



## Voting with their feet

A review of refugee  
participation and the role of  
UNHCR in country of  
origin elections and other  
political processes

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## Preface

The right to participate in political decision-making processes is recognized by the international community as a fundamental human right: “everyone has the right to take part in the government of his country, directly or through freely chosen representatives... the will of the people shall be the basis of the authority of government.” This paper considers the importance of refugee participation in country of origin political processes, and the extent to which UNHCR should seek to facilitate or promote refugee engagement in such activities.

The framing of contemporary international political order rests upon the notion that the liberal-democratic nation-state, personified by a government chosen by and accountable to its citizens, is a just and inclusive order that can protect fundamental rights. Yet refugee flight, by definition, indicates the failure of this model.

Refugees, whether persecuted as a result of race, religion, nationality, membership of a particular social group or political opinion, are excluded (sometimes in a very deliberate manner) from the structures of political power in their country of origin. The search for solutions to refugee situations is thus in part a struggle of the politically excluded for political inclusion.

Researchers have frequently focused on the political identity of the refugee. However, previous studies have often tended to focus on the activities of so-called “refugee warriors”, the “spoilers” of regional peace-building initiatives who turn to violence in order to assert their demands for political inclusion.

This paper does not look at that much discussed issue, but focuses instead on the development of UNHCR’s role in facilitating or promoting the engagement of refugees in non-violent and civic country of origin political processes, including out-of-country voting.

This paper consists of five parts. In the first section, the nature and dynamics of political participation are considered. The importance of political activity in general to democratic ideals of government is examined, as is the specific importance of political participation – both symbolic and substantive – to displaced populations.

The second part of the paper looks briefly at UNHCR’s past and present engagement with refugee politics. In the following section, the political and logistical challenges of refugee participation in country of origin elections are considered. The fourth section looks at other forms of peaceful political engagement, including emerging transnational political activities. These analyzes draw on material from a number of case studies, including but not limited to Eritrea (1993), Bosnia (1996), Liberia (1997 and 2002) Kosovo (1999), East Timor (1999), Afghanistan (2004, 2009), Iraqi (2005, 2010) and Southern Sudan (2010, 2011).

The fifth and final part of the paper offers a number of conclusions and recommendations on how UNHCR might further develop its role in relation to refugee participation in country of origin politics.



# 1. The importance of politics

1. Politics can be understood as the processes that govern the distribution and mediation of authority and power between both individuals and groups. These activities ultimately determine the nature of social relations within and between societies. Political participation can thus be broadly understood as any involvement in discussions and debate over the distribution of decision-making power within a community.

2. Such discussions tend to focus on the detailed content of social relations within a particular community's pre-existing political framework – for example, the extent to a state should redistribute wealth collected in tax receipts from the rich through social programmes targeting the poor. However, all political debate is ultimately concerned with determining the nature of political community itself.

3. Political participation therefore offers a means by which to reorder, revise and repeal the very rules by which a society defines itself. This act of decision-making can be seen as the defining mark of citizenship. In particular, the notion of citizen-participation is a cornerstone of the contemporary political ideal of liberal-democratic popular sovereignty around which the current international community has been built.

4. It is well beyond the scope of this paper to describe in detail the important place of political participation in not only democratic but also rights-based theories. However, given that critics have claimed that one of the major failures of post-Cold War peace-building efforts has been the tendency to simply equate the holding of a hastily-devised election with full democratic transition, it is important to briefly consider why political participation matters, and what its substantive – not just symbolic – practice involves.

5. The international community has often been too quick to move in considering how political participation should be encouraged, without pausing to defend its importance. Yet even a brief survey underlines the fact that political participation is fundamental to the international community's understanding of legitimate government, equal citizenship and meaningful human rights.

## **Popular sovereignty and the social contract**

6. Political participation is intrinsically connected to the notion of popular sovereignty. In contemporary international political order, the idea of the independent nation-state is central.<sup>1</sup> This unit binds together a people – a nation – and a territory, or state. A government may exercise political power on behalf of the nation-state, but any such regime only holds sovereignty in trust from the nation, who hold ultimate collective political power. This relationship – between people,

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<sup>1</sup> The explanation of the importance of political participation which follows develops from this form of liberal-democratic political reasoning. While recognizing that these beliefs or structures are not all universally shared, the dominance of Western liberal states in shaping the international community (including the United Nations) means that international political order does largely follow these values.

government and state – can be best understood by considering it as a form of social contract, an idea which centres upon the notion of consent.

7. Social contract theory argues that the powers of the nation-state are legitimate when they are the product of a collective agreement – the contract – between the individuals within a territory, who pool their own personal autonomy in order that a regime may govern in the pursuit of previously agreed common interests. Every citizen is equal: together they form a single political community, by whose agreed rules public decisions will be made.

8. Although there have been many valid critiques of social contract theory, the idea remains an extraordinarily seductive and persuasive one with which to claim liberal political legitimacy. Arguably most important of all, the social contract provides a means by which the notion of universal human equality can be incorporated into a functioning collective political system. Political power will not be distributed evenly: but it can only be held by consent.

9. In order to understand the importance of political participation, we need to focus on two particular characteristics of the social contract. Firstly, the social contract depends upon consent: political participation is an obvious means of expressing and renewing this consent through deliberate political action. Secondly, modern liberal understandings of the social contract underline its inherent protection of the people's right to rebel against tyranny. Political participation is thus a means of holding appointed leaders and governments – who represent the people and who hold sovereignty on their behalf – to account.

10. Participation also has a third important role to play in a liberal political community. Full and meaningful political participation within a community, such as a nation-state involves the exercise of a number of rights – including the right to freedom of expression and to freedom of association as contained in the International Convention on Civil and Political Rights (ICCPR) and the Universal Declaration on Human Rights (UDHR).

11. By practicing these rights through political activity, we strengthen them: making them not just legal guarantees, but decision-making realities. As one commentator has argued, “political activity, even eternal vigilance is not the price of liberty; it is liberty manifest... Man the citizen, who obeys only the laws he has made, is man at his very best: free, virtuous and powerful” (Walzer 1970: 210-212). Political participation is therefore important because it allows for the public expression and recognition of our individually-held rights and confirms our essential human freedoms.

12. It is of course important to recognize that popular sovereignty does not necessarily equate to practicing Western-style democracy, normally identified as the holding regular elections by universal franchise. However, representative democracy is the agreed framework within which political participation is facilitated and promoted by the international community. In concrete terms, democratic political participation can be understood to include a number of different organized political activities, including formal elections, grass-roots campaigning, and peaceful political protest and demonstration.



## Political participation and the displaced

13. Demonstrating the importance of political participation raises a new question, however, namely, who decides who are 'the people' in the first place? This question has a particular resonance when considering the political participation of refugees and displaced populations.

14. The link between refugee flows and the development of modern nation-states has long been recognized, most notably in Arendt's work *The Origins of Totalitarianism* (Arendt 1967), because the process of deciding who 'the people' are necessarily involves a process of exclusion. This is particularly problematic when it is citizenship that offers meaningful access to fundamental rights.

15. Additionally, the processes of democratization that followed the end of the Cold War underlined the ease with which emphasis on democratic process places the question of defining 'the people' at the centre of politics. This increases the risk that displacement may in fact be induced by the manipulation of democratic politics by elites who are seeking to encourage factionalism and ethnic exclusion. Rwanda, East Timor, Sri Lanka, Cote d'Ivoire and Kenya are among those states where an insistence on democratic process has arguably exacerbated rather than ameliorated ethno-national displacement.

16. These examples underline that being a refugee is to be politically excluded. As Shacknove has argued, the persecution that the international community recognizes as providing a valid basis for claiming refugee status is a symptom of a much more fundamental political rupture between the refugee-citizen and their state of origin, leaving a refugee without national protection and without access to a political forum (Shacknove 1985). This means that the importance of facilitating the political participation of displaced peoples should be recognized and protected by the international community.

17. Understanding forced flight as a form of political exclusion means that while the processes of offering protection and assistance during exile may be characterized as purely humanitarian, the methods employed to solve refugee crises must also be necessarily political, involving full (re)admission to citizenship for refugees, either in a host country or in the country of origin.

18. Acknowledging that refugee crises are political is not new or radical. In assessing her own leadership of UNHCR in responding to the first decade of post-Cold War refugee flows, for example, Sadako Ogata insisted that "I have not ceased calling for political support for humanitarian crises. I have repeated, countless times, that humanitarian action can only address, not resolve, political problems" (Ogata 2000 as appendix 1 to Ogata 2005): 352). However, placing political inclusion at the centre of international approaches to durable solutions suggests that the political participation of refugees must play a key role in moving the displaced beyond exile.

19. Thus, the very act of recognizing refugees to have political identity is an important act of protection in its own right. However, political activities are arguably of particular significance when directed towards a refugee's country of origin. In exile, a refugees' ability to participate in peaceful political protest, discussion and debate about affairs in their country of origin articulates their claim to be a rightful member of that state's political community, and underlines the illegitimate nature of

their political exclusion through flight.

20. At times of peacebuilding, the recognition of this claim to citizenship by the state, and the consequent inclusion of refugees in formal political activities such as elections or referendums is also a powerful symbol of their readmission to the political community as equal citizens. Such political participation also provides a means of recognizing and atoning publicly for the past wrongs of forced flight.

21. The political participation of displaced populations in country of origin politics also has a real and substantive value in terms of reconstruction activities. By facilitating refugee and IDP engagement in political negotiations following conflict, these groups are more likely to understand themselves as stakeholders in the peacebuilding and reconstruction processes. This in turn is likely to lead to more sustainable repatriation and return, as refugees and IDPs are both recognized and recognize themselves to be equal citizens in their country of origin.

22. The overall security of the peace-building process is also likely to increase, as ensuring refugee and IDP access to civil political space will help to prevent the emergence of so-called 'spoiler' refugee groups whose failure to engage in reconstruction can undermine a post-conflict settlement (Milner 2009).

23. In addition, facilitating the political engagement of refugees after long-term exile – including in some cases those refugees who now also hold citizenship in their host country and may continue to live outside their country of origin – may help to ensure diaspora involvement in the rebuilding process, with resultant development benefits (remittances, skills-transfer etc.)

### **Refugee political rights**

24. This analysis makes clear the importance of refugee and IDP participation in country of origin political processes, particularly during peace-building or post-conflict reconstruction. However, what rights do refugees have to participate in country of origin politics? What particular conditions or caveats may be attached to their engagement in particular formal processes such as elections or referendums?

25. The 1951 Refugee Convention is “silent on the question of political activity of refugees,” meaning that their rights to political participation – and the shape it may take – is governed by international and human right rights law, as well as host states’ national legislation (Mandal 2003). In terms of rights to political engagement in the country of origin, the most important legal protection is contained in Article 25 of the International Convention on Civil and Political Rights (ICCPR), which stipulates:

Every citizen shall have the right and the opportunity...without unreasonable restrictions...

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors... (United Nations General Assembly 1966: Art. 25).

26. In 1996, the UN Human Rights Commission published General Comment 25, provided further guidance on what might constitute an “unreasonable restriction” on the participation of citizens in public affairs. Stressing that no discrimination could be made between citizens, the Commission did allow that a residence requirement might be applied to voter registration. However, it also stipulated that any such restriction “must be reasonable” (OHCHR 1996).

27. Given that refugees have, by definition, been forced to leave their country of origin and did not do so voluntarily, to impose a residency restriction on refugee participation cannot be considered reasonable “particularly if this rewards persecutory activities on the part of the authorities there.” Similarly, the explicit provision of the General Comment that residency requirements must not be imposed “in such a way as to exclude the homeless from the right to vote” has a particular relevance for IDPs (OHCHR 1996).

28. Exercising this right to vote and participate in public affairs in a country of origin, however, depends in practice on the recognition of such a right by the state in question, and assumes a regime’s commitment to the democratic process. These are not necessarily characteristics of a refugee-creating state. As a result, the international community’s post-Cold War efforts – as discussed in Parts III and IV of this study – have focused on ensuring that refugees are represented in transformative electoral processes where political participation may act as a precursor to physical repatriation.

29. Ensuring that refugees can participate as equal citizens in elections in their country of origin also depends upon host states respecting a number of other political rights. A 2003 study commissioned by UNHCR’s Division of International Protection suggests that there are three categories of activities refugees may engage in: those that a state is obliged to allow (under international human rights law), those that can be allowed or restricted depending on the discretion of the state, and those activities that a host state is obliged to prevent, in accordance with international laws prohibiting terrorist activity (Mandal 2003).

30. In particular, ICCPR Article 19, guaranteeing Freedom of Expression, and Article 21, protecting Freedom of Assembly, are important supports to the continued engagement of refugees in country of origin political processes during exile. Although subject to a host of potential restrictions on the grounds of national security, public safety or public order, host state respect for these rights and judicious and careful use of any such limits is important, as “campaigning for change in their country of origin may indeed be the only way of increasing the chances of being able to return home eventually” (Mandal 2003: 13).

