become increasingly skilful to achieve their objectives. Different sets of tools may be applicable when engaging with armed groups in different situations but such *ad hoc* practices still need to seek the support of armed groups to respect humanitarian principles. Finding more systematic ways of engaging with different non-state actors, including through better analysis and learning from the traps and tricks of the past, without necessarily setting out a blueprint or model of procedures, would be advantageous. The tension remains, however, between ensuring the implementation of accepted humanitarian principles by all parties and the need for

common sense and flexibility on the ground. There may need to be greater pragmatism over implementing the principles. Furthermore, it is increasingly hard for humanitarians to avoid becoming politicized since engaging with armed organizations is a political act in itself and humanitarian aid has political consequences. Separately the humanitarian community could benefit from more dialogue with the corporate sector over their role in conflict situations.

For a full report, see www.wiltonpark.org.uk Contact: Wilton Park, Wiston House, Steyning, West Sussex BN44 3DZ, UK. Fax: +44 (0)1903 814445. Email: cathy.brown@wiltonpark.org.uk

Regional Conference on Internal Displacement in Asia

22-24 February 2000: Bangkok, Thailand

The purposes of this conference were: i) to promote the dissemination and application in Asia of the Guiding Principles on Internal Displacement; ii) to share information on the problem of internal displacement within the Asian region and identify effective practices for addressing it; and iii) to promote more regular networking among organizations involved with IDPs, more systematic documentation of the problems facing the displaced, and the development of monitoring systems.

Conference participants heard a global overview of the problem by Francis Deng (Representative of the UN Secretary-General on IDPs), reports on regional patterns and trends as well as country case studies on Afghanistan, Cambodia, China, East Timor, India, Indonesia, Myanmar (Burma), North Korea, Pakistan, the Philippines, Sri Lanka and Thailand.

The conference participants also welcomed the Guiding Principles, noted the positive contribution they could make in promoting protection and assistance, and urged their observance by all concerned parties.

Although displacement caused by armed conflict, ethnic and religious strife, and deliberate government campaigns to uproot populations have generally commanded most international attention to date, participants noted that international strategies are also needed for addressing development-induced dis-

placement. This was considered particularly necessary by conference participants where projects do not meet the standard of overriding public interest and where poor, indigenous and marginalized groups are forcibly displaced without consultation, respect for their human rights or the provision of adequate resettlement or compensation. Land and compensation issues were also raised during the conference. Some participants noted that in the future, additional guidelines might be needed with greater specificity. While the Guiding Principles did not cover land and compensation issues in depth, they were considered a valuable point of departure for the further development of the law in this regard.

To promote greater attention to dealing with internal displacement in Asia, conference participants proposed the following:

- A greater focus by national human rights commissions (NHRIs) on the rights of IDPs. NHRIs could work to prevent situations of forced displacement, press for observance of the Guiding Principles during displacement, and promote equitable solutions. To these ends, they could undertake monitoring and reporting, provide legal advice, offer community assistance, engage in advocacy and public information campaigns, and coordinate their efforts closely with both government officials and NGOs.
- The introduction of the Guiding Principles into the Asia Pacific Forum for NHRIs (ASPAC) to ensure that each NHRI becomes aware of the Principles. Internal displacement could also become the major theme of ASPAC at its 2001 gathering.
- The formation of an Asian regional network of NGOs to work together on the problem of internal displacement. This could improve NGO capacities, increase coordination, help standardize NGO methods, and facilitate their undertaking joint efforts to promote observance of the Guiding Principles.
- The introduction of the issue of internal displacement into the agendas of regional inter-governmental bodies, such as the South Asian Association for Regional Cooperation (SAARC) and the Association of Southeast Asian Nations (ASEAN).
- The assumption of a greater role by academic institutions in Asia in promoting attention to internal displacement. This could be accomplished through coursework, the convening of conferences, the issuance of publications, and the development of regional collaboration. It was suggested that a few lead institutions be identified in Asia to promote regional cooperation in research. Academic programmes could also assist national human rights commissions by increasing their understanding of the causes and impact of displacement.
- The development and strengthening of regional information networks on internal displacement, and the linking of these networks to the Global IDP Database recently set up by the NRC.
- The translation of the Guiding Principles into local languages, the holding of training programmes on the Principles, the enlisting of media for mass education in the Principles, and the wide dissemination of the Principles among displaced communities and those working with them.
- Programmes that increase the engagement of internally displaced populations in promoting their own rights were strongly endorsed by conference participants.

