

Reintegration in the Transition from War to Peace

Preface

In the 1996 Global Strategy Paper, it was observed that the issue of reintegration required further reflection and policy debate. UNHCR's solutions-oriented strategy, with its strong emphasis on the return and reintegration of displaced populations in their country of origin, also raises the important issue of post-repatriation assistance and its relationship to the broader challenge of reconstructing war-torn societies. While UNHCR's efforts in this area have been the subject of considerable commendation in the past few years, it is now time for some neglected aspects of this issue to be given greater consideration...It has become clear that unless UNHCR's reintegration efforts - be they material assistance, infrastructural rehabilitation or local capacity-building - form part of an integrated international rehabilitation and reconstruction strategy, their impact is likely to be insufficient, circumscribed and short-lived.

This paper aims to provide a policy framework for addressing current dilemmas in reintegration. Its function is not to provide specific operational recommendations. Rather, it provides a framework within which policy decisions on reintegration can be taken. On the basis of this policy framework, global operational policy and principles and regional specific policies can be defined and developed.¹

1. Introduction

UNHCR's "legitimate concern over the outcome of any return that (she) has assisted" was formally recognised by the Executive Committee in 1985.² This "concern" was linked to UNHCR's emerging role in the promotion of voluntary repatriation, first acknowledged in a Conclusion of 1980.³ Where UNHCR was promoting voluntary repatriation on the basis of amnesties and guarantees, it should have additional responsibility for ensuring that the terms of such agreements were respected.

Since the 1980 and 1985 Conclusions, UNHCR has expanded its role in countries of origin to incorporate a range of protection and assistance measures for returnees and other groups the High Commissioner has been requested to assist.⁴ However, a number of developments in international politics suggests the need to re-examine the implications of the 1985 Conclusion.

The return of refugees and internally displaced persons (IDPs) is increasingly taking place to countries or areas of countries where the causes of flight have not been entirely eliminated. Whereas in the past repatriation usually occurred only after

¹ This paper is a summary of a longer document produced by UNHCR's Centre for Documentation and Research (CDR) in 1997

² ExCom Conclusion No. 40 (XXXVI), 1985.

³ ExCom Conclusion No. 18 (XXXI), 1980.

⁴ For the purposes of this paper, "returnees" will refer to both refugees and internally displaced persons who are returning to their country or place of origin.

a fundamental and durable change in the country of origin, in many recent cases refugees and IDPs have returned in the absence of a stable peace settlement or change of regime.⁵ Despite UNHCR's efforts to ensure continued asylum for refugees under such circumstances, in some cases spontaneous repatriation, return under pressure or *refoulement* may occur to fragile societies. This is often the case where displaced persons return after civil conflict, as in northern Iraq, Rwanda or Somalia. Under these circumstances, the state will face immense impediments to extending protection to all of its citizens, and new approaches may be required by UNHCR and its multilateral partners to ensure effective reintegration.

Secondly, in the current international context, repatriation is often large-scale and takes place under pressure. The manner and rate of return can either destabilise or facilitate the peace-building process, thus in turn influencing the process of reintegration. It is therefore important to re-examine how the size, character and timing of repatriation movements can affect the prospects for reintegration.

At the same time, changing expectations of UNHCR's role in countries of origin implies that its "legitimate concern" may demand a greater degree of responsibility for the outcome of return. Increasingly, the international community is placing emphasis on the long-term goal of averting renewed outflows across international borders. This implies the need for a more extensive interest in the wider process of peace-building.

This paper will analyse and assess UNHCR policy on reintegration in the transition from war to peace in the light of these developments. It will assume that concern over the outcome of return implies an active role for multilateral agencies in promoting the effective reintegration of returnees. "Effective reintegration" is treated as virtually synonymous with "sustainable return". Sustainable return implies a situation where - ideally - returnees' physical and material security are assured, and when a constructive relationship between returnees, civil society and the state is consolidated. The objective of sustainable return as thus defined will be difficult to achieve in most countries of origin. In many cases, return occurs to situations where security and state/civil society relations have been seriously undermined, or may always have been precarious. In such cases, it would be naive to expect the international community to achieve this ideal of sustainable return. Nonetheless, it is important to establish broad standards or goals which multilateral actors can work towards.

Activities aimed at achieving the objective of sustainable return will be very much dependent on the quality of national protection. In many cases, the state will be unable or unwilling to extend full national protection to all of its citizens following violent conflict. The extent and nature of UNHCR's role will depend on how best it can help to strengthen national protection.

⁵ Compare, for example, repatriation to Mozambique or Namibia with repatriation to Rwanda or Bosnia. The former were in the context of a negotiated and durable peace settlement. In the cases of Rwanda and Bosnia, peace is extremely fragile and there is no guarantee that violent conflict will not re-surface.