31. The meaningful political engagement of refugees in their countries of origin cannot begin – or end – in the single act of voting in a referendum or election. Instead, an ongoing process of continual debate and discussion must be facilitated, requiring considerable commitment from host states and the international community.

32. Refugees thus have a clear right to be considered as citizens in their country of origin, and to participate in the governing of their own political community, including through peaceful political protest against the government of their state of origin whilst in exile. The importance of this participation – both to refugees and to

the success of wider peace-building processes - is clear. However, it is equally evident that the difficulties lie in the details of facilitating and promoting political engagement. While residency is not a barrier to participation, do refugees need to possess an intention to return - and if so, how can this be demonstrated? Who defines 'legitimate' political activities and on what terms?

33. What structures can be put in place to ensure that political participation is both meaningful and representative - that it goes beyond a single act of voting and encompasses both elite and non-elite and camp and urban displaced populations? How should a transition towards democratic participation be managed in cases where refugees have never participated in political processes and have no cultural expectations of doing so?

34. Many of these challenges will be addressed in Parts III and IV of the study. However, this paper now turns to look at another key question in more detail: what role should UNHCR, defined as a humanitarian and non-political organization in its Statute, play in facilitating refugee politics?

## 2. UNHCR and refugee politics

35. UNHCR has had a historically uneasy relationship with 'political' refugees and IDPs. The organization has traditionally tended to view refugees – particularly camp-based non-elite groups – as non-political recipients of humanitarian aid. In turn, this has meant that refugees who engage in political agitation, particularly if they demand a participatory role that goes beyond facilitating camp management or food distribution – have sometimes been perceived as troublesome.

36. UNHCR's approach to refugee political participation has developed significantly in the past decade: yet the fact remains that UNHCR staff often dismiss refugee political identities, or see refugee political activities in exile as an additional burden or problem complicating UNHCR's task of delivering protection and assistance to displaced populations.

37. UNHCR's attitude towards refugee participation and self-governance has been a particular target for criticism from refugee advocacy groups and academic researchers (e.g. Harrell-Bond 2009)). This echoes a wider international tendency to ignore refugee political identities: the ACE electoral knowledge network, for example, comments that "refugees traditionally have been among the last of marginalized groups to become enfranchised" (Network: 3).

38. UNHCR's wary response to refugee political activism has many different origins. These include the additional logistical challenges that political engagement and protest pose for camp management strategies, the potential for disputes with host state governments anxious to prevent any subversive activity on their territory and the risk that those refugees presenting themselves as leaders may have secured these positions through manipulation and intimidation rather than as a result of fair democratic process (as occurred in the Rwandan camps in Zaire between 1994 and 1996).

39. None of these anxieties are sufficient, however, to justify a view of refugees as without political autonomy. Instead, they speak to the challenges of creating constructive – rather than obstructive – political discourse.

40. UNHCR's engagement with refugee politics has also been constrained by some interpretations of its mandate. As indicated already, UNHCR's Statute makes clear that "the work of the High Commissioner shall be of an entirely non-political character; it shall be humanitarian and social" (UNHCR 1950: Art.2).<sup>2</sup> UNHCR's protection and assistance work has thus been consistently characterized as "humanitarian" in order to exclude it from "politics".

41. This interpretation confuses the facilitation of political participation or the creation of political space -- which falls within the social aspect of UNHCR's

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<sup>2</sup> The clause stipulating the "non-political" character of UNHCR's work was originally a product of Cold War anxieties. The phrase was included in the Statute on the insistence on Yugoslavia, and aimed at preventing the new refugee agency becoming involved in the on-going East-West bloc disputes over the nature of the post-war refugee problem.

mandated activities -- with the adoption of a (prohibited) political stance. Many bodies that do not hold political opinions are nevertheless engaged in facilitating political activity. In most states, for example, Electoral Commissions oversee voter education, information distribution and the mechanics of polling, without being accused of political interference.

42. UNHCR's humanitarian character - and its adherence to the humanitarian principles of neutrality and impartiality - is of obvious value in attending to the protection and assistance needs of refugees and other displaced persons in exile. It is particularly essential in seeking to attend to the needs of displaced in conflict zones. However, in the post-Cold war period, UNHCR has increasingly been engaged in negotiating durable solutions for refugees, particularly through repatriation to a country of origin.

43. Delivering protection and assistance in exile has been traditionally achieved by presenting this work as humanitarian and - on occasion - limiting the space for individual refugees or refugee-groups to participate in decision-making processes. Yet, as Part I of this paper made clear, sustainable solutions to displacement - especially those solutions involving return - require the political engagement of refugees.

44. These developments explain both why, despite the fact that the Agency to-date in practice followed a case-by-case ad hoc approach to facilitating and promoting refugee political participation in country of origin policy, it is now important for UNHCR to develop a coherent policy addressing this issue. In doing so, the organization can draw upon the extensive experience that it has gained in this domain.

### **Zimbabwe, 1980**

45. In 1980, following the dismantling of the white-ruled Rhodesian state, UNHCR offered Zimbabwean refugees in Mozambique, Zambia and Botswana the opportunity of assisted repatriation: around 70,000 refugees were eventually officially repatriated as part of this operation: a larger number are likely to have self-repatriated (Jackson 1994). The programme was also extended to include IDPs, who numbered around one million. This was a notable innovation for the early 1980s.

46. Refugee repatriation had been explicitly linked to the Lancaster House Agreement that paved the way for the February 1980 elections that would end white minority rule. The Agreement stipulated that "as many as possible" of the Zimbabwean refugees should be repatriated in order that they could participate in the elections (HMSO 1979).

47. However, the perils of connecting physical repatriation to political participation in the search for solutions were also made very clear in this early example of UNHCR facilitated repatriation. The time-scale for repatriation was short - the elections were held only two months after the Lancaster House Agreement was signed - and formal repatriations only began in January 1980, a month before the poll.

48. Furthermore, the Rhodesian state also sought to deliberately obstruct refugee returns, so that only one of three authorized crossings from Mozambique was used and repatriations from Zambia were impeded by Rhodesian use of torture in the process of screening returning refugees.

49. The result was that only 15,000 refugees from Mozambique and Zambia – the most politically active of the refugee concentrations – were able to return in time to vote in the February elections, although all 20,000 Zimbabwean refugees in Botswana (a generally less politically active group) were able to repatriate (Campbell 1980). The slow rate of repatriation caused UNHCR to make an official complaint to the Rhodesian government less than two weeks before the election (Jackson 1994: 144).

50. The logistics of hurried physical repatriation thus resulted in at best partial refugee participation and an electoral process susceptible to manipulation not only by the Rhodesian state but also by the two major liberation parties, ZAPU and ZANU, who exercised tight control over supporters and ex-combatants. Nevertheless, the Zimbabwean case provided some notable innovations, both in terms of linking repatriation to political engagement and in developing a return programme – focusing on a readmission to citizenship – that included the internally displaced.

51. If the Zimbabwean case provided an early example of both the opportunities and difficulties inherent in connecting the physical return of refugees to political solutions, it was not until the early 1990s that the practice became widespread. The ‘decade of repatriation’, as it was dubbed by High Commissioner Sadako Ogata, saw a number of returns in Central America, Asia and Africa – including Guatemala, El Salvador, Cambodia, Namibia and Mozambique – linked to the end of civil war and transitions to democracy. During this period, refugee return was clearly connected to broader peacebuilding aims, including the participation of refugees in formal political processes designed to mark a transition from conflict to peace, or authoritarian rule to democracy.

52. The 1996 UNHCR Handbook on Voluntary Repatriation included a section entitled Repatriation and Elections in the Country of Origin. This focused particularly on the links between physical return and electoral participation and observed that “conflict settlements often include the holding of national elections and refugees may be expected to repatriate according to a certain schedule in order to vote” (UNHCR 1996: 66).

53. The Handbook insists that UNHCR, assuming refugee willingness “should certainly spare no effort to assist them in returning in time,” but beyond this it projects a very limited role for UNHCR in terms of engaging with electoral processes, repeatedly stating that “UNHCR should not be actively involved in any way other than monitoring that no international protection principles are violated” (UNHCR (1996: 66). Prospects for out-of country voting (OVC) are projected as a bilateral issue. However, early experiences of post-Cold War repatriation underlined the difficult protection questions that ‘returns for elections’ could create.

## **Cambodia, 1993**

54. The Cambodian repatriation was arguably the most ambitious of the early post-Cold War repatriations in terms of political engagement. In response to the Paris Peace Accords of 1991 that were intended to bring conflict between the Khmer Rouge and the Cambodian government to a close, some 320,000 Cambodians returned home from Thailand in time to participate in the 1993 elections.

55. UNHCR's formal repatriation operation, which began in March 1992, was deliberately intended to facilitate refugee participation in the elections, organized and supervised by the United Nations Transitional Authority in Cambodia (UNTAC). The success of repatriation was thus closely associated with the success of the peacebuilding project as a whole, so that "a decision by UNHCR to slow down or even halt repatriation could have dealt a crippling blow to the credibility of the elections and the UN mission itself" (Gallagher and Schowengerdt 1998: 204).

56. In numerical terms, refugee participation was secured. Around four million Cambodians voted in the 1993 elections, representing around 85-90 per cent of eligible voters. However, the processes also highlighted the difficulties of tying eligibility to vote to the physical in-country presence of refugees. It became clear, for example, that between 40 and 60,000 refugees were likely to remain in Thailand at the close of the voter registration period, and therefore would not be able to participate in the elections.

57. UNTAC responded by innovating, persuading the Thai government to agree to registration in camps, but (in order to comply with Cambodian electoral law) voter registration cards were not distributed until refugees actually returned to Cambodia. In their assessment of the Cambodian election, Gallagher and Schowengerdt concluded that "the experiment worked... nearly all of the remaining eligible refugees were registered" (Gallagher and Schowengerdt 1998: 204).

58. Nevertheless, longer-term assessments of the Cambodian repatriation raise important questions about the wisdom of equating a single act of political engagement with sustainable refugee reintegration, particularly when this political engagement is made conditional upon physical return.

59. Politically and economically, the concept of refugee rapprochement with the state was fragile. Acute land shortages meant that by the end of 1993, 73 per cent of returnees were still classed as "needy" or "at risk" by the World Food Programme (Garcia-Rodicio 2001: 123-125). Furthermore, in 1992 the Khmer Rouge had opted out of the peace process that had precipitated repatriation efforts (Eastmond and Ojendal 1999: 43-44). Long-term concepts such as security, development and restorative justice were therefore more elusive to locate in the Cambodian's experience of return (Garcia-Rodicio 2001: 123-124). As Eastmond and Ojendal concluded: "The Cambodian operation cannot be considered successful simply on the basis of safe transportation of returnees to their destinations" (Eastmond and Ojendal 1999: 52).

60. The Cambodian experience confirmed that peacebuilding processes can be strengthened through the inclusion of refugees in transitional elections. However, it also underlined that premature return could exacerbate the difficulties attached to repatriation, including the need to secure adequate livelihoods and ensure physical



security. Yet there was little prospect of out-of-country voting being permitted by the Thai state.

61. Thailand's wariness concerning the Cambodian refugee presence on its territory and the country's interest in encouraging return contributed to its refusal to allow any the dissemination of any materials related to the election within the camps, with the result that large-scale in-country democratic voter education programmes – crucial given that the elections represented a significant shift in political process – were not duplicated in the refugee camps.

62. Similarly, it is important to remember that during the 1990s, UNHCR and the international community as a whole had fully embraced and promoted the use of repatriation as the ideal (and in some cases the only) solution to displacement, creating a culture in which protection-based objections to early return were frequently disregarded (see Long 2009b).

### **UNHCR and OCV**

63. As in Zimbabwe, the international community's experiences in Cambodia suggested that a better approach to refugee political participation might be to focus upon facilitating OCV, alongside or as a precursor to return. Partly in response to concerns over the protection consequences and logistical challenges of premature returns, OCV has played a prominent role in number of other transitional election processes, including the Eritrean constitutional referendum of 1993, the Bosnian elections of 1996 (and in subsequent years) and the Kosovo elections of 2000.

64. UNHCR itself played a very minor role in the organization of these elections, with the International Organization of Migration (IOM) developing its role as a technical facilitator of OCV alongside regional electoral supervisory arrangements (e.g. OSCE in Bosnia and UNMIK in Kosovo). Similarly, UNHCR has played a relatively limited role recent peacebuilding elections involving OCV in Afghanistan (2004), Iraq (2005 and 2010) and South Sudan (2010).

65. UNHCR's involvement in OCV for the March 2010 Iraqi elections, for example, involved providing aggregated demographic data on refugee populations to the Independent High Electoral Commission Offices (IHEC), making public information materials available to refugees through normal channels, and providing information to IHEC on what media is most effective in reaching Iraqis.