The full report of the conference will be published in a forthcoming issue of UNHCR's Refugee Survey Quarterly.

Conference hosts: the University of Chulalongkorn and the Asian Forum for Human Rights and Development (Forum Asia). Sponsors were UNHCR, the Brookings Institution Project on Internal Displacement, Forum Asia, the Norwegian Refugee Council and the US Committee for Refugees.

If you would like to publicize a forthcoming conference or workshop in *Forced Migration Review*, please send us the details as far in advance as possible. Please indicate whether you would like the information displayed on our website's 'News, Events and Resources' page if we are unable to include details in the hard copy publication. We would also welcome your additions to the links section of our website. **Email the Editors at fmr@qeh.ox.ac.uk or write to the address on page 2.**

Conferences & Workshops

See p.42 for details of the RSC's *Children in Adversity* conference in September 2000.

The Kosovo Refugee Crisis

12-13 May 2000: Bergen, Norway

Sponsored by the RSC and the Chr Michelson Institute, Bergen, with the financial support of the UK Department for International Development and the EU Thematic Network on Humanitarian Development Studies. The objective of the workshop is to gather academics, practitioners from governmental and non-governmental organizations, and graduate students specializing in refugee issues to discuss certain policy problems and lessons that relate to the international response regarding the Kosovo refugee outflow in 1999.

Alternative Futures: Developing an Agenda for Legal Research in Asylum

1-3 June 2000: Oxford

Participants will discuss the forms of legal regime for forced migrants that could be created over the next 20 years. Areas to be addressed include the 1951 Geneva Convention; the effects of globalization; lessons from current practice; the relationship between humanitarian and refugee law; and the role of development and intervention in addressing the causes of movement and flight. The workshop is coordinated by Dr Matthew Gibney and is sponsored by the Ford Foundation. Attendance by invitation only.

Children and Adolescents in Palestinian Households

4-9 October 2000: Cyprus

This workshop represents the first phase of dissemination of the RSC research project of this name. Representatives from the Palestinian research teams based in Beirut, Damascus, Amman, the West Bank and Gaza will attend, joined later by representatives from the major IGOs and NGOs working in the region. Participants will discuss the themes and substantive topics which

have emerged from the field work to date. *Contact: Dawn Chatty, RSC.*
Email: dawn.chatty@qeh.ox.ac.uk

War, Famine and Forced Migrations

26-27 May 2000: Cortona, Italy

Hosted by the Feltrinelli Foundation and co-sponsored by the Oriental Institute (Naples), the University of Turin, Regione Toscana and the RSC.

Website: www.Feltrinelli.it/Fondazione.

Courses

International Summer School in Forced Migration 2000

17 July – 4 August 2000

Fully funded scholarships are available for nationals from South Africa, Namibia, Zimbabwe and Mozambique.

This three-week residential course provides a broad understanding of the issues of forced migration and humanitarian assistance; participants examine, discuss and review theory and practice. Designed for experienced managers, administrators and field workers and policy makers in humanitarian fields. Involves lectures and seminars by international experts, small group work, case studies, exercises, simulations and individual study. *Venue: Wadham College, Oxford. Course fees: £1,950 (incl B&B accommodation; weekday lunches; study fees; course materials). Deadline for enrolment and payment of fees: 1 June 2000. Contact the ISS Administrator at RSC (address opposite). Tel: +44 (0)1865 270723. Email: summer.school@qeh.ox.ac.uk*