“Legitimate concern” does not signify that UNHCR can or should have sole responsibility for strengthening national protection. Indeed, the breadth of activities required to promote national protection means that UNHCR is essentially dependent on other multilateral actors for meeting its responsibility. Many of the requirements of national protection involve activities which are best performed by financial, development or human rights agencies, or by national NGOs. Moreover, the beneficiaries are not limited to UNHCR’s categories of concern, but include other nationals. Yet just as the peace-building process is dependent on the reintegration of displaced persons, so too is national protection dependent on a well-functioning state and civil society. It is therefore difficult to separate UNHCR’s role from the broader requirements of a well-functioning state. Only once these requirements have been defined will it be possible to specify the respective roles of different multilateral actors - including UNHCR - in meeting them. It should also be noted that these requirements are not intended to be understood as standards for safe return or for promoting voluntary repatriation. Rather, they are objectives for reintegration activities once repatriation has taken place.

2. Sustainable Return: The Political Context

In order to define UNHCR’s role in assisting states to strengthen national protection, it is important to examine the causes of displacement, and the extent to which they have been eliminated or modified at the point of return. A well-functioning state is - in the simplest terms - a state which is capable of performing the functions of protecting its citizens, levying taxes, and distributing services. It exercises these functions over a well-defined and internationally recognised territory, whose citizens accept the legitimacy of the state in exercising these three functions. Of these functions, it is the first, protective function which is crucial in the context of forced displacement. National protection includes the rule of law, good governance, justice and equity. In exchange for the protective function, the citizen accepts to comply with certain rules and obligations, and to cooperate with the state in carrying out its functions. The relationship between state and citizen therefore involves a complex web of rights and obligations. Forced displacement occurs when the web of rights and obligations breaks down, and the state is either unable or unwilling to extend national protection to all of its citizens. Whether this break-down manifests itself through persecution, or generalised violence or armed conflict, effective reintegration cannot occur unless this relationship is reconstituted.

The manner in which UNHCR and other multilateral actors can assist in this process will depend on the precise character and context of this break-down in national protection. It is possible to distinguish four scenarios of such a break-down. The first category is that of the *failed* state. Failed states are characterised by the absence of centralised authority, and a situation of general anarchy, such that there is no authority to provide effective national protection. Secondly, one can distinguish the category of *weak* state, which has a semblance of authority, but is unable to exercise effective power over all of its territory. Authority may be limited geographically, or in terms of the ability to carry out state functions (e.g. provision of services, or the maintenance of law and order).

The third category is that of *conflicted* or *contested* state. In these cases, while the state is not necessarily weak as such, there is a conflict between groups for control of the state, or specific geographical areas within the state. The state may be willing to extend national protection only to persons from particular groups or regions. Finally, there is the category of *repressive* state, which exercises authority but does not extend protection to all or its citizens. By definition, repressive states command strong central authority, and are able to crush potential rebellions and outbreaks of violent conflict.

These categories are not mutually exclusive. Many states may demonstrate characteristics of more than one category, or move through a sequence of different phases: for example, a contested state may become repressive, or increasingly weak; or a weak state may fail. In order to implement the appropriate policies for strengthening national protection, it is therefore necessary to consider the causes and likely outcome of the break-down in national protection.

The state's failure to protect citizens from violent conflict may be caused by factors which are outside of the immediate influence of the state (e.g. long-term structural problems in the economy, over-population, lack of natural resources, hostile neighbouring states). Or it may be a result of government policies (unequal distribution of resources, inefficiency or corruption). Alternatively, the government may lack legitimacy from its inception, because of the means by which it came to power, or its ethnic or social composition, or because its territorial jurisdiction is contested.

In addition to examining the causes of the break-down in protection, it is important to consider the impact of violent conflict on the state's ability to protect its citizens. Three main aspects of conflict will have an influence on the prospects for national protection. Firstly, the *nature* of the conflict will affect the state's ability to provide national protection. Physical and economic damage caused during the conflict will create significant obstacles to reconstructing state capacity. The duration of the conflict, the level of militarisation, and the methods used by combatants are all factors which will have an impact on the economy, administrative structures, social services and infrastructure of the country. Moreover, civil conflict will cause considerable damage to societal infrastructures and social relations. In particular, where the conflict revolves around identity issues (ethnicity, nationality or religion), and where civilian populations are targeted, tensions and grievances are likely to pose substantial obstacles to reconciliation.

Secondly, the provisions of the peace settlement will have implications for the potential for renewed violence or state repression. It is important to ascertain how far these have addressed the grievances of the parties to the conflict. If the conflict was over material resources, does the settlement provide for the redistribution of resources, or are original or new demands likely to resurface in the form of violent conflict? Alternatively, where conflict arose from demands for secession, has the settlement addressed these demands, or are they still unmet, or has it created new demands?

Thirdly, the form of the settlement should indicate the likelihood of its durability. Where one or more parties to the conflict have been unable to meet all of their claims, the peace settlement may be either a compromise of claims, negotiated between parties; or an imposed settlement which meets the claims of the victorious party. In the case of settlements negotiated between parties with roughly equal strength, peace will tend to be less stable. Insofar as the claims of one or more parties are still unmet, parties will retain some hope of victory, and may continue to press these claims. In the case of settlements imposed by a victorious party, while there is a greater probability of a cessation of hostilities, there will also be more scope for retribution by the dominant party. Thus an imposed settlement may result in large-scale persecution of adversaries by the new regime.