66. More generally, surveying current approaches to refugee political participation reveals a lack of any comprehensive or consistent policy, either within UNHCR or the wider international community. Efforts to facilitate refugee engagement in the political dimensions of peacebuilding have been almost entirely concentrated upon facilitating electoral participation: a strategy that has obvious limitations.

67. While elections may represent important milestones in a post-conflict reconstruction process, and refugee participation may mark a symbolic readmission to citizenship and national protection, there is no guarantee that substantive change or meaningful long-term participation will follow from a single election. Instead, there is a risk that elections will be presented as a substantive success even when

their impact is superficial, particularly by an international community eager to disengage from long conflicts, neglecting more challenging dimensions of political engagement and returnee reintegration. The 2004 elections in Afghanistan and the 2005 elections in Iraq arguably fall into this category, and underline the security risks that may follow from a premature transition to electoral politics.

68. While focusing on elections to the exclusion of less tangible political engagement has clear drawbacks, equally concerning is the fact that international policy on facilitating refugee involvement in elections – either through OCV or repatriation – varies enormously from case to case. There is little consistency in terms of when and to what extent the international community has engaged with refugee participation during early post-conflict transition.

69. The Dayton Accords placed considerable emphasis on the importance of the electoral process in building peace in Bosnia and Herzegovina (Dayton Peace Accords 1995: Art. 3), culminating in the organization of a broad OCV in 16 countries by OSCE and IOM for elections held in 1996 and 1997.

70. By way of contrast, the Liberian elections held in 1997 “proceeded and were validated with almost no refugee participation,” despite UNHCR advocating an out-of-state voting programme to enfranchise refugees, who represented some 30 per cent of the Liberian adult population (IOM 2003: 115), but were reluctant to repatriate in the light of continuing insecurity. Refugee reluctance to return proved justified: by 1999, Liberia had descended once again into civil war.<sup>3</sup>

71. Similarly, while refugees in Iran and Pakistan were able to participate in the Afghan elections in 2004 through OCV processes, in 2009 no arrangements were put in place to facilitate refugee participation, with the Afghan Independent Election Commission (AIEC) citing prohibitive costs as the major reason why OCV could not be facilitated. Security concerns meant that polling arrangements would have cost around US\$ 50 million, and the international community refused funding (Daily Times 2009). Yet the hugely expensive 2005 Iraqi OCV elections – facilitated by IOM – were followed by a belated decision to organize OCV in 16 states for the 2010 elections.

72. Post-conflict OCV programmes involving displaced populations therefore appear to depend upon ad hoc funding and the political interest of relevant states rather than any systematic cost-benefit analysis. While OCV in Bosnia in 1996 cost just USD \$2 million, as did the 1999 East Timorese Popular Consultation (IOM (2003), voting in the 2005 Iraqi elections cost USD \$72 million (with an initial budget of USD \$92 million), or USD \$270 per external voter, a questionable use of international financial resources. This once more suggests that the international community would benefit from developing clear and consistent guidelines for financial and logistical engagement in OCV processes.

73. In the past decade, UNHCR has developed clear policies supporting refugee participation during exile, framed around a community development approach to

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<sup>3</sup> Refugee participation was blocked for political reasons. Host states – who viewed a victory for Charles Taylor as offering the best prospect for Liberian stability – were fearful that refugees would constitute an anti-Taylor block. Taylor won the election with 73.5 per cent of the vote, partly because many Liberians were fearful of a return to civil war should Taylor lose.

refugee protection which:

Seeks to empower refugees and people of concern in shaping their destinies... refugees should be considered as 'subjects' in the search for durable solutions and be considered as resourceful and active partners, rather than 'objects' or passive recipients of assistance (Executive Committee 2001)

74. Additionally, the Agenda for Protection challenges UNHCR and states to intensify the search for durable solutions and explicitly encourages states "to facilitate the participation of refugees, including women, in peace and reconciliation processes" (UNHCR 2003). The Voluntary Repatriation Handbook also stresses the importance of refugee participation in decision making processes (UNHCR 1996, 2008).

75. These policy statements represent a clear departure from traditional understandings of refugee political engagement, and reflect the changing work of UNHCR, with its increased emphasis on post-conflict engagement. However, there does remain some reluctance to engage with refugees as full political actors. Participation has often tended to be seen in developmental rather than political terms, linked to a self-reliance agenda.

76. The development of elected camp leaderships constitutes an exception to this tendency, although the duties of these representatives tend to be restricted to camp management tasks and resource distribution, rather than any engagement in wider political concerns. The political engagement of urban refugees - now estimated to represent up to half of UNHCR's caseload, but who are often unregistered for fear of expulsion from urban areas - presents a further complex challenge which to date has not been examined in detail.<sup>4</sup>

77. As a result of this policy linkage between participation and peacebuilding, UNHCR has played a limited role in facilitating refugee political engagement, most recently through involvement in the March 2010 Iraqi elections. Yet because refugee participation in country of origin political processes has not been fully connected to UNHCR's core protection mandate, UNHCR, alongside other members of the international community, has not developed a clear policy or consistent guidelines on when it should facilitate or promote refugee participation in country of origin politics.

78. The Division of International Protection is currently (September 2010) finalizing a guidance note on the participation of refugees in elections of their country of nationality that surveys the risks and opportunities attached to facilitating such refugee participation in peacebuilding elections, as well as detailing some of the logistical and financial challenges. In part because refugee participation in milestone elections has dominated initiatives to secure their participation in country of origin politics to day, it is to the questions and challenges surrounding elections to which this paper now turns.

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<sup>4</sup>UNHCR's 2009 urban refugee policy is largely focused upon protection and livelihood issues, although the experiences of OCV in Syria and Jordan (where large Iraqi urban refugee populations are hosted) do provide some basis for considering the urban dimensions of refugee political participation (Crisp and Riera 2009).



### 3. Elections and refugee participation

79. As discussed in Part II, efforts have been made in recent years to ensure refugees are able to participate in peace-building elections without being forced to physically repatriate first. However, no global policy has been developed on this topic (either at UNHCR or more broadly in the international community). As a result refugees' electoral involvement in country of origin political decision-making has tended to depend on case-by-case assessments.

80. Nevertheless, there are several cases of refugees participating in peace-building elections in post-conflict settings in Europe, Asia and Africa. Key examples include the Eritrean independence referendum (1993), and elections in Bosnia (1996 and 1997), Kosovo (1999), Afghanistan (2004), Iraq (2005 and 2010) and Southern Sudan (2010 and 2011).

81. This paper does not purport to offer detailed case studies of these elections processes. The pre-2003 cases have already been the subject of thorough assessment as part of an IOM project on forced migrant political participation (IOM 2003). The ACE Electoral Knowledge Project ([www.aceproject.net](http://www.aceproject.net)) has gathered a considerable amount of material on more recent post-2003 diaspora engagement in post-conflict elections, with particular focus on Afghanistan and Iraq. Instead, the aim of this section is to use these case studies to illustrate important challenges and issues arising from refugees' political participation, and consider how these experiences might shape UNHCR's involvement.

#### **The right to vote**

82. The right of refugees to vote in country of origin elections is clearly protected under ICCPR Article 25. Yet the right to vote is not the same as the obligation to vote, just as the right to return must be balanced against the right for any such return to be voluntary. For UNHCR, therefore, considering whether to facilitate or promote refugee engagement in country of origin elections involves assessing many of the same factors involved in determining whether to support a voluntary repatriation process. Is participation voluntary? Is it safe? Will participation enhance refugees' dignity?

83. These links between the safeguards for return and political participation further underline the connections between the two processes. Both activities are concerned – symbolically and substantively – with securing sustainable (re)entry into the country of origin's political community, and through this process of return to citizenship providing refugees with a durable solution to exile. The complex interdependency between refugee repatriation and peacebuilding has been recognized by UNHCR. As High Commissioner Guterres remarked in 2006, speaking to the UN Security Council about South Sudanese peacebuilding:

Over and over, we see that their [refugees'] participation is necessary for the consolidation of both peace and post- conflict economic recovery. Sustainable peace and recovery are necessary to allow

refugee returns. Yes. But refugee returns are every bit as essential to sustained peace and recovery (UNHCR 2006)).

84. Refugee participation in country of origin electoral processes should be facilitated when such engagement has the potential to act as a bridge between these two processes, strengthening both peacebuilding and the prospects for sustainable return.

85. The connections between peacebuilding, return and political participation are also made clear in the 2008 draft revisions to the Voluntary Repatriation handbook, which includes a section on refugee involvement in country of origin elections. The Handbook applies the test of safety to electoral participation, pointing out that “any person who has demonstrated a well-founded fear of persecution will be reluctant to vote as this will inevitably lead to contact with the authorities he or she fears persecution from” (UNHCR 2008: 102).

86. Instead, it suggests that the best test for measuring the safety of refugee electoral participation is whether post-conflict conditions have been established so that “voluntary repatriation has become a viable option” (UNHCR 2008: 102). Again, this links voluntary political participation with prospects for voluntary return.

87. The 2010 DIP guidance notes follows a similar line in connecting refugee electoral participation to post-conflict reconstruction processes, arguing that: UNHCR’s facilitation role should be limited to post-conflict situations. However, an exception to this rule should be made in a non-international conflict situation where national elections constitute an important step towards national reconciliation, where the rule of law allows for free and fair elections, and where the safety of voters can be ensured. The documents also states that UNHCR’s facilitation role should be limited to situations where the right to vote promotes the prospective (sic.) of durable solutions (UNHCR/DIP 2010: 4):

UNHCR’s facilitation and/or promotion of refugee engagement in electoral politics in their country of origin should therefore be restricted to cases where elections are likely to be genuinely ‘transformative’, offering a means of securing a new (non-persecutory) regime or state or underpinning a transition from civil conflict to peace.

88. However, while elections may help to secure a pathway for the physical return of refugees by signalling their political inclusion, this should not be taken to indicate any obligation to return. UNHCR’s existing literature on electoral participation is very clear on this point, arguing that “the exercise of one’s right to vote should be regarded as aimed at creating conditions conducive for return, and not be seen as a first step for meeting the conditions [for cessation]” (UNHCR 2008: 102). Forthcoming DIP guidance also states that “UNHCR should not become involved in election processes that risk undermining rather than strengthening refugee rights” (UNHCR/DIP 2010).

89. Any temporary return to a country of origin (if no OCV procedures are in place) in order to vote should not be taken as a voluntary reavilment of national protection that invalidates refugee status. It is very clear from a number of cases (e.g. Afghanistan, Sudan) that the sustainability of return rests on a number of factors that

go far beyond a single act at the ballot box: important considerations include access to livelihoods and land, local security and community relations, and the strength and cultural attachment to political reform.

90. Voting is thus a symbolic act that reaffirms the right of the refugee to be considered a political citizen. It may, over time, contribute to more substantive reforms and reconstruction and allow a permanent return: but it also may not. The importance of ensuring that states continue to recognize the refugee status of refugees who have voted in their country of origin until it is clear that political reforms are sustainable can not be overstate.

91. There is a very real practical threat that any evidence of political engagement will be used by host states to deny any continued responsibility to provide asylum: in 1997, Guinea closed its border in both directions, preventing Liberian refugees who had returned to their home country in order to vote from returning to refugee settlements and protection in Guinea (IOM 2003).

92. There is thus a clear role for UNHCR in ensuring that when refugees choose to vote in-country, host states do not use this movement to withdraw their right to asylum, but instead support participation as part of a wider cumulative process that may in the long-term encourage sustainable repatriation. The well-established processes for 'go-and-see' visits provide one obvious model.

### **Bosnia, 1996**

93. The Bosnian elections of 1996 provide an excellent example of how refugee participation in peacebuilding elections can be intended to encourage repatriation: this example also underlines the difficulties of securing reconciliation through democratic politics. The 1995 Dayton Peace Accords brought civil war in Bosnia to a close, and were intended to lay the foundations for a 're-mixing' of Bosnia and Herzegovina's (BiH) Bosniak, Serb and Croat populations, now geographically segregated as a result of targeted ethnic cleansing during the conflict.

94. As IOM's study of the Bosnian election underlined, it is important to recognize that "the central aspect of the Dayton Agreement was the framers' attempt to promote political pluralism as *the* mechanism for sustainable peace and viable reconciliation." As a result, the Dayton Accords intended to use the 1996 general election to reinforce refugees multi-ethnic return, hoping that "the underlying strategy... would encourage candidates to produce campaigns base don ethnic inclusion and pluralism" (IOM 2003): 6).

95. Annex 3 to the Dayton Accords provided for free and fair elections to be held under the supervision of OSCE. Refugees were eligible to vote in either their former or (intended) future municipality: IDPs could vote in their former, current or future place of residence.