The Psychosocial Experiences and Needs of Refugees

September 2000

This short course will explore the issues and interventions that currently characterize psychosocial refugee work. The course will consist of lectures, workshops and small group work. Designed for humanitarian workers who have an interest in psychosocial work. Training material available. *Contact: Dominique Attala at RSC (address opposite). Email: rscedu@qeh.ox.ac.uk*

New research projects

The relationship between asylum policy and immigration movements in Canada and the UK

The RSC has been awarded US\$13,600 a year for two years by the 'Sustained Studies in Contemporary Canadian Issues in 1999-2001' programme, sponsored by the Canadian Dept of Foreign Affairs and International Trade and the Foundation for Canadian Studies in the UK. The research team is led by Dr Matthew Gibney and includes Prof Guy Goodwin-Gill, Michael Barutciski and Sharon Rusu.

Complex forced migration emergencies: towards a new humanitarian regime

The MacArthur Foundation has approved a seed grant of US\$75,000 to develop this collaborative research project comprising researchers and policy analysts from the RSC (Dr Nicholas Van Hear); the Institute for the Study of International Migration at Georgetown University; the Project on Internal Displacement at Brookings Institution; the Centre for the Study of Forced Migration at the University of Dar es Salaam; and the Regional Centre for Strategic Studies in Colombo, Sri Lanka.

Visit the
RSC website to
read updates on all
RSC research projects
and details of forthcoming
courses:

www.qeh.ox.ac.uk/rsp

RSC contact details

Refugee Studies Centre,
Queen Elizabeth House,
21 St Giles, Oxford OX1 3LA, UK.
Tel: +44 (0)1865 270722.
Fax: +44 (0)1865 270721.
Email: rsc@qeh.ox.ac.uk

Study & Reflection

Visiting Fellowships

Visiting Fellowships are open to senior and mid-career practitioners and policy makers who wish to spend a period of study and reflection in a conducive academic environment, and to academics and other researchers who are working in fields related to forced migration. Each Fellow is assigned an academic adviser and is expected to undertake a specific programme of self-directed study or research for one, two or three terms. *Contact: Visiting Fellowships Administrator at RSC (address below). Tel: +44 (0)1865 270723. Email: vfp@qeh.ox.ac.uk*

Master of Studies in Forced Migration

This nine-month postgraduate degree course is grounded in a multi-disciplinary approach that includes the perspectives of anthropology, law, politics and international relations. It includes courses and seminars on:

- Introduction to the study of forced migration
- Liberal democratic states, globalisation and forced migration
- International human rights and refugee law
- Ethical issues in forced migration
- Research methods
- Issues and controversies in forced migration.

Contact: Graduate Admissions Office, University Offices, 18 Wellington Square, Oxford OX1 2JD, UK. Tel: +44 (0)1865 270055. Email: graduate.admissions@admin.ox.ac.uk

Publications

Working Paper No 3

Globalisation, Humanitarianism and the Erosion of Refugee Protection

by B S Chimni (Prof of International Law, School of International Studies, Jawaharlal Nehru University, New Delhi, India) This paper was originally given as the first Harrell-Bond Lecture on 17 November 1999. Available in hard copy (£3.00/\$4.80) or via the RSC website at www.qeh.ox.ac.uk/rsc/

Also available in hard copy and on the RSC website: **Working Paper No 2 : UNHCR and International Protection**
Working Paper No 1 : The Kosovo Crisis

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Handbook for Applying the Guiding Principles on Internal Displacement

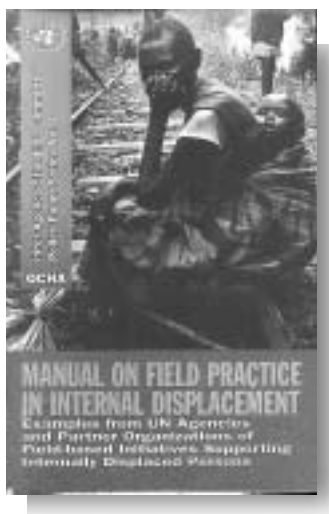
OCHA & the Brookings Institution Project on Internal Displacement. Nov 1999. 61pp. Free.