In the case of fragile negotiated settlements, the potential for a renewed outbreak of conflict will also depend on the perceived strategic advantage of combatants, and the corresponding incentive for military offensives. A final difficulty in negotiated settlements may be the potential for outside intervention. Classical peacekeeping operations - as in Croatia, for example - tend to freeze the situation in favour of the groups that has gained the military advantage, thereby creating incentives for preemptive action.

3. Reconstruction and Reconciliation

Once the impediments to national protection have been analysed, it will be possible to define multilateral activities for promoting effective reintegration. Reintegration in the transition from war to peace poses particular challenges. The state and civil society are likely to be weak, the economy and infrastructure run down or destroyed, and a high level of insecurity often prevails. Reintegration problems are not limited to the re-establishment of livelihoods. A major impediment to sustainable reintegration after civil conflict will be the break-down in social relations between parties to the conflict, and between civilian populations identified with one or other of the parties.

In addition to the obstacles posed by a weak state and civil society, the precise nature of the return movement will also affect the peace-building process. Firstly, repatriation of refugees *en masse* as opposed to in smaller numbers over a longer period of time will have significant implications for the reintegration process. It may affect the process of economic reconstruction, especially where large numbers of returnees place a strain on local resources and infrastructures. Large-scale return may also influence the policies and legitimacy of the state, especially in the context of elections, or where return alters the military or political balance of power. Repatriation may also either facilitate or jeopardise the process of reconciliation between parties to the conflict. Social and economic tensions caused by return may undermine peace-building efforts, for example where large numbers of returnees reclaim occupied property. Another consideration is the length and nature of exile: where refugees have been in asylum for extended periods, and sustained a high level of political mobilisation, the reintegration process may be more difficult.

Given the enormity of these challenges, it is imperative that the reintegration of returnees be treated as an integral element of the broader process of peace-building. Likewise, an effective process of peace-building will be the *sine qua non* for the effective establishment of national protection. In order to meet these challenges, multilateral activities should be based on two main building blocks: reconstruction, and reconciliation. "Reconstruction" refers to the re-building or development of economic and material resources, social services and infrastructures which have been damaged or destroyed through conflict. "Reconciliation" refers to the consolidation of constructive social relations between different groups of the population, including parties to the conflict. Reconstruction and reconciliation can be understood both as objectives, and as the processes necessary for achieving these objectives. The relationship between reconstruction, reconciliation and reintegration is critical, and the three are to a large extent interdependent.

3.1 The Elements of Reconstruction and Reconciliation

In order to achieve reconstruction, the state will require the resources to meet the security and material needs of war-affected populations, displaced persons and demobilised soldiers; rebuild damaged infrastructures; and address the problems caused by land rendered unusable by land mines and other weapons of war. In the longer term, reconstruction requires a commitment to the expansion of production and trade, employment, education and social services. In the case of weak or failed states, it will also require the creation or strengthening of political institutions, administrative structures and police and judiciary systems. For contested states, these structures may have to be reformed on the basis of values and principles which are agreed upon by the parties to the conflict.

However, the state's capacity to perform its functions is essentially dependent on civil society and the process of reconciliation. It is therefore crucial for states emerging from violent conflict to secure the commitment and participation of all levels of society to a process of reconciliation. Reconciliation - in its widest sense - requires that the parties to the conflict develop a common understanding of the causes and nature of the conflict, and develop shared notions of responsibility. At the very minimum, reconciliation involves ensuring the peaceful co-existence of parties to the conflict. Reconciliation will require a number of components, including consensus-building on notions of responsibility and justice, with, where appropriate, international tribunals, truth commissions or other mechanisms for implementing justice. It may also involve the promotion of human rights and minority rights through legislation and education, and some form of redistribution of economic and social goods. Finally, it will be vital to provide a safe environment for people to be able to invest in rebuilding social relations.

UNHCR's strategy to assist returning populations has evolved in line with developments in the international political environment. In particular, it has been influenced by the changing assumptions about repatriation. However, there are a number of ways in which current approaches to both reconstruction and reconciliation may not be the most effective means of meeting these requirements.

3.2 *Reintegration and Reconstruction*

The first component of UNHCR's activities in countries of origin has consisted in helping returnees to meet their material needs. These activities were initially limited to the provision of food, seeds, tools and shelter, but were extended in the early 1990s in the form of quick impact projects (QIPs). QIPs aimed to fill the gap between individual relief activities and longer term development, through re-establishing the livelihoods of returnee communities. They took the form of rapid and locally implemented small-scale community-wide rehabilitation projects. They were - quite correctly - established on the principle of non-discrimination between returnees, IDPs and receiving populations. Thus in addition to meeting the immediate needs of returnees, they were also designed to encourage cooperation in and between communities affected by conflict and deprivation.