96. Dayton also explicitly linked refugee participation to refugee repatriation, confirming that "the exercise of a refugee's right to vote shall be interpreted as confirmation of his or her intention to return to Bosnia and Herzegovina" (Dayton Peace Accords 1995: Article IV). The act of voting for democratic representation was presented as a confidence-building measure, that should be supported in order to

facilitate Bosnian voluntary repatriation and secure the peacebuilding process.

97. The return of refugees – not just to BiH, but to their former places of residence – was central to international hopes that Dayton could offer a pluralist rather than a segregated peace. The international community hoped refugees would act as a moderating influence upon political debate and help to facilitate a return to a status quo ante multi-ethnic Bosnia. Yet local politicians understood democratic power in demographic terms, and were interested instead in securing political – i.e. ethnic – control over the territorial areas they held.

98. The so-called ‘Form II’ option, to register and vote in municipalities in which citizens intended to live in the future, was deliberately manipulated by Serbian politicians in Republika Srpska and the FRY areas in order to target strategic municipalities and outweigh Bosnia and Croat votes. These tactics highlight the risks attached to using democratic elections in order to facilitate inter-ethnic reconciliation.

99. By August 1996, only 100,000 of nearly two million refugees and IDPs had returned to BiH, with very few of this number returning to minority areas. As a result, OSCE, in conjunction with IOM and the International Centre for Migration Policy Development (ICMPD) organized elections for the Bosnian diaspora in 55 states, with those refugees residing in countries with more than 5,000 refugees able to vote by postal ballot.

100. UNHCR facilitated contact with Bosnian refugee groups, but did not work directly on the programme (IOM 2003)). While several logistical challenges were faced in developing the OCV programme (see below), ultimately 630,257 electors outside BiH were registered, of whom nearly 400,000 actually voted in the 1996 elections).

101. Refugee involvement in the 1996 BiH elections should be considered a partial success. High refugee-voter turnout confirmed the refugees’ status as Bosnian citizens with an important stake in securing a sustainable end to inter-ethnic conflict. Yet the elections did little to encourage physical return – and in terms of encouraging inter-ethnic dialogue, the elections arguably had the opposite effect to that intended, entrenching ethnic power and segregating political constituencies.

### **Benefits of participation and limits of voting**

102. As discussed, refugee participation in transformative or peacebuilding elections has several obvious benefits. Refugee participation can help to ensure that any post-conflict settlement is truly inclusive, ensuring that the displaced are recognized as equal citizens within the new political settlement. In the medium-term sustainable refugee return is more likely if an election process ensures that local and national politicians are accountable to refugee interests.

103. A successful refugee engagement in an early election process can help build wider community confidence in the sustainability of existing peace agreements and provides an important mechanism for continued diaspora engagement, including that of refugees who are unlikely to return home (such as those who have been resettled to Western states and have been able to naturalize).



## Eritrea, 1993

104. The Eritrean referendum, held in 1993, can be considered as a highly successful example of refugee participation in political decision-making through OCV. In May 1991, Eritrea achieved de facto independence after three decades of secessionary war with Ethiopia. The Eritrean Peoples' Liberation Force (EPLF) became the provisional government of Eritrea (PGE), with an explicitly expressed commitment to democratization and Eritrean self-determination. In April 1993, a referendum was held with Ethiopian agreement, in which the Eritrean population voted overwhelmingly for independence.

105. For the Eritrean, the referendum was an opportunity to both express and legitimate Eritrean self-determination. The organization of the poll by the PGE was heavily influenced by the desire to assert national ownership of the process: "from the beginning, the PGE felt that the referendum should be a national endeavour - managed and run by Eritreans for Eritreans" (IOM 2003: 67). In particular, UNHCR efforts to repatriate some 530,000 Eritrean refugees residing in Sudan were the subject of considerable conflict with PGE, who argued that UNHCR was excessively focused on securing the refugees' physical return rather than considering the demands of reintegration (USCRI 2001: 13-14).<sup>5</sup>

106. PGE found that the reluctance of UNHCR and donor governments to contribute to reintegration and rehabilitation without further field assessment frustrating and demeaning (USCRI 2001)). As a result, UNHCR played no part in facilitating refugee involvement in the Eritrean referendum and the Referendum Commission of Eritrea (RCE) was reluctant to accept conditional international aid and technical and material assistance, although international observers were welcome.<sup>6</sup>

107. Nevertheless, the PGE made an early commitment to OCV. This process was facilitated by the generally positive relationships between the PGE and the Ethiopian transitional regime<sup>7</sup> and the Sudanese government. It also reflected close links between PGE and the Eritrean diaspora, who were understood to be integral members of a national political project. The external voting campaign was extraordinarily effective in part due to the support of the diaspora, who donated time, money and good to ensure successful registration and polling, exploiting existing diaspora associations and civic networks.

108. In total, of a diaspora estimated to number 1.2 million (including children) around 300,000 Eritreans registered for OCV, amounting to around a third of the total electorate (IOM 2003): 74). An exceptionally high turnout saw 99.7 percent voting for independence in a referendum process that was declared free and fair by UN, OAU and League of Arab States observers.

109. The Eritrean referendum was highly successful in connecting refugees to broader national political processes because the state itself - under the control of the PGE - was committed to the concept of national liberation: the EPLF had no

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<sup>5</sup> It is important to note that at least half this number were under 15 and therefore not eligible to vote. (IOM 2003).

<sup>6</sup> The RCE eventually accepted USD \$4.3 million through UNDP.

<sup>7</sup> The Mengistu regime had also fallen in 1991, to be replaced by the Tigrean Peoples Liberation Front (TPLF), led by current President Zenawi.

difficulty in recognizing Eritrea's diaspora as committed Eritrean citizens. The PGE also recognized that physical return of the diaspora would not meet the Eritrean state's development needs as effectively as continued access to refugee and diaspora remittances, particularly for those settled in the West. As a result, the Eritrean referendum was designed to take account of an expansive concept of nation, rather than restrict participation to those remaining within a territorial state.

110. The Eritrean case suggests that refugee participation in electoral politics is likely to be easiest to secure in cases where a fundamental change of circumstance has occurred, particularly if these changes can be framed in the context of national liberations. However, the recent history of Eritrea also offers an important reminder of the fact that a single national referendum provides no guarantee of long-term commitment to meaningful democratic politics, particularly if framed as a national, or collective, act of self-determination.

111. If the Eritrean and Bosnian cases underline the benefits attached to refugee participation, they also underline the limits of such practices and the importance of understanding what intentions lie behind proposed enfranchisement of refugees. In the Eritrean case, the referendum confirmed national self-determination: but it did not provoke meaningful democratic safeguarding of liberal, individual, human rights and freedoms.

112. In Bosnia, there is clear evidence that the international community pushed for early elections to be held despite continuing tensions and slow rates of refugee return because these were a cipher for peace. The premature use of elections in the hope that they will peace-make, rather than peace-build, has often proven seriously flawed: recent Afghan and Iraqi elections provide further evidence that elections are often divisive and harmful to peace-making processes unless properly connected to broader processes of societal transformation.

113. Post-conflict elections can in fact pose a significant threat to peace. The logistics of national participation and voting in-person offer a clear target to any dissident groups seeking to disrupt peace-building operations. In the Iraqi elections held in March 2010, for example, Sunni insurgents killed 39 people in attacks designed to disrupt polling activities. Such continuing or even exacerbated insecurity in countries holding post-conflict or transition elections underlines the importance of UNHCR and other international actors separating refugee political participation in reconstruction processes from any calls for their physical repatriation or return.

114. UNHCR's most protection important role in these settings to ensure that such forms of political participation are not used to push repatriation programmes forward prematurely by an international community in disregard of refugees' own wishes. Recognizing refugees' capacity to make their own political choices may also involve respecting their scepticism about the prospects for post-conflict democratic transitions in their country of origin, and acknowledging the limits of electoral politics:

The return should not be pegged on voting, or what political correctness calls 'political participation', because refugees are not blind to everyday occurrences in their host countries where voting does not change the status quo (Matovu 2006, on Sudanese refugees returning from Uganda).

Arguably still more important, however, is recognizing that inherent links exist between democracy, demography and displacement. As discussed in Part I of this paper, democratic politics demands first that a 'people' be identified. This may be a relatively unproblematic and inclusive exercise in cases such as the Eritrean referendum, where refugees fled due to a civil war against a foreign power (Ethiopia).

Yet as cases such as Bosnia demonstrate, elections can exacerbate tensions and prolong inter-ethnic conflict. The logic of democratic power means that leaders may choose to deliberately build ethnic or other sub-national constituencies, appealing to divisions in order to cement their own access to representative power. Ethnic factionalization is particularly likely following inter-ethnic civil war, as in former Yugoslavia.

115. The connection between return and political participation can also open new opportunities for electoral manipulation, especially when return assistance is also provided by incumbent governments or international organizations who have been involved in conflict. For example, in Sri Lanka UNHCR reported that one party undertook campaigning activities stands next to the locations where UNHCR were distributing assistance in order to imply that the party was actively involved in providing this assistance and thus garner support.

116. Electoral conflict is also a recognized feature of states in which a culture of corrupt governance means that resources are accessed through state patronage rather than through national distribution. In these cases, elections may actually cause displacement, as seen in the massive internal displacement that followed the disputed 2008 Kenyan election results.

117. In other circumstances, a desire to manipulate popular representation at the ballot box may lead to organized expulsions with the deliberate aim of skewing electoral registers: in 1999 the Indonesian Army forcibly displaced some 300,000 East Timorese in preparation for the Popular Consultation on East Timorese independence (IOM 2003: 61-62).

118. While this paper is primarily concerned with UNHCR's role in facilitating or promoting the political participation of those who are already displaced, it is important to recognize that the relationships between democracy and displacement is complex and is not always positive.

119. In certain cases, the most positive contribution UNHCR may be able to make to peace-building efforts may lie not in facilitating the return or OCV access of existing displaced populations, but instead in engaging with other civil society actors to discourage xenophobic and ethnically divisive political practices with the aim of preventing further displacement of vulnerable and excluded citizens.

## Technical challenges

120. Post-conflict elections present many technical and logistical challenges for national and international actors. The bureaucratic infrastructure necessary in order to carry out an inclusive and meaningful democratic national election may have been severely damaged as a result of conflict – or it may never have existed in the pre-conflict states, leading to additional requirements for mass voter education programmes.

121. Resources may also be need to ensure the physical security of those voting, particularly if elections are being supported in a conflict environment as part of international efforts to support a weak state, particularly if significant and violent factions remain outside the peace process (as in Iraq and Afghanistan). If free and fair elections are being held in a setting without a strong tradition of popular participatory electoral democracy, additional safeguards may be required to ensure that corruption and rigging of results is minimal.

122. These challenges are common to all transition elections, and affect the state and the electorate as a whole. There now exists a significant body of research detailing these challenges both in general terms and in relation to specific post conflict settings (Fischer 2007; Network; Grace and Mooney 2009; Koser 2009). However, there are also challenges that are specifically related to facilitating refugee and IDP participation in peacebuilding elections, particularly when such facilitation must go beyond physical repatriation.

123. External voting processes raise a number of complex questions: how should refugees' OCV votes be allocated to individual constituencies? To what extent should refugees' right to participate rest upon their intention to return to their state of origin and for how long should intention alone qualify a refugee to vote? How should the state determine which external voters are able to participate: should migrant diaspora included as well as refugees? Where are polling stations to be located?

124. Additional challenges may result from the particular circumstances of displacement: how can refugees and IDPs who have lost or been deprived of personal identity documents during their flight secure registration? In states where insecurity does not yet permit physical repatriation and where refugees may continue to be at risk of persecution from non-state actors or particular political parties as a result of their beliefs, a key factor facilitating participation may be the extent to which a refugee's personal information can be protected once they have registered to vote. Does a right to privacy exist when carrying out a public duty?

125. In the sections that follow, this paper does not examine the detailed logistical challenges involved in organizing and managing refugee and IDP participation in post-conflict elections: IOM's PEP project has already provided extensive coverage on this topic (IOM 2003). Instead, this paper takes a broad thematic approach to these technical challenges, in order to consider in particular what role – if any – UNHCR should play in responding to these issues and facilitating refugee participation in country of origin elections.

## Who should vote?

126. Refugees' right to vote in transformative peacebuilding elections in their country of origin despite not being resident stems in part from the fact that they were forced to flee and so did not relinquish the residency voluntarily. This marks a qualitative distinction from voluntary migrants and their descendants, who chose to leave their country of origin and therefore have a far less secure claim to continued political participation. This would suggest that while the international community should recognize that states have an obligation to allow refugees to vote in peacebuilding elections, they can choose whether to enfranchise the wider diaspora.<sup>8</sup>

127. Yet in practice – particularly in protracted conflict situations – the distinction between migrant and refugee and voluntary and forced movement is far from clear cut (see Van Hear, Brubaker and Bessa 2009). An individual may have moved out from an impoverished and insecure community through 'economic' migration even if they could have made a claim to formal refugee status.