This publication explains the Guiding Principles, beginning with general principles and then identifying which principles apply to specific needs in the field. Drawing on the companion volume Manual on Field Practice in Internal Displacement [see below], the Handbook provides example of practical actions that field staff can take on behalf of IDPs, ranging from advocacy to concrete programmatic strategies for increasing protection and ensuring effective and appropriate assistance.

Contact: OCHA Policy Development Unit, 1 UN Plaza, Room DC1 1384, New York, NY 10017, USA. Fax: +1 212 9631040. Email: ocha-pdu@un.org

Manual on Field Practice in Internal Displacement

OCHA. Inter-Agency Standing Committee Policy Paper Series No 1. Nov 1999. 92pp. Free.



This first edition is a compilation of more than 60 examples of programme initiatives undertaken by operational agencies, governments and displaced people themselves. Examples of field practice are grouped under five chapter headings, each with a brief summary of the relevant Guiding Principles followed by examples of field practices geared towards the fulfilment of each. There is also an index of the examples. Readers are encouraged to contribute further examples for the next edition and all feedback is welcomed.

Contact: as above.

NATO and Humanitarian Action in the Kosovo Crisis

by Larry Minear, Ted van Baarda and Marc Sommers. Thomas J Watson Jr Institute for International Studies and the Humanitarian Law Consultancy, Brown University. Occasional Paper #36. 2000. 198pp. One copy available free of charge; bulk orders \$5 each plus shipping. Also available at: www.brown.edu/Departments/Watson_Institute/H_VV/index.html



This research study involved interviewing more than 200 individuals, drawn from some 70 agencies and representing a cross section of the individuals and institutions involved in the Kosovo crisis: roughly one-third had military or political responsibilities and two-thirds had humanitarian duties. The study examined exclusively the military/humanitarian interactions in order to frame issues for discussion and analysis. Chapters 1 to 5 provide the findings of the study; Chapter 6 & 7 present a summary of the interim November workshop and the researchers' recommendations respectively; Chapter 8 reprints Prof Adam Roberts' article 'NATO's 'Humanitarian War' over Kosovo', presented at the workshop; Chapter 9 presents a reference timeline of major events in the Kosovo crisis; and Chapter 10 provides further material of historical interest and potential use in future crises. The researchers themselves express their conclusion that the Kosovo crisis reflected the "militarization of humanitarian action, with certain ominous portents for the future, particularly in terms of the politicization of humanitarian access and activities."

Contact: Humanitarianism and War Project, WIIS, Brown University, Box 1970, Providence RI 02912, USA.

Tel: +1 401 863 2728.

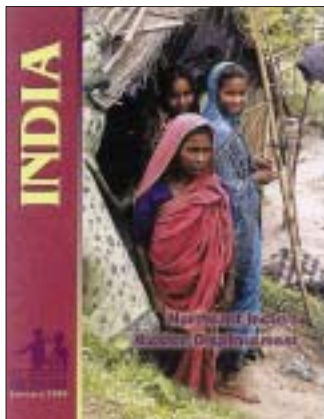
Fax: +1 401 863 3808.

Email: H&WProject@brown.edu

Northeast India's Hidden

Displacement

by Hiram A Ruiz. US Committee for Refugees. 2000. 20pp. ISBN 0-936548-05-3. US\$5.00.



This is the latest in a series of studies of complex situations of internal displacement where access is difficult and international involvement is limited or non-existent. India was selected as one such country because of the difficulty of access to and the paucity of information about displaced populations in the northeast. This publication examines the question of access, causes of displacement in northeast India, the displaced populations themselves, conditions for the displaced, the response of the Indian government, and the role and response of the international community. It concludes with recommendations to the government of India and to the international community.