QIPs became the major focus of UNHCR's repatriation activities at a time when the concept of the "continuum" model was the basis for multilateral discussions. The concept of the continuum from emergency relief through rehabilitation and on to development was intended to ensure a seamless web of activities. In practice, however, the continuum as applied by UNHCR and its partners often resulted in a disjuncture between their respective activities.

This disjuncture was evident in the context of return, where a hand-over was foreseen between initial reintegration projects implemented by UNHCR and other agencies responsible for longer term development. The "handover" approach was based on the assumption that UNHCR's initial rehabilitation activities would lay the groundwork for sustainable reconstruction. It also assumed that other financial and development agencies would be politically willing and operationally able to build on UNHCR's groundwork. In many cases, however, there has been a tendency to pre-plan the time-frame of UNHCR's presence, rather than basing it on the requirements of reintegration. In Cambodia, for example, "reintegration was implicitly interpreted to mean whatever could be accomplished with a fixed amount of resources within a predetermined time frame. No clear conceptual framework was used for responding to emerging needs."⁶

UNHCR's initial rehabilitation activities did not always lay the groundwork for longer term sustainability, with insufficient attention paid to impact and continuity of initial activities. This problem can be attributed in part to a lack of adequate planning and understanding of the needs of recipient populations, and a focus on inputs at the expense of impact. Even where projects were well-tailored to local needs, local communities, government and NGOs may not have had access to the necessary resources or skills to sustain projects.

The second set of problems concerns the need to situate initial rehabilitation in a broader political-economic context. Initial rehabilitation was too often perceived as a self-contained building-block, which would lay the groundwork for longer-term development. In fact, rehabilitation will only be sustainable if it takes into account the

⁶ *Review of UNHCR's Phase Out Strategies: Case Studies in Selected Countries of Origin*, Inspection and Evaluation Service, February 1997.

national and regional political and economic context, including security, macro-economic trends and the political stability of the regime.

Many of these impediments were symptoms of a lack of local participation and insufficient cooperation with relevant agencies, which undermined the longer term continuity of projects. To some extent these deficiencies were inevitable: in situations of large scale repatriation, UNHCR was often obliged to meet the needs of returnee communities with the minimum of delay, making it difficult to incorporate longer term considerations into the design and implementation of projects. As such, there was an inherent trade-off between speed and sustainability. Nonetheless, there is substantial scope for UNHCR to enhance its contribution to the sustainability of reintegration, through paying more attention to impact and continuity, and through planning reconstruction while conflict is still going on.

The second assumption was that UNHCR's multilateral partners would be willing and able to build on activities initiated by UNHCR. In reality, the priorities, objectives and approaches of other agencies often diverge from UNHCR's specific concerns. The whole notion of cooperation with other agencies - and UNHCR's perception of these agencies - needs to be re-assessed on the basis of a better understanding of these divergencies. Clearly, different agencies will always - and indeed should - have a plurality of focuses and priorities. The point is that they must be ready to balance their complementary priorities in the context of a shared strategic framework.

The priorities of financial and development agencies have tended to differ from those of UNHCR in two main ways. Firstly, UNHCR's specific concern for returnees has not always coincided with the target regions or populations of other agencies in a given country. This gap is partly because of a lack of shared analysis and definition of the requirements of reconstruction. This often means that the areas of a country or the populations who have been prioritised by development partners do not coincide with the populations of concern to UNHCR. Returnee populations have often been peripheral or marginalised actors in the national context, whose needs and input into the process of reconstruction have been under-estimated, or perceived as a high risk investment. In fact, in many cases returnees act as an important catalyst for development. Returnees to Ogaden, Ethiopia, have been especially active in creating new businesses and expanding trade with Somaliland and Djibouti. Nonetheless, once UNHCR has initiated immediate rehabilitation projects for returnee communities, they may not have received sufficient follow up from other agencies, as they were not seen as integral to wider development objectives.

This problem has sometimes been exacerbated in the case of agencies whose work is channelled primarily through government actors, who may neglect the needs of returnees. Tajikistan provides a clear example of an unworkable gap between the expectations of UNDP and UNHCR in the field of reintegration. UNDP did not continue many of the projects that UNHCR had initiated with grass-roots community actors.⁷

⁷ See *Review of UNHCR's Phase Out Strategies, ibid*, and *Tajikistan: Lessons Learned from a Country of Origin Operation*, March 1996, Geneva.

The second way in which UNHCR's priorities have tended to diverge from those of its potential partners concerns the countries targeted for assistance and the type of assistance provided. Financial institutions often require governments to adopt an economic agenda based on trade liberalisation and tight fiscal and monetary policies. Structural adjustment programmes may in the long run work beneficially for the population, but in the short run can exacerbate the causes of conflict. When recipient states are either unwilling or unable to adhere to this economic agenda, they may not receive sufficient resources from development agencies to achieve sustainable reconstruction. Moreover, powerful donor countries have guided the priorities of these agencies on the basis of their own political and economic agenda. The involvement of development agencies has therefore varied according to the perceived strategic importance or ideology of affected countries and regions.