128. Additionally, it is now well-recognized that many refugees will choose not to register with UNHCR or national authorities, remaining outside the refugee protection regime in order to access (irregular) livelihoods or settle in urban locations. Enfranchising registered camp refugees may thus arbitrarily exclude other vulnerable migrants.

129. Temporal and geographical limitations on electoral enfranchisement may also shape the electorate and influence the outcome of the election. For example, in the 2000 Kosovo municipal elections voters were required to have resided in Kosovo on 1 January 1998. This had the effect of enfranchising Serbs who had fled after the 1999 War, while barring the participation of Albanians who had left Kosovo during the 1990s (IOM 2003: 96). Such cases have led some observers to suggest that "politically it may be easier to exclude all rather than include only some" (Network: 1).<sup>9</sup>

130. However, the exclusion of all refugees from peacebuilding elections cannot contribute to the building of a sustainable post-conflict society, and may only serve to legitimate the continued exclusion of a refugee group from so-called national politics. A more appropriate response than total exclusion, therefore, may be total inclusion of all members of a diaspora. This may be particularly valuable in post-conflict situations given the value of diaspora contributions to community reconstruction through remittances and skill transfer.

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<sup>8</sup> There is a clear trend towards expatriate enfranchisement, with around 115 states worldwide having processes in place designed to allow expatriates to participate in political elections. However, practices of out-of-country enfranchisement vary considerably between states. The UK, US and Switzerland, for example, allow postal voting by overseas citizens. Countries with high numbers of migrant workers making a significant contribution to the economy often have very liberal overseas voting provisions: for instance Poland allows registered citizens to vote in any Polish embassy or consulate abroad, and the Philippines have an Overseas Absentee Voting Act which enfranchises overseas Filipino workers. However, other countries are less responsive: Ireland and South Africa, for instance, have extremely limited provisions for expatriate voting (Baubock 2007).

<sup>9</sup> The fact that Kosovo Albanians are the majority group in Kosovo means that this exclusion was unlikely to have significant impact on national results. However, the effect of their exclusion should not be disregarded entirely: as the ICG reported at the time, intra-ethnic political divisions were arguably more important than inter-ethnic division.

131. Enfranchising a diaspora – rather than just a refugee population – connects this wider group to the process of peacemaking and recognizes that distinctions between migrants and refugees are often moot. In cases where peace and reconstruction are also tied to processes of nation-building, diaspora inclusion also reaffirms the national character of political reconstruction.

132. For the 1993 Eritrean referendum, for example, the criteria for participation were very broad, including those who were born abroad and had a parent of Eritrean origin. Similarly, the East Timorese 1999 popular consultation was held using a ‘diaspora franchise’, which included those born abroad with at least one parent born in East Timor and their spouses (IOM 2003)).

133. An inclusive diaspora approach may prevent arbitrary and even discriminatory lines been drawn between refugees and migrants and encourage national support for peace-building projects. However, such an approach is not entirely unproblematic. In particular, a diasporic approach to electoral enfranchisement may struggle to identify refugee and migrants’ interest in country of origin politics, and as a result incur significant costs.

134. In 2005, the late decision to provide OCV for Iraqis in 14 countries was taken under an electoral law broad enough to enfranchise nearly all Iraqi nationals: “the definition was very broad so that estimates of eligible expatriates included almost anyone who had left the country at any time for any reason” (Thompson 2007: 169).

135. Whoever, many expatriates had left Iraq decades ago and had little interest in contemporary Iraqi politics: this undoubtedly contributed to the lower levels of voter registration, which totalled only 22 percent of the estimated expatriate population in the 14 countries.<sup>10</sup> Although it was argued that IOM’s OCV programme had been successful in that “it had identified the committed expatriates – those who wanted to participate and were interested in the democratic process in Iraq,” the high cost per voter (around USD \$265) indicates one drawback of diaspora franchise approaches (Fischer 2007)).

136. The diaspora franchise also raises the question of intention to return. Given that the reason for insisting on refugees’ right to vote regardless of their non-residency is the fact of their forced displacement, there would appear to be a connection between refugees’ enfranchisement during a period post-conflict reconstruction and at the very least their intention to return at a future date.

137. The Dayton enfranchisement of Bosnian refugees in 1996 stipulated that a refugee-voter should be intending to return (and could vote in either their previous or intended future municipality). Eligibility was determined on the basis of inclusion in the pre-war 1991 census. In 1996 630,257 electors outside BiH were registered, of whom nearly 400,000 actually voted in the 1996 elections; yet by 2000 only 222,000 external voters were registered.

138. New requirements were enacted in 2001 that required eligible voters to prove citizenship based on a new national ID card or citizenship certificate rather than the 1991 census and as a result, by 2004 the number of successful external registrants had

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<sup>10</sup> Security concerns – both in terms of physical security and the security of voter information- also played a significant role in reducing voter numbers.

dropped to 27,000 (Edgeworth and Hadzimehic 2007: 165-166). The significant fall in numbers does not reflect refugees' intention to return, resulting in mass physical returns, but is instead generally attributed to a reduced voter interest in BiH elections among refugees who have now naturalized in their host states. These numbers suggest that the international community should be relatively unconcerned about explicitly time-limiting the right of refugees to vote based on intention to return. Over time the electorate is likely to self-select to reflect those who remain interested in the political community of their country of origin.

139. The right of IDPs to vote is – at least in theory – more straightforward. As citizens of the country who remain within its borders, their right to participate in national elections is clear. However, in practice it may be complicated. In particular, while IDPs are nationally resident, they have by definition been displaced from their local community: this may have important political consequences, particularly in terms of IDPs' abilities to participate in local political decision-making processes (often extremely important in terms of ensuring IDPs access to land, housing etc.).

140. If IDPs are required to vote in their current residency, this may legitimize their displacement from their community of origin. Yet forcing IDPs to vote in their former municipality may also fail to reflect the fact that movements of IDPs may also be connected to broader internal migration trends (e.g. rural to urban drift) so that IDPs remain outside their local community even after the causes of displacement have been removed.

141. Again, the basic political principle that should be followed is that of choice: if IDPs have been forced to move from their local community, any political remedy should offer IDPs the choice to vote either in their community of origin or in the area to which they have moved.

142. Securing IDP participation on these terms is likely to be most problematic when peacebuilding elections take place at least partially under the auspices of the regime responsible for their displacement. This is particularly evident when the electoral processes held as part of the Sudanese Comprehensive Peace Agreement (CPA) are examined.

143. Research suggests that both South Sudanese and Darfuri IDP populations were consistently and deliberately undercounted, particularly those housed in camps in the North near the Sudanese capital near Khartoum (IDP Action 2010)). As this paper shows, deliberately manipulating electoral demographics through the exclusion of displaced populations arguably represents the most serious threat to displaced persons' ability to participate as recognized members of their political community.

#### **Where should votes be counted?**

144. Both refugees and IDPs have, by definition, been forcibly displaced from their local communities. While establishing a right for displaced persons to vote in national peacebuilding elections is relatively easy, it is far more difficult to determine a basis for their participation in constituency politics. Local understandings of political community are often far more explicitly tied to physical territory residency, and far less amenable to inclusion on an abstract or general national identity.

145. Responses to the dilemma of assigning local affiliations to displaced persons in post-conflict elections have varied. In Bosnia, refugees and IDPs were able to apply to vote in the 1996 municipal elections based on past, current or intended future residency, providing every refugee with a local vote.

146. Yet voting patterns arguable entrenched post-conflict ethnic segregation and forms to allow IDPs and refugees to vote in future municipalities were manipulated by political leaders in order to consolidate ethnic power. Assigning refugees to constituencies is also a costly and time-consuming administrative process when compared to elections which can be held within a single national constituency.

147. Single national constituency elections offer several advantages for securing refugee political participation in post-conflict elections in their country of origin. Firstly, a single national constituency is most likely to be appropriate when electing a new head of state, or approving a new constitution.

148. These are activities aimed at fostering national reconciliation by encouraging unification behind a single political leader, the ratification of a peace settlement, or other nationally transformative processes. It is unsurprising that Eritrea's 1993 referendum, East Timor's 1999 referendum and 2002 presidential elections and Afghanistan's 2004 Presidential elections all used a single national district scheme.

149. Secondly, a single national constituency approach removes the need for displaced voters to be connected to local municipalities: they need only assert their national citizenship, and can vote anywhere within the country (a particular advantage for IDPs). As the result is likely to be announced at national level, this may also make it more difficult for extremist groups (who may wish to retaliate against particular ethnic or religious communities) to target regional voters (Lacy 2004: 22).

150. It has also been argued that in peacebuilding terms, the participation of the displaced in these major political milestones is often more important to the long-term sustainability of peace than their ability to participate in local, municipal elections. Importantly, elections with a single constituency level are far easier to organize in terms of facilitating OCV than local-level elections which may often involve different ballot papers with different candidates for every municipality. This is likely to be particularly true in post-conflict settings where accurate census and registration information may be very difficult to correlate at a local level.

151. However, restricting refugee enfranchisement to national elections is not without significant drawbacks, particularly in terms of diminished political accountability of parliamentary representatives. In Sierra Leone in 1996, the use of a single national district to elect members of parliament was widely criticized because members of parliament could not be held accountable by any single local constituency (Lacy 2004: 24).

152. More troubling are examples of elections in which refugees have been able to vote at a national but not at a local level, as in the 2005 Iraqi elections. Research shows that local political reintegration is arguable more important to long-term reconciliation and sustainable solutions to displacement than national initiatives. The full inclusion of refugees as political citizens within their country of origin demands that they should be involved in elections that involve the choosing of local



representatives as well as more prominent national leaders.

153. Recognizing the advantages in facilitating refugee political participation in elections at a local as well as a national level nevertheless raises several questions. Leaving to one side the additional technical and financial challenges that stem from facilitating OCV at a local constituency level, a more fundamental challenge remains: how should refugee votes be allocated to a local constituency?

154. Political precedents suggest that two very different models are currently practices. The displaced or the diaspora of the country of origin can be treated as a special constituency, electing their own representatives. This framework builds upon the French and Portuguese practices of allocating special representation to their overseas voting blocs: for example, 12 French senators are charged with representing the interests of the French living outside of France. The Croatian electoral law of 1995 states that Croatian citizens who reside outside of the country can elect 12 representatives to the House of Representatives (Lacy (2004): 23).

155. However, as the Iraqi case discussed below indicates, while bloc-representation of a diaspora ensures political inclusion, it also risks reducing the displaced to a special interest group. In post-conflict settings, where there is an obvious need to promote reconciliation and reintegration between those displaced and those who remained, bloc-representation is also likely to be counter-productive to the wider peace-building agenda and entrench ethnic, religious and linguistic divides (Lacy 2004: 24).

156. This suggests that when an election is being held for constituency-based representation to a national parliament, efforts should be made if possible to connect refugees to their 'home' municipality, along the lines followed in the Dayton agreement. In this case, the challenge is determining where a home municipality is.

157. While Lacy is right to warn that "voting in current districts [ for IDPs and returnees] has the highest risk of institutionalizing the pattern of displacement that the previous regime created through conflict", BiH provides clear evidence that encouraging the displaced to vote in their future municipality may also result in ethnic manipulation, although this process was used in Sierra Leone in 2002 with fewer complaints of fraud (Lacy 2004:24).

158. Arguably, the constituency debate can be best answered by placing the refugee and IDP at the centre of the political process, rather than wider strategic peace-building calculations. As Part I of this paper underlined, refugees and IDPs are political citizens with the capacity and the right to participate autonomously in decision-making processes. The role of the international community should be to facilitate this participation.

159. Offering refugees and IDPs the choice of voting in either a past, present (for IDPs) or future home recognizes that refugee lives have been significantly affected by displacement and that many may wish to return to their home state without wanting - or being able - to return to a status quo ante in their communities of origin. Voting patterns may replicate ethnic segregation: but this arguable reflects the fact that elections are ultimately a limited act of political participation.

160. Reconciliation and reintegration are not the result of electoral participation – however important such symbolic inclusion – and political representation is likely to reflect genuine social division. Political participation will not end conflict: but it can civilize it. For this reason, it is important that refugees are given the opportunity to participate in electing constituency representatives.

### **Iraq, 2010**

161. The 2010 Iraqi elections underline the controversies that can surround refugee enfranchisement. The decision to follow the 2005 process and offer OCV to the Iraqi diaspora was taken late and only announced in February 2010 – one month before the national elections – which themselves had been delayed until March 2010 following a series of disputes over Iraq’s new election law (UNHCR sources; Najm 2009)). The nature and form of refugee enfranchisement was hotly disputed in part because of continued sectarian struggles for political power.