Contact: USCR, 1717 Massachusetts Avenue NW, Suite 200, Washington DC 20036-2003, USA.

Tel: +1 202 347 3507.

Fax: +1 202 347 3418.

Order via website: www.refugees.org

Refugees and Internally Displaced Persons in Indonesia: West Timor, Aceh and Lombok (Issue Brief)

by Jana Mason. US Committee for Refugees. 2000. 12pp. \$5.

This paper provides an update on civilians caught up in political conflict and unrest in Indonesia, with a focus on the regions of Aceh, West Timor and Lombok. It includes USCR's recommendations for improving the situation for uprooted people and preventing additional flight.

Contact: as above.

Balkan Returns: An Overview of Refugee Returns and Minority Repatriation

by Brad K Blitz. US Institute of Peace. Dec 1999. Available at: www.usip.org/oc/sr/sr991221/sr991221nb.html

This report focuses on the question of refugee and in particular minority returns in the former Yugoslavia. Minority returns are described as the return of refugees and displaced persons to areas currently under control of a different ethnic group. Minority returns are a regional issue: Croatia, Bosnia and Kosovo are the principal recipients of minority returns; Serbia, Bosnia, Montenegro and Macedonia are harbouring minorities from elsewhere.

Contact: USIP, 1200 17th Street NW, Suite 200, Washington DC, 20036-3011, USA.

Tel: +1 202 4571700.

Fax: +1 202 4296063.

Email: usip_requests@usip.org

Older People in Disasters and Humanitarian Crises: Guidelines for Best Practice

HelpAge International. April 2000. 24pp. Free. Also available at www.helpage.org



These new Guidelines, based on research by HelpAge International with support from ECHO and UNHCR, highlight the vulnerable position of older people caught in conflict and natural disasters. They aim to help aid agencies working in humanitarian emergencies to target assistance to older people more effectively. Available in English, French and Spanish.

Contact: HelpAge International, 67-74 Saffron Hill, London EC1N 8QX, UK.

Tel: +44 (0)20 7404 7201.

Fax: +44 (0)20 7404 7203.

Email: hai@helpage.org

Information Sources in Development Studies

ed Sheila Allcock. Bowker-Saur. 1999. ISBN 1-85739-281-7. 239pp. £50.

This book is an easy to use, evaluative guide to current sources of information available both as conventionally published books and as electronic media such as CD-ROMs and the Internet. The information professionals who have written the individual chapters focus on information resources for their own specialist topics, such as project planning and management; development aid and NGOs; disasters; development and gender; health, nutrition and population; and education and employment. It includes a chapter (by Sarah Rhodes, Documentalist at the Refugee Studies Centre Library) on migration and refugee issues.

Contact: Bowker-Saur, Windsor Court, East Grinstead House, East Grinstead, West Sussex RH19 1XA, UK. Tel: +44 (0)1342 326972. Fax: +44 (0)1342 336198. Email: lis@bowker-saur.com Website: www.bowker-saur.co.uk

Nashra Al-Hijra Al-Qasriya and Revista sobre Migraciones Forzosas

Forced Migration Review is also printed in Spanish (*Revista sobre Migraciones Forzosas*) and Arabic (*Nashra Al-Hijra Al-Qasriya*).

All subscriptions to the Arabic and Spanish editions are free of charge.

If you would like to receive one or the other, or if you know of others who would like to receive copies, please send us the relevant contact details. Email the Editors at fmr@qeh.ox.ac.uk or write to us at: FMR, Refugee Studies Centre, QEH, University of Oxford, 21 St Giles, Oxford OX1 3LA, UK.



The Lebanese government is required to “solve completely the problem of IDPs, and acknowledge the right of every Lebanese citizen displaced since 1975 to come back to the place from which he/she was displaced; to establish the legislation that safeguards this right and ensure the means of reconstruction.”

Document of National Understanding (the Taif Agreement), signed in 1989.