3.3 *Reconciliation, Monitoring and Capacity-Building*

UNHCR has been involved in monitoring the situation of returnees for at least twenty years, and in 1985 the Executive Committee concluded that the monitoring of amnesties, guarantees or assurances "should be considered as inherent in (the High Commissioner's) mandate". Since the early 1990s, UNHCR's protection role has tended to go beyond the monitoring of amnesties and guarantees, to monitoring the key human rights of returnees.⁸ In this context, "key" human rights is understood to mean at the minimum the right to life, liberty and physical integrity. Increasingly, UNHCR also monitors a broader set of rights, including access to due process, property restitution or compensation, and education, with the focus dependent on specific problems in the country of origin.⁹ In some recent return operations, UNHCR has also introduced new approaches to protection, supplementing monitoring with protection activities such as the promotion of freedom of movement and inter-ethnic reintegration.¹⁰

While these more recent activities are to be welcomed, such approaches are evolving on a fairly *ad hoc* basis, and traditional notions of monitoring still provide the main framework for defining protection activities. Inherent in the concept of human rights monitoring was the notion of non-discrimination between returnees and local populations. Once it had been established that returnees were not discriminated against in the enjoyment of key human rights, or if discrimination persisted but national institutions provided an adequate remedy, then it was commonly assumed that UNHCR could phase out its monitoring activities in the country of origin.¹¹ More recently, in the context of complex multilateral peace-keeping operations, UNHCR has also increased its reliance on military and human rights actors in order to encourage or assist the state in providing national protection to returnees.

This approach to monitoring was based on two important assumptions. Firstly, it assumed that national governments would be able and willing to extend adequate

⁸ Handbook on Voluntary Repatriation, DIP, 1996.

⁹ Statement by the High Commissioner to the 52nd Session of the UN Commission on Human Rights, Geneva, 20 March 1996.

¹⁰ In Bosnia, UNHCR has sponsored bus lines across the Inter-Entity Boundary Line in Bosnia-Herzegovina, and inter-Entity and inter-community returns through the concept of "Open Cities".

¹¹ *Review of UNHCR's Phase Out Strategies: Case Studies in Selected Countries of Origin*, Inspection and Evaluation Service, February 1997.

protection to returnees in the short to medium term, allowing UNHCR to phase out its activities; or failing this, that other political, military or human rights actors could be relied on to provide protection. And secondly, it assumed that monitoring would contribute towards countering discrimination against returnees.

The first assumption was that UNHCR monitoring would be required in the early stages of the process of extending national protection, with a view to phasing out such activities in a limited time-frame. In fact, the internal character of most contemporary conflicts, and the prevalence of weak or failed states in many countries of origin, suggest that this assumption may be problematic in many cases. Where states lack sufficient capacity and resources to perform their basic distributive and protective functions, the process of extending national protection will not be assured.

In the aftermath of the Cold War, complex international peace-keeping efforts in Bosnia, Cambodia and Somalia sought to provide the conditions for reconstruction and reconciliation, even in the absence of effective national protection. In the early 1990s UNHCR increased its reliance on other multilateral actors to provide the political and security climate for the effective reintegration of returnees. More emphasis was also placed on the role of human rights agencies, especially the field presence of the High Commissioner for Human Rights. In some countries of origin, it was assumed that UNHCR would be able to hand over human rights monitoring to UN or regional agencies after initial returnee monitoring activities.

However, these expectations have proven difficult to meet. This is partly because the initial surge of interest in resolving internal conflicts immediately after the end of the Cold War has largely receded. The complex operations of the early 1990s represented an exceptional period of international involvement in the area of peace-building, which was more a post-Cold War peace dividend than an emerging paradigm for international involvement. Expectations about the expansion and strengthening of the UN's human rights monitoring capacity have doubtless been unrealistic, in view of the level of resources provided by the international community. It is to be hoped that renewed emphasis on the High Commissioner for Human Rights will lay the basis for collaboration in the future.

Nonetheless, even if such support will be forthcoming, it may be inadequate as a means of promoting or strengthening national protection by the state, and may not be sustainable in the longer term. While complex peace-building operations sought to fill the vacuum created by failed or weak states, they did not address the underlying causes of the state's failure to provide protection. In situations where the state is fundamentally weak, and where civil society is fragile and divided, human rights abuses and persecution are simply a manifestation of more deep-rooted problems. The notion that monitoring of human rights abuses can provide a deterrent for such abuses is based on the assumption that the state is ultimately capable of providing protection. However, in many cases the state may be unable - and not simply unwilling - to protect its citizens against generalised violence or armed conflict, or against persecution and human rights violations perpetrated by non-state actors. In the case of Tajikistan, for example, legislation designed to ensure the recuperation of property and jobs by returnees could not be implemented, due to the lack of resources and the state's inability to ensure the implementation of legislation at the local level.