162. In 2005, Iraqi refugees did not vote in the elections for the national assembly, but only in the Presidential elections. This meant that 45 ‘compensatory’ seats were divided between those parties who did not win parliamentary seats in their electoral districts but did secure a large enough percentage nationwide to qualify for a representative seat.

163. In 2010, Iraq’s new electoral law had originally treated the two million refugees as a single constituency, separate from the country’s 18 provinces: refugees were allocated five percent of the total seats in the national assembly. Yet this prompted anger from Sunni politicians who labelled this as discriminatory<sup>11</sup> and demanded the allocation of around 30 seats (or 15 percent) to Iraqi refugees abroad.

164. These demands underlined the sectarian nature of Iraq’s democratic process. As Sunni politicians promoted refugee interests with the aim of shoring up their own support base against that of the dominant Shi’ite parties, Kurdish factions threatened to boycott the election unless alternative changes securing Kurdish representation were met. In bowing to Kurdish pressure, the bloc-seat allocation for Iraqi refugees was removed and their votes were counted in their former municipality.

165. The Iraqi case underlines the danger that refugees will be viewed by political leaders as a group ripe for demographic manipulation. It also speaks to the potential role UNHCR could play in seeking to ensure that refugee views – rather than those of self-appointed representatives – are listened to. The demographic manipulation of democratic power within Iraq means that the state functions as a coalition of ethnic and sectarian interests rather than as a national whole.

166. Yet while Sunni politicians were keen to encourage refugee bloc-voting, there is little evidence that this was due to concern for refugee representation rather than interest in boosting Sunni sectional voting. As regional media reported during the build-up to the elections:

“[Sunni leader of the Iraqi Islamic Party] Hashimi doesn’t care about me and my rights,” Hussein [Iraqi refugee] said. Many refugees believe that the election will only be used by the incumbent political

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<sup>11</sup> The majority of Iraqi refugees are Sunni.

elites to secure their own positions. “The politicians are just looking out for their own interests” (Syria Today 2010).

167. Arguably, encouraging Iraqi refugees to vote in their former municipality might actually help prospects for eventual return and reconciliation and reduce extremist political factionalization far more than treating the refugees as a separate diaspora bloc-vote. In reducing the potential demographic effect of the Iraqi exile population on electoral results and consequently reducing the interest in capturing the refugee bloc vote among factional parties, refugee issues – rather than refugee numbers – may also become more important within political debate, expressed by refugees on their own terms.

### **How should refugees vote?**

168. Once the electorate – and the electoral district is confirmed, further technical challenges must be met if refugees are to participate in country-of-origin peacebuilding elections. One area in which UNHCR may have a particular role to play is in determining how refugees’ votes can be best cast.

169. Part II of this paper discussed the advantages of separating refugees’ physical repatriation from their political participation by offering refugee populations access to OCV alongside opportunities to return to their country of origin to cast their vote in-person and in-country. OCV makes clear that voting is a precursor to repatriation, rather than confirmation of cessation of refugee status: it prevents the need for premature and rushed repatriation operations aimed at facilitating the return of an electorate rather long-term secure reintegration. However, running an OCV programme still demands that a decision be made as to whether voting should take place in-person at external polling stations or by postal ballot.

170. It is important to note that external voting is a relatively new – though increasingly common – innovation in post-conflict settings with large refugee diaspora. In-person voting has tended to be the preferred method of facilitating refugee involvement in elections, and was used to facilitate OCV in the 1999 East Timorese consultations, the 2004 Afghan presidential elections and the 2005 and 2010 Iraqi elections. The 1996 and 1997 BiH elections and the 2000 Kosovan municipal elections are the two most notable examples of postal voting being used to enfranchise a refugee electorate.

171. The obvious advantage of a postal vote system is the possibility of enfranchising all refugees, regardless of the geographical concentration of any one refugee group. In the 1996 BiH elections, Bosnia refugees in countries with a total population less than 5,000 were offered the opportunity to vote by mail. Similarly, in 2000, Kosovar populations not residing in Montenegro, Albania and Macedonia were able to vote by mail, with ballots being sent to the out-of-Kosovo mission headquarters in Vienna (IOM (2003): 96).

172. The 2000 Kosovo elections were generally judged to have been more successful than the earlier BiH exercise in preventing refugees from engaging in manipulative double voting, as it included a system to cross-reference postal votes against in-person votes (Lacy (2004): 15). However, postal votes continue to be viewed as more susceptible to fraud than in-person voting. Postal voting systems may be particularly

problematic in terms of ensuring women have a free choice when voting, as some anecdotal evidence suggests that in some settings, male household heads may insist on casting all of the votes within a family, effectively disenfranchising their wives and adult children

173. Postal voting is also less likely to be of use in the developing states that host the vast majority of displaced persons. It is no coincidence that postal voting has been used most widely in two European post-conflict settings where the majority of refugees were hosted in Western states.

174. Postal voting relies upon the existence of a reliable postal infrastructure: it can also only reach refugees with a registered address. They are also unsuitable for use if a large proportion of the electorate are illiterate. Again, illiteracy rates are likely to be high when dealing with mass displaced populations who have fled weak developing states and who have remained in neighbouring countries.

175. Thus, while postal balloting can prove a useful supplementary measure, particularly in terms of contacting dispersed refugee populations in Western states (a group which is likely to include the better-off and better-educated among a refugee diaspora as well as resettled refugees), reaching the displaced population as a whole is likely to require in-person OCV in countries hosting significant refugee numbers.

176. In-person OCV schemes do not discriminate against the illiterate or those without access to a fixed postal address: they also do not demand the pre-existence of a postal service or other technical infrastructure. However, geographical concentration of refugee populations is an important consideration when setting up OCV.

177. The majority of post-conflict OCV operations have tended to involve OCV stations between established in countries with significant diaspora populations. For Iraqi elections in 2005, 14 states were named as OCV hosts, most with 15,000 potential voters: yet France, with only 6,000 Iraqi electors was included which Norway, with 23,000, was excluded (Thompson 2007: 168). Additionally, even in some very large states (such as the US and Australia) there were only a few cities hosting polling centres, meaning that some refugees were forced to travel long distances both to register and to vote.

178. Some groups within the Iraqi community were also less easily able to vote than others because of geographical settlement patterns: for example, Iraqi Kurds in Nashville were provided with a voting centre, but Iraqi Chaldo-Assyrians in San Diego were not (although this was addressed in the 2010 elections).

179. IOM estimated that the selected cities were close to 60-70 percent of the diaspora in each of the selected countries, but in effect this means up to 40 percent of the Iraqi electorate were not within east travelling distance of voting centres even within the limited number of states hosting OCV programmes. Given that the Danish government was unique in assisting with transport costs, this does represent a significant challenge to diaspora enfranchisement.

180. The challenges of in-person OCV enfranchisement were also evident in the 2004 Afghan Presidential elections. Logistical constraints saw OCV enfranchisement limited to Pakistan and Iran, where the vast majority of refugees were hosted: yet

with voting trends expected to follow ethnic lines, the process was only finally approved when both Pakistan (with mainly Pashtun refugees) and Iran (hosting mainly Tajik and Hazara) both agreed to allow OCV. IOM was contracted to undertake to operation only 69 days before the election date (African Diaspora Policy Centre 2005; Slavu 2007: 159). These time limitations meant that the number of polling centers that could be established were limited: isolated refugee camps in Pakistan and Iran could not be reached.

181. Given the fact that decision making was extremely delayed in Iraq in 2005 and 2010 as well, there is little doubt that a more consistent approach to OCV programmes in post-conflict settings and an early commitment to include such processes in peacebuilding operations from the international community would help to facilitate the enfranchisement of greater numbers of displaced. In particular, there may be a greater role for UNHCR to play in facilitating voting and polling within refugee camp settings, obvious population concentrations.

182. Another consistent problem encountered in attempting to facilitate refugee electoral participation in post-conflict elections is the need for pre-vote registration. In the extreme case of East Timor, the Indonesian army's campaign to forcibly displace the Timorese population in order to prevent a vote for independence in 1999 meant many IDPs were forced into hiding between registration and voting, as the population were required to vote at the same location as they had earlier registered. Voting took place at considerable personal risk.

183. Less seriously, there are clear indications that the requirement to travel to a polling station at personal expense not just in order to vote but also – separately and on a different day – in order to register played a significant role in reducing Iraqi and Afghan participation in post-conflict elections. There is also evidence that Liberian reluctance to participate in the 1997 peace-building election was in part because a temporary return would have been required not only in order to vote, but also in order to register.

184. UNHCR could play a role in encouraging countries to adopt same-day registration and voting processes by facilitating the compilation of preliminary voter lists through use of refugee documentation. For example, in the 2004 Afghan elections, the government-issued Amayesh refugee card could be used to prove identity and eligibility to vote, so that a skeleton electoral register was created on election day itself using the Amayesh card to validate refugees' identity (Thompson 2007).

185. Although the Amayesh registration cards later proved insufficient and other forms of identification were also accepted, the fact remains that registration documents held by UNHCR may prove a useful starting point from which to either validate a self-initiated registration initiative, or on which to base the compilation of a state-initiated register, which may in turn help to reduce the need for advance registration. However, same-day registration often requires that polling take place over several days and may increase security risks as a result.

186. The lack of an electoral register prior to voting may also lead to polling stations being located in inaccessible areas or inadequately staffed (Lacy 2004: 20). Responding to this last challenge may be less difficult when addressing camp-based refugee populations, however, as UNHCR is likely to already hold demographic data

allowing for reasonable advance planning.

187. Above all, OCV programmes require host country support. Host countries may have political reasons to prevent full electoral participation: they may also be reluctant to act as OCV hosts on security grounds, as in the case of the Iraqi 2005 elections.

188. Yet as Part II of this paper demonstrated, in-country in-person voting processes place unhelpful pressure on refugees to repatriate in order to accommodate an electoral schedule driven by political calculations that do not always coincide with a refugees' best interests. OCV processes should be supported by UNHCR because they are more likely to foster sustainable return: in practice, given the logistical challenges of postal voting, this is often likely to involve in-person polling in host states.

189. Interestingly, international law would appear to be moving towards the endorsement of limited consular OCV as a matter of general principle. On 7 July 2010, the European Court of Human Rights ruled in the case of *Sitaropoulos and Giakoumopoulos v. Greece* that the practice of forcing people to travel to vote violated the European Convention on Human Rights (ECHR), following an earlier 2005 ruling that stated that all European nations should grant nationals of other countries the right to vote in their host country.

190. While these two migrants' cases were brought against their country of origin, the Turkish government has seized upon the ruling and intends to lobby countries including Germany, France, Belgium, Holland, and Denmark that currently refuse to allow Turkish migrant populations to vote at their consulates, citing security concerns (Zamaan 2010). This ruling clearly has significant implications for displaced populations' ability to participate in political elections in their country of origin, particularly for those refugee groups hosted within Europe.

### **Legal identity**

191. The timing of registration and voting exercises can significantly impede refugee participation in country of origin elections even when OCV programmes have been established. Yet arguably a far more serious potential obstacle to refugee participation is the need to establish a legal identity as a citizen or permanent resident in order to be admitted to the electoral register.

192. Establishing a legal identity is often particularly difficult in cases of conflict, especially if bureaucratic records have been deliberately destroyed as part of a strategy to assert a particular ethno-national faction's claim on state citizenship. Refugees forced to flee at short notice may often lose documents confirming their legal identity. Some groups of displaced persons may be deliberately denied recognition of their citizenship by state authorities, rendering them legally as well as practically stateless.

193. The right to an identity is protected under international human rights law, with UDHR and ICCPR both protecting individual's rights "to recognition everywhere as a person before the law" (United Nations 1948; United Nations General Assembly 1966). Article 25 of the 1951 Refugee Convention stipulates that refugees should be

provided with documents or certificates in lieu of national identity documents, and that these shall “be given credence in the absence of proof to the contrary” (UN General Assembly 1951: Art 25). Article 27 states that signatory states hosting refugee populations “shall issue identity papers to any refugee in their territory who does not possess a valid travel document” (UN General Assembly 1951: Art. 27).

194. UNHCR therefore has a particular role to play in protecting and affirming refugees’ legal identities. This identity in turn provides access to the rights of citizenship, including the right to participate in peacebuilding elections within a country of origin. Where other forms of documentation are not available, UNHCR should encourage states holding transitional elections to accept UNHCR or host state registration certificates as evidence of registered refugees’ legal and national identities.

195. As discussed, in the 2004 Afghan elections, Iranian Amayesh registration cards were used as the basis for developing a voter registry. However, it is important to recognize that not all displaced persons will hold UNHCR or state issued refugee certificates: in particular, IDPs and self-settled urban refugees are less likely to be formally registered with international authorities.

196. UNHCR should therefore also encourage the international community as a whole and post-conflict states in particular to develop flexible registration criteria that accept a number of different forms of documentation as proof of citizenship or residency, in order to minimize the risk of legal statelessness and ensure that the displaced may participate in elections.