In addition to monitoring activities, UNHCR and other multilateral actors should focus greater attention on the causes of insecurity and human rights violations, and ways in which the capacities of the state and civil society can be strengthened in order to prevent such violations. Some steps have been taken in this direction in the context of recent return operations. Since the mid-1990s UNHCR and other agencies - notably the World Bank and UNDP - have been engaged in a series of capacity-building projects. UNHCR has promoted national legal and judicial capacity-building in countries of origin, notably in Central Asia, southern Africa, Rwanda, Central America and Bosnia. In Rwanda, UNHCR has provided assistance and training on the judicial system, property and succession rights. It has also been supporting and working with a number of other government ministries involved with refugee and returnee issues, working with both local and national administration to identify and implement projects on property, education, health, agriculture and community services.

Given the critical role of civil society structures in promoting reconciliation, there has also been increased emphasis on strengthening the capacities of local NGOs and community groups. In situations where traditional implementing partners - especially government structures - are reluctant or face obstacles to promoting reconciliation, it may be more constructive to identify alternative groups and structures for support. Such capacity-building can involve planning and implementing projects which involve and benefit sections of the community which cut across the lines of conflict. Encouraging civil society to participate in shared projects will provide communities with common interests and investments. It will also shift the emphasis to mutual needs and interests which are not determined by identification with different parties to the conflict. Local NGOs in CIS countries have been supported by UNHCR through grants, training and exchange programmes. Such activities have been undertaken with a view to strengthening civil society, as well promoting peace and averting renewed conflict.¹² In Guatemala, UNHCR capacity-building has promoted dispute resolution through supporting local and national NGOs, municipalities and women's groups.¹³

However, such activities remain limited and face a number of obstacles. Firstly, the objective of promoting reconciliation and strengthening civil society is difficult to define in concrete terms, and the results not easy to evaluate. Investing in non-traditional partners may involve a greater degree of risk, and in some cases there may not be immediate or tangible results. Moreover, promoting the autonomy of such actors implies allowing groups to define their own goals and not simply implement UNHCR defined objectives. Secondly, civil society mechanisms should not become the sole focus of capacity-building measures: such activities must be balanced with continued support for government structures. Working exclusively with local NGOs may arouse resentment, and in the absence of government support these mechanisms will not be sustainable in the longer term. Finally, capacity-building activities lack an overall framework for defining goals, guiding principles and best practices. Such a

¹² Report of UNHCR *Workshop on Capacity-Building in the CIS Countries*, Baku, Azerbaijan, 14-17 April 1997.

¹³ Report of UNHCR *Workshop on Capacity-Building in Guatemala*, Antigua, Guatemala, 10-12 June 1997.

framework should also differentiate between the approaches required for weak, failed and contested states, and depending on the requirements of reconstruction and reconciliation. Not least, a shared framework will be imperative for co-ordinating multilateral activities.

The second main assumption behind monitoring activities was that monitoring was an effective means for UNHCR to ensure that returnee populations received a level of protection and human rights equivalent to that of other populations. Standards of returnee protection were thus seen as relative to general national standards of protection, with the goal being to ensure non-discrimination between returnees and receiving communities.¹⁴ Yet in the context of flight caused by internal conflict, the objective of raising returnee security and human rights to the level of other populations may result in a “lowest common denominator” approach to protection.

Moreover, where forced displacement resulted from generalised internal conflict or armed violence rather than individual persecution, certain approaches to monitoring the human rights of individual returnees may be counter-productive to reconciliation. Where returnees and local populations are at equal risk, the concept of singling out returnees for special treatment may cause resentment and exacerbate existing tensions. Clearly, where returnees require additional protection because of a continued risk of persecution, or persecution related to their former status as refugees, UNHCR should monitor their human rights situation, including special amnesties and guarantees where relevant. However, in the transition from war to peace they will not *necessarily* be at greater risk, and UNHCR should be sensitive to the potential impact of this form of monitoring. Such considerations have been taken into account in other types of activity, such as development assistance in Bosnia. As a recent document for the Humanitarian Issues Working Group observed, “UNHCR encourages its partners involved in development assistance to ensure that investments benefit both returning displaced persons and their future neighbours in the receiving community. This proactive, community-based approach will encourage peaceful return and tolerance.”¹⁵ Parallel considerations should guide approaches to human rights monitoring. Indeed, the requirements of returnee protection should be defined according to the causes of conflict and forced displacement, the extent to which the conflict and settlement have addressed these causes, and the willingness and ability of the state to extend protection to its citizens. In particular, return after ethnic conflict may require a more sensitive approach to returnee monitoring than return after generalised, untargeted violence.

Given these challenges, multilateral approaches to reconciliation may require more than initial monitoring activities: monitoring should be complemented by activities to promote equity, justice, demilitarisation and community-based activities. Firstly, in certain scenarios, the concept of non-discrimination between returnees and local populations may need to be complemented by the principle of equity in the

¹⁴ “As a general rule, protection operations can be phased out if returnees are not discriminated against in the enjoyment of key human rights, or if discrimination persists but national institutions provide an adequate remedy”. *Review of UNHCR’s Phase Out Strategies: Case Studies in Selected Countries of Origin*, Inspection and Evaluation Service, February 1997. See also *Handbook on Voluntary Repatriation*, DIP 1996, p.64.

¹⁵ *Bosnia and Herzegovina Repatriation and Return Operation 1997*, UNHCR (HIWG/97/2), April 1997.

distribution of political, social and economic rights. In situations where sections of the local population also face human rights discrimination, or where particular areas of the country of origin are especially insecure, the principle of equity may be a useful starting point for defining the needs of returnees, IDPs and receiving communities. The principle of equity implies the promotion of social and political justice, and the fair distribution of rights and goods between all citizens. It is a useful objective to take into account in addressing the broad range of material and security problems which may have led to forced displacement.

Clearly, multilateral actors cannot aspire to resolving distributive issues. The focus should be predominantly on civil and political justice, and where relevant, the reinforcement of the rights of previously persecuted minority groups and the avoidance of new patterns of discrimination. In exceptional cases, where economic resource issues are a major source of controversy and a cause of conflict, redistributive measures may be imperative for peace and reconciliation.

Secondly, reconciliation may also require mechanisms for prosecuting and judging crimes related to the conflict. The punishment of crimes can facilitate the process of forgiveness and rapprochement between victims and perpetrators, as well as deterring future crimes. Justice in this sense is especially important where parties to the conflict have used methods of ethnic cleansing or genocide. In such cases, it is often imperative (albeit extremely difficult) to break the cycle of impunity. However, the relationship between justice and reconciliation is far from straightforward. In the transition from war to peace, mechanisms for punishing crimes may not be accepted as just by all parties to the conflict, and there may be a tension between justice and the promotion of peace and reconciliation. It is important for the relevant human rights and development agencies to be sensitive to this, and avoid imposing a single approach to different contexts.

A third component of reconciliation concerns the level of security which must be in place in order to provide space for people to invest in re-building relations. Overcoming the immediate impediments to material and physical security through assistance and rehabilitation will enable people to take initiatives in rebuilding their livelihoods. Equally, it should provide an environment more conducive to compromise and trust between the parties to the conflict, and between the state and citizens. This will involve several components, including the demilitarisation of society and reintegration of combatants. The disarmament, demobilisation and reintegration of troops are crucial in order to establish the conditions for reconciliation, especially where whole societies have been mobilised for years on end. In many cases, there will also be a need for reform of the state's security sector, including the separation of the state's internal and external security functions, the reform of civilian police, and the strengthening of the justice system.

4. Towards a Strategic Framework

Recent UN inter-agency discussions have revolved around the concept of a strategic framework for reconstruction. The starting point for these proposals was a recognition of the shortcomings of current approaches. In particular, they aimed to

address problems in the application of the relief to development continuum concept, inter-agency coordination, and the lack of impact and sustainability of programmes. As an alternative, it has been proposed that concerned agencies employ a common conceptual tool for identifying, analysing and prioritising the key issues and problems for a given situation; and adopting strategies to address needs, based on shared principles and objectives, and with clearly defined and complementary roles for different agencies. This concept of a strategic framework has been broadly agreed upon by both donors and agencies, although it still requires substantial refinement and practical application.

The notion of a strategic framework is a useful starting-point for meeting many of the challenges of reintegration highlighted in this paper. By undertaking a common assessment and laying out a common strategy for reconstruction based on shared objectives and principles, it could potentially address the problem of the disjuncture between relief and development. It could also enable multilateral actors to incorporate the goal of reconciliation into their reconstruction activities in a more comprehensive way. Finally, such a framework could lead to greater complementarity between the roles and activities of different agencies. Given that all actors would adopt a common strategy, objectives and principles, they would be obliged to overcome the problem of divergent priorities at an early stage in planning.

The strategic framework can provide a model for UNHCR to redesign its approach to activities in countries of origin and partnerships with other agencies. At the wider level, UNHCR should play a role in developing a general UN framework, in order to incorporate the requirements of sustainable reintegration into multilateral activities. UNHCR's contribution to this UN-wide framework should be based on its concern with the quality of national protection. This contribution should emphasise the integral relationship between reintegration and the wider peace-building process. While UNHCR's precise role should be focused on its peoples of concern, it should recognise the importance of broader multilateral activities for achieving this goal; and emphasise that reintegration is critical for peace-building. Both the scale of return and the character of returnee populations can have significant implications for reconciliation and the process of reintegration. Conflict in Liberia and Bosnia-Herzegovina led to the displacement of over half of the population, while more than a third were displaced by war in Afghanistan, Angola, Mozambique and Rwanda. In these situations, return may facilitate or impede the stabilisation of fragile societies in the transition from war to peace.

4.1 The Components of a Strategic Framework

Designing a strategic framework for effective reintegration will involve three main components: analysis of the political context; elaboration of the requirements of reconstruction and reconciliation; and the formulation of common guiding principles for multilateral activities.

- In order to bridge current gaps in its approach to reintegration, UNHCR needs a framework for diagnosing the obstacles to national protection. Such a diagnosis will involve analysing three main elements: the causes of the break-down in national protection; the nature of the conflict and settlement, and their effect on the state's

capacity for national protection; and the likely impact of repatriation on the process of reconstruction and reconciliation. In this way, UNHCR and its partners will be better positioned to define and address the major impediments to national protection.