197. In developed settings, refugees’ lack of documentation can be cross-referenced against existing centrally held records. In the 2000 Municipal election in Kosovo, a scheme was devised (based on that implemented in BiH in 1996 and 1997) by which applicants for voter registration could complete a questionnaire regarding residency and listing documentation they had previously held, which was then forwarded to municipal records offices where staff searched for evidence of the original applications.

198. Due to the deliberate destruction of records during the conflict, only around 20 percent of applications were approved using this process. In order to ensure that voters could be processed before the election, a random sampling method was therefore introduced that tested for fraud on a geographical case load basis (Lacy 2004: 20-21).

199. However, in the majority of post-conflict settings, central state infrastructure is unlikely to have had or retained the capacity to carry out such documentation searched. As a result, for refugees and IDPs without any formal documentation, registration is likely to depend upon social affirmation’ processes.

200. These processes rely on the mutual recognition of community members’ entitlement to vote by other community members, usually confirmed by use of a sworn affidavit. Affirmation-by-affidavit has been used in a number of post-conflict settings, including the 1999 Referendum in East Timor and post-conflict elections in Liberia and Sierra Leone.

201. Social affirmation of refugee identity has implications beyond admission to an electoral roll. Refugees have been forced to flee as a result of persecution that is often a result of ethno-national conflict directly aimed at denying refugees a legal identity. There is therefore a need to approach social affirmation processes with caution and ensure that they contribute to a wider process of reconciliation (Lacy 2004: 19).

202. However, it is also clear that social affirmation processes may also make a positive contribution to community reintegration if successful, by asserting refugees' rights to identity and removing the fears associated with the public declaration of their right to citizenship that had resulted in their earlier persecution.

203. This is most likely to be the case if voting and registration occur post-repatriation, rather than while refugee groups are still in exile. UNHCR should consider how it can contribute to integrating social-identity affirmation processes into its return and reintegration programmes, particularly where affirmation is likely to be necessary to ensure political participation in future elections.

204. The public nature of voter registration exercises, however, may raise serious security issues, particularly if elections are occurring prior to the reaching of a definitive peace settlement and those participating may be the target for harassment and intimidation by factions opposing democratic elections.

205. In the Iraqi elections of 2005 and 2010, the low level of OCV registration was partly attributed to voter fears that because the list data was available to political party representatives and other registered voters under electoral regulations, refugee-voters – and refugee-voters families – could be placed at risk of sectarian retaliation. UNHCR advocated strongly for OCV offices to make clear in voter information what personal information would be made public through the voter registration exercise.

206. The personal security of refugees may also be compromised if registration in exile is made dependent on proving legal status within the host country. In the 2010 Iraqi elections, OCV voters were required to show a valid residence or other visa if using their passport to document eligibility. However, particularly in regional host countries of Syria and Jordan where the majority of Iraqi refugees are based, only a minority of refugees hold such visas.

207. This requirement created a double obstacle to refugee participation in the Iraqi elections. Not only did it bar refugees who held passports but did not have legal residency status in the host country from participating, it also stoked fears that the voter registration lists would be used to enforce Iraqi returns).

208. The Iraqi experience indicates that UNHCR advocacy work should stress that the security of refugees during elections rests not just on ensuring physical security, but also in balancing the reality of voting as a public act against the particular needs of refugees to ensure personal privacy. In particular, UNHCR should encourage host states not to require legal residency permits to be presented in order to qualify to vote in country of origin elections – this is particularly crucial if urban refugees are to participate.



209. As well as promoting the use of refugee certificates and UNHCR affirmations to secure registered refugees a place on the electoral roll, UNHCR must ensure that it meets its duty to all persons of concern by ensuring their full awareness regarding the use of personal data provided through the electoral roll by third parties. Whilst recognizing that voting in democratic elections takes place in the public rather than the private sphere, UNHCR should also encourage states organizing peace-building elections to minimize public access to electoral data.

### **Access to information**

210. Ensuring that refugees and displaced persons have full access to all necessary information regarding country of origin elections is important: it is only once in possession of all relevant information – including both general voter education materials and any materials distributed by competing political parties – that refugees can be expected to make both a free and informed choice regarding their own participation in country of origin elections.

211. As discussed in the previous section, refugees need to be informed about who may access the personal information contained on the voter register in order to ensure that they can assess how best to balance participation against privacy. However refugees need to be provided with information regarding both the framework for country of origin elections – civic voter education – and the specific political choices on offer in the elections – through access to political campaigns. Refugees and IDPs cannot be expected to vote as fully informed citizens if they have not had full access to all campaign materials from all competing parties.

212. Despite the evident need for refugees to access educational and campaign materials related to elections, host countries have consistently been reluctant to allow free campaigning and the distribution of information materials in protection of their own political interests.

213. A number of factors can compound host state unwillingness to permit extraterritorial campaigning (which does not necessarily demand that an OCV programme be put in place, as refugees who temporarily return to their country of origin in order to cast in-country votes still need to access campaign information prior to their return). Host state security may be a concern, particularly if political rallies or gatherings are planned that could attract an attack from dissident factions: host states were initially reluctant to support Iraqi OCV because of such physical security concerns.

214. Some host states may lack their own democratic traditions and contest the very notion of popular sovereignty: these regimes fear that publicly allowing foreign nationals to enjoy political freedoms not offered to their own citizens may stoke domestic unrest.

215. In such cases, the international community may be able to act as a mediator, brokering a solution allowing forced migrants' participation in country of origin elections. In 1993, for example, UNHCR negotiated for Eritrean nationals working as labour migrants in Saudi Arabia to be allowed to participate discreetly in the Eritrean

national referendum by providing for them to cast their votes at UN offices (IOM 2003: 74).

216. Other host states, while not ideologically opposed to the concept of free and fair democratic elections, may seek to influence the outcome of a transitional election by restricting the materials made available to refugees and deliberately favouring one political party or faction. In 1997, host states were instrumental in blocking efforts by UNHCR and the Refugee Policy Group to establish an OCV programme in order to enfranchise refugees reluctant to physically return to Liberia.

217. Neighbouring state interests in regional stability meant that they supported warlord Charles Taylor's campaign, and feared that refugees would constitute an anti-Taylor bloc if allowed to vote. Not only did host states refuse to contemplate OCV, Guinea and Cote d'Ivoire officially banned all forms of political campaigning. Voter education was inadequate, with the only forms of readily available media the BBC's World Service and Taylor's own Radio International Liberia.<sup>12</sup> (IOM 2003: 115-118).

218. Similarly, in the Bosnian municipal elections of 1996 and 1997, the Serbian dominated FRY deliberately sought to consolidate Serbian ethnic power in Republika Srpska, organizing for Serbian displaced to be bussed into constituencies and allegedly claiming that refugees' benefits were contingent on voting in specific municipalities, in some cases twice (by post and in person).

219. Host states cannot be considered simply as neutral spaces in the running of peace-building elections: given that conflict is rarely contained within state borders (and that large scale displacement has a significant effect on host state domestic politics), host states are likely to have vested interests in perpetuating or destabilizing post-conflict regimes in order to safeguard their own strategic interests.

220. There is obviously a role for the international community – including UNHCR – to play in encouraging host states to refrain from directly manipulating elections in fragile post-conflict settings and ensuring that refugees can access all relevant electoral materials.

221. More positively, it is important to recognize that in cases of protracted conflict, diaspora civil society organizations may play an important role in encouraging political participation among the wider diaspora and facilitating voter education. This is particularly true when elections are understood as moments of national liberation.

222. As previously discussed, the Eritrean diaspora played a crucial role in organizing the 1993 referendum. In 1999 in East Timor, the diaspora played an equally important role, overseeing a "largely successful" information campaign outside East Timor, with Timorese students in Indonesia spearheading a civic voter education programme (IOM 2003: 60).

223. Voter education is fundamental to refugee political participation and UNHCR has an important role to play in fostering the political identity of refugee groups throughout exile. Refugees and IDPs are forced to flee from persecutory states: in many cases, such refugees have little if any experience of democratic politics or

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<sup>12</sup>In fact, host states are likely to have miscalculated: there is evidence to suggest that Liberian refugees also supported Taylor's candidacy because they judged it offered the greatest opportunity for securing the end of conflict.

autonomous political decision-making.

224. Understanding both the technical exercise and the abstract concept of voting may involve significant cultural adjustment, particularly for leaders within a refugee community who understand their own claim to power through reference to other traditions (patronage, eldership etc.).

225. However, as discussed in Part IV of this study, refugee camps in particular are a rich potential site for on-going participatory political education. Encouraging refugees to act as decision-makers within camp settings – even if only within limited parameters – should not be restricted to periodic camp-based elections, but also encompass activities such as refugee journalism (e.g. KANERE 2009).

226. Camp elections are likely to be particularly useful in building up refugees' familiarity with general democratic processes, contributing to the future prospect of their democratic engagement in representative political processes in the country of origin. Camp elections tend to be arranged in order to choose bloc leaders who organize basic service distribution and liaise with UNHCR and other international actors providing protection and assistance.

227. As critical KANERE reports from Kakuma camp in Kenya suggest, the degree of autonomous responsibility is relatively limited (KANERE 2009). However, there is evidence that encouraging the election of camp leaders does help facilitate group conflict resolution and provides a degree of independence within a camp setting for refugee groups (IRIN 2010)).

228. A recent UNHCR report focusing on the 2010 refugee leaders' elections in Meheba Camp, Zambia reaffirms both the usefulness of elections as a constraint on the abuse of power by (self) appointed leaders and a means of opening up political forum to refugee women, who on traditional cultural grounds are usually excluded from public office or public participation (Saxen 2010)).

229. These elections, held in May 2010, were a source of considerable tension in part because the intention in holding the elections was to deliberately depose acting refugee leaders who were felt to be corrupt. The detailed account of the logistical challenges faced in holding the elections in Meheba by UNHCR reveals not only the limits of refugees' existing democratic political education, but also speak to the difficulty faced in attempting to engineer one third female representation through a complex bloc voting system (Saxen 2010).

230. In holding these and similar elections and determining the nature of refugees' own representation, UNHCR can be viewed as acting in some senses as a "surrogate state" (Crisp and Slaughter (2009)). Yet it is important to recognize that this surrogate state although a supporter of democratic principle, is not democratic in its own distribution of power within refugee camps. UNHCR protects and assists refugees, but it is not a representative organization, and as protests in Cairo in 2005 and Ghana in 2008 underline, refugees' political energies are often harnessed in protest against UNHCR policy (Moulin and Nyers 2007; IRIN 2008).

231. These tensions help to explain UNHCR staff's often uneasy relationship with the notion of refugee power. IDP advocates have often suggested that refugees have an advantage over IDPs because UNHCR "in effect represents refugee issues at the

peace table” (Fagen in Koser 2009: 10), but international actors must be careful in distinguishing between representing refugee issues and representing refugees.

232. There is however little doubt that in the long run, encouraging refugee political education within exile will contribute to post-conflict democratic transition, building refugees’ confidence in both representative government and their own political capacity to participate in country of origin electoral processes. Yet as even a brief consideration of the role of camp-based refugee politics in facilitating refugee political education makes clear, refugee participation in country of origin political processes should not be reduced to only electoral participation.

233. While elections offer perhaps the most systematic and obviously symbolic means of ensuring mass participation of a national political community, peace-building and reconciliation processes are likely to succeed or fail in the long term based on less formal but arguably more meaningful, everyday political transactions occurring at both local community and transnational levels. It is to these forms of non-electoral political participation that Part IV of this paper now turns.

## 4. Transnational politics

234. International efforts to facilitate refugee engagement in country of origin politics have tended to focus – if focused at all – on securing refugees access to the ballot box, because of the symbolic importance attached to act of voting within modern democratic political societies.

235. Yet as Part III of this paper has outlined, electoral participation, if it is not tied to broader political engagement and transformative peacebuilding, runs the risk of being reduced to demographic manipulation rather than political participation. Ultimately, if refugees are to be engaged as equal citizens within a post-conflict country of origin, they need to participate not only in choosing the government, but also in government itself, contributing to the construction of a sustainable peace.

236. Equally, any effort to understand the shape of refugee political participation must also take account of their experiences in exile and – particularly in the case of protracted refugee situations – the likely connections and networks built up in a host community. Expecting refugees to participate in a traditional and national country of origin framework may not offer the best means of understanding or promoting the positive political engagement of refugees in peacebuilding processes.

237. Instead, facilitating transnational political activities and local community development may offer more sustainable routes to reintegration and reconciliation. In this paper, transnational politics are understood to involve forging links between activities based in the host state, and those in a country or community of origin. Such activities are often less formally organized than national election processes, and are an outcome less attractive to international actors that are interested in securing a visible peace.