- On the basis of this analysis of the political context, the strategic framework should identify and prioritise the key components of sustainable reintegration, or the requirements for establishing effective national protection. The following components may be more or less important for reintegration:

Reconstruction

- meeting the immediate material needs of war-affected populations and returnees;
- mine clearance, disarmament;
- repairing damaged infrastructure;
- expanding education and social services;
- strengthening/reforming political institutions and administrative structures;
- expanding production and trade.

Reconciliation

- monitoring the human rights situation in returnee communities;
- promoting equity in the field of political, social and economic rights;
- implementing mechanisms for punishing crimes related to the conflict;
- demilitarisation of society and reintegration of combatants;
- strengthening/reforming civilian police and judiciary systems;
- strengthening civil society structures for promoting reconciliation.

- Crucial to the notion of a strategic framework is achieving consensus on the principles which will guide these activities. The strategic framework should not be based on the institutional, budgetary and functional considerations of multilateral actors, but rather on the principles necessary for achieving the objectives of reconstruction and reconciliation. From the point of view of UNHCR, the main focus should be on the importance of national protection for sustainable reintegration. Two guiding principles will be especially critical: the participation of local actors in reconstruction and reconciliation; and the promotion of equity.

The participation of returnees, receiving communities and local government is crucial in achieving sustainable reconstruction. Participation will help UNHCR and its partners to assess needs, and ensure that local and national actors have the knowledge and skills to maintain reconstruction activities. Sustainability will only be achieved through enlisting the support and developing the capacity of local agencies and community organisations. Where there are tensions between different sections of the community, the active involvement of groups that cut across the lines of conflict can also help to create shared interests and investments. Given the importance of maximising participation, it is vital to provide people with the tools to participate in reconstruction in the immediate term. Even where the state and citizens are willing to cooperate in rebuilding economic and social structures, minimum conditions of material and physical security must be in place. Multilateral actors must find the right balance between immediate assistance, and encouraging individuals to take autonomous initiatives: initial input and investments should provide conditions to enable people to participate in reconstructing their own lives.

Strengthening government capacity should be combined with incentives and mechanisms for ensuring that rights and resources are distributed in a fair and accountable way. Equity implies non-discrimination between different parties to the conflict and between displaced and non-displaced persons, in the distribution of civil, political, economic and social resources. It also implies adequate and just standards in the quality of the rights and goods which are distributed. As such, the principle of equity is essential to reconciliation. It should limit the potential for government policies and multilateral activities to favouritise certain groups over others; and should also address the causes of conflict, where these are related to economic or political inequality.

The principle of equity should be taken into account in all the activities of multilateral agencies. Equity would be a useful complement to the notion of non-discrimination in the context of returnee monitoring. Equally, it should guide measures to improve social services, rebuild infrastructures and expand economic production. Where appropriate, it should pay special attention to the needs of sections of society which have previously been discriminated against, and to distribution issues which led to conflict. Equity should also be a guiding principle for strengthening the capacity of the state and civil society.

4.2 Possible Policy Implications

The strategic framework is not intended to provide a single response for each reintegration situation. Nonetheless, a number of general policy implications stem from this analysis:

- At the most general level, UNHCR should re-examine its reintegration activities in the light of the uncertainty and instability of many return situations. This will require developing a capacity for political analysis in countries of origin. Decision-making on the nature and scope of its activities in countries of origin should be informed by a better understanding of the state of national protection, and the requirements of reconstruction and reconciliation.
- UNHCR should pay special attention to the relationship between peace-building and return. Where repatriation takes place in the context of complex peace-building processes, the agency should systematically analyse the profile of the case-load, the nature and length of exile, and the timing and scale of repatriation, and assess how these elements may impact on the process of reconciliation.
- UNHCR should also strive to develop a better understanding of its multilateral partners. In particular, it should be more sensitive to the priorities, agendas and approaches of development agencies, so as to facilitate activities which are consistent and complementary.
- Activities in countries of origin should be tailored in accordance with the precise situation in the country of origin, the repatriation movement, and the activities of multilateral partners. UNHCR's approach to each reintegration situation will differ depending on the nature of the gap in national protection, and the presence of other

actors. Moreover, UNHCR and its partners should recognise that a quick exit will not always be possible. Again, flexibility is required on the question of timing, and there should be no rigidly pre-determined time-frame.

- The process of defining the requirements and planning activities for reconstruction and reconciliation should be initiated well in advance of repatriation. This means that development and human rights actors should undertake a common assessment of needs and start planning activities during conflict. Moreover, assistance activities in the country of asylum should as far as possible be tailored according to these requirements.
- UNHCR should use the strategic framework proposed in this chapter as the basis for its contribution to the ongoing efforts to develop a UN-wide framework. The requirements of national protection should inform the current debate on reconstruction, and UNHCR should emphasise the critical relationship between effective reintegration and peace-building.

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