238. In the sections that follow, this paper looks first at other forms of refugee engagement within national political forum and considers how UNHCR and other international actors might help to facilitate these forms of refugee participation. The second section considers forms of transnational politics that can emerge during displacement, and considers whether these forms of political engagement can also contribute to peacebuilding and reconstruction, and whether such activities would benefit from international support.

239. The phenomenon of transnational political activity – usually taken to include all members of a diaspora, including voluntary migrants and their spouses and descendants – has been the subject of considerable research interest in recent years and there is a growing body of literature which considers migrants' transnational political activities and their implications for international governance (see Ostergaard-Nielsen 2003).

240. Considering the transnational political activities of diaspora in general is beyond the scope of this paper. Instead, this paper concentrates on only one small aspect of transnational political activity: namely, the activities of refugee diasporas within host states, aimed at impacting upon peacebuilding and reconstruction processes in the refugee's country of origin. These activities are of particular interest

to UNHCR because, as discussed in Part I of this paper, UNHCR has a duty to protect refugees' rights to freedom of expression and freedom of association.

241. Furthermore, if refugee diaspora activities within a host state can contribute to sustainable peacebuilding and the opening up of durable solutions for refugees (including repatriation), UNHCR has an obvious interest in supporting and fostering this engagement. The paper's analysis therefore focuses on the dilemmas and challenges that UNHCR may face in attempting to facilitate refugee engagement in transnational politics.

### **Beyond voting**

242. Refugee and IDP participation in country of origin political processes is intended to mark their (re)admission to the state as full and equal citizens. This means that displaced persons must be supported in exercising their right to vote: their right to participate in political discourse and stand as candidates within formal electoral processes must also be protected.

243. Refugee populations often include exiled elites who are accustomed to holding political power. Such groups may establish governments-in-exile, particularly if they claim power to have been seized by a foreign oppressor. Governments-in-exile have had a long and close connection with elite refugees, with Nansen frequently complaining in the early 1920s about the demands of White Russian leaders.

244. Southern African liberation movements that eventually contributed to the liberation of Zimbabwe, Namibia, South Africa, Angola and Mozambique were able to base their political and military operations in neighbouring states, underlining the very real difficulty of distinguishing between 'refugee politicians' and 'refugee warriors' in such cases.

245. Arguably the two most well-known governments in exile today are the National Coalition Government of the Union of Burma – based in Maryland, USA and formed by leading politicians in the wake of the 1990 general election result – and the Central Tibetan Authority, led by the Dalai Lama and with its central offices in New Delhi, India

246. In an interesting development, Tamil diaspora have also recently formed a Transnational Government of Tamil Eelam (TGTE), effectively bypassing Tamils resident in Sri Lanka, who are not eligible for election to the TGTE. This represent a claim that national interests can be best promoted by the diaspora-in-exile (Jeyaraj 2010), although, the founders of the TGTE also insist that it is not intended to function as a government-in-exile (ICG 2010: 13)

247. Governments-in-exile tend to replicate the formal frameworks of state government. Elected cabinet ministers hold portfolios: the diaspora are often engaged and form the government-in-exile's key grass roots constituency, especially through regional liaison offices which are also intended to project international legitimacy by ensuring a presence in Geneva or New York. Other political parties, while not claiming to form a government in exile, may also emerge in or as a result of displacement.

248. The Rwandan Patriotic Front, for example, emerged in the early 1980s after more than two decades of Tutsi exile from Rwanda, and engaged in considerable internal political discourse before the refugee community coalesced around the 'Eight-point plan' approved by the diaspora at a convention in Washington D.C in 1987 (Reed 1996: 485-486). Again, this example underlines the difficulty of separating political from military action: the RPF eventually forced a settlement with the Rwandan state through invasion and civil war.<sup>13</sup>

249. Today, Rwanda remains the focus of diaspora politics, with numerous political parties operating from bases in Europe. While some parties, such as the Forces Democratiques pour la Liberation du Rwanda (FDLR), have been largely discredited as extremist Hutu parties with ties to military forces in the DRC, the nature of RPF government in Rwanda has resulted in the emergence of a new class of exiled and political Rwandans.

250. As the coalition of Rwandan opposition parties remarked in an open letter to the African Union in June 2010:

We have more political leaders in exile today than ever before : three former Prime Ministers, a former Speaker of Parliament, three former Ministers of Foreign Affairs, one Minister of Defence, one Minister of Justice, one Minister of Home Affairs assassinated in Nairobi, Members of Parliament (one was assassinated in Nairobi), ambassadors, military officers including two Generals (one of them Lt.Gen. Kayumba Nyamwasa who survived an assassination attempt on 19th June 2010 in Johannesburg, South Africa), businessmen, journalists, human rights activists etc...(Permanent Consultative Council of Opposition Parties in Rwanda 2010).

251. Technological advances - in particular mass internet access - have made it increasingly easy in recent years for small political organizations and diaspora groups to publicize their own political agendas, even when such agendas are niche rather than representative. Yet the proliferation of diaspora websites is simply the contemporary form of a much more continuous connection between politics and exile.

252. Those who are forced to leave because of direct political conflict with their state of origin - and particularly those who believe they have a legitimate claim to power that has been unfairly denied by the ruling regime - are likely to continue to engage in political activity whilst in exile. This is particularly true for educated elites who are less likely to rely on the international community for material assistance or to settle in organized encampments, and who may often choose their country of exile based on known host sympathy with the refugee's political position.

253. UNHCR's relationship with such formal political organization in exile is likely to be limited. As a non-political humanitarian organization, UNHCR cannot be seen to provide support for any refugee organization's political aims. However, a duty

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<sup>13</sup>The Arusha Accords, signed in August 1993, provided for transition power-sharing government and refugee return. However, the inability of elements of Rwanda's Hutu elite to accept the terms of the accords precipitated Rwanda's descent into genocide in April 1994: the RPF took power in July after a military intervention.



clearly does exist to protect all refugees' rights to peaceful freedom of association and freedom of expression within their host communities.

254. This extends beyond simply advocating for refugees' to be provided with access to peacebuilding elections. Host states are often nervous about the activities of refugee groups that aim at destabilizing neighbouring regimes: the OAU refugee charter explicitly prohibits states from supporting any 'subversive act' carried out by refugees.

255. As DIP argued in 2003, UNHCR should work with host communities to encourage host states to view peaceful, civil political protest and organization as non-subversive activities that may help to precipitate substantive and sustainable changes in the refugee groups' country of origin that will eventually contribute to prospects for return (Mandal 2003).

256. A far more difficult task - and one which is likely to involve many different actors within the international community, including military peacekeepers - is to facilitate this political expression while preventing militarization and the emergence of refugee warrior factions, a well-documented phenomenon (Zolberg et al. 1989; African Diaspora Policy Centre 2005). This is extremely difficult when refugees have fled from a state already experiencing civil conflict and in which politics has descended into war. However, it is only by opening up political space that violent conflict is likely to end.

257. Political parties and governments-in-exile tend, however, to be dominated by elites and often reflect political disputes that pre-date experiences of displacement. Arguably a more important role for UNCHR and the international community lies in supporting and facilitating the ability of 'ordinary' individuals to act as political leaders, especially in cases where peace-building processes involve power-sharing transitional elections.

258. From materials surveyed, it appears relatively rare for individuals from mass refugee groups to stand as candidates within formal national electoral processes. Even where refugees do stand, they tend to be from elite sections of the displaced community and tied to particular political factions in exile.

259. The lack of ordinary refugee candidates is likely to be for a number of reasons: as documented in Part III of the paper, elections often predate conditions for sustainable return and OCV programmes are often relatively limited in their geographical scope. To stand as a candidate, a refugee is likely to need to return to their country of origin and have the financial resources to campaign as a returnee.

260. Additionally, even in many established Western democracies where universal franchise is well-recognized, access to political office itself tends to be tightly controlled by party machines and establishment figures. UNHCR should nonetheless ensure that all refugees are informed of their right to stand as candidates in peace-building elections.

261. Several diaspora groups, most notably the Tamil diaspora, have held privately funded referenda to appropriate the legitimacy of democracy for their political positions. The referenda among the Tamil diaspora were held in Norway, France, Canada, Germany, Switzerland, the Netherlands and Britain (ICG 2010: 13),

neglecting, for example, the 73,000 camp-based refugees and 32,000 refugees outside camps in India. Consequently, the results of these referenda represent a rather skewed view of the political position of the Tamil diaspora. This provides just one illustration of how political discourse and space are frequently monopolized by elite refugees to the detriment of camp-based refugees.

262. One area of political discussion in which it should be relatively easier for the international community to facilitate non-elite refugee participation is by encouraging displaced persons to become directly involved in negotiating conditions for repatriation. UNHCR's current policies on voluntary repatriation stress the benefits that stem from 'consulting' with refugee populations (UNHCR 1996), and the Community Development Approach adopted in 2001, designed to strengthen self-reliance, is also intended to "strengthen refugee initiative... and reinforce the dignity and self-esteem of refugees" (Executive Committee 2001).

263. Building up refugee confidence and autonomy within exile has several advantages. It protects refugees' core freedoms during their displacement, while education and skills-training build up access to the tools necessary to develop sustainable livelihoods and contribute to reintegration and peacebuilding.

264. In the 1990s, Guatemalan refugees were able to directly negotiate the conditions of an organized return from Mexico with the Guatemalan government as a result of a remarkable grassroots political movement within Guatemalan refugee camps. Guatemalan refugees – the majority of whom were illiterate, spoke little Spanish on arrival in Mexico and were not previously politically active – formed the *Comisiones Populares* (CCPP) in 1987.

265. The CCPP then successfully lobbied for these directly elected committees to negotiate with the Guatemalan government to ensure that conditions for return – including access to land, exemption from military service and protection of rights to freedom of association and community autonomy – were acceptable.

266. An agreement between the Government and the CCPP was signed on 8 October 1992: the first organized return took place in January 1993. This pre-dated the signing of the final peace accord between the Government and rebels by some three years, with around 20,000 refugees eventually returning under the terms of the accord (CCPP 1992).

267. The Guatemalan repatriation movement has been repeatedly recognized by UNHCR, other international actors and researchers as a unique process of direct community involvement resulting in considerable empowerment of the refugee community (e.g. Worby 1999).

268. However, it has proven difficult for returnees to force the Guatemalan government to honour the provisions of the 1992 accords, particularly in regard to land and services. Today, most researchers judge the returns to be at best a partial success, demonstrating the potential for such involvement to positively reinforce refugees' political autonomy, but failing due to a lack of state support and international interest (e.g. Stepputat 1999; Stølen (2005).

269. Guatemalan refugees nevertheless demonstrated the possibility that refugees' could represent their own interests in repatriation negotiations as distinct political

actors: this raises important questions for UNHCR about how it should proceed in tripartite negotiations. UNHCR can safeguard refugees' rights and seek to ensure refugee protection within tripartite repatriation processes.

270. However, given the international community's commitment to concepts of self-determination, democracy and popular sovereignty, it is arguable that refugees should have at least some direct ability to influence the timing and manner of their repatriation. This interpretation suggests that 'voluntary repatriation' requires not just refugees' consent, but the shaping of an active choice.

271. UNHCR and other international actors have tended to stress the unique circumstances of the Guatemalan case. In particular, the willingness of the host country to continue protecting the Guatemalan refugees (around 20,000 eventually took up Mexico's offer of citizenship, with the refugee camps being converted into Mexican poblados) meant there was little pressure from Mexico for immediate repatriation; the highly organized camp structures and the significant engagement of Mexican civil society within the camps also provided an ideal environment for fostering democratic education.

272. There is considerable evidence that in the Guatemalan case, access to human rights and civic political training allowed the CCPP to understand their own role as that of one stakeholder involved in negotiations with the state, with this international support providing an important source of refugee empowerment that helped to facilitate their return to Guatemala as citizens. Additionally, the refugees were intent on negotiating repatriation rather than blocking a return, and the main obstacle to their return was a strong and obstructive state.

273. In less hospitable host settings where there is considerable pressure to effect an early repatriation, or when the major obstacles blocking return are not a state's willingness to receive refugees but continuing insecurity and the refugees' preference for local integration or resettlement, refugee involvement in repatriation negotiations is far less likely to produce positive outcomes that reflect states' and international community interests in securing the refugees' return. However, a divergence in terms of preferred outcomes is not grounds for restricting refugees' ability to express such preferences as stakeholders within a complex crisis.

274. Individual refugee and diaspora members have played a role as members and participants in peace-building commissions and other forms of post-conflict political activity. Somali diaspora have drafted strategic documents which served as a basis for dialogue between conflicting factions within Somalia. The Eritrean constitution was drafted in part by the Eritrean diaspora (African Diaspora Policy Centre 2005): 32-33). More recently, Iraqi refugee diaspora have played prominent roles in the post-invasion government: Ayad Allawi<sup>14</sup> and his rival Nouri al-Maliki<sup>15</sup> both spent decades in exile organizing political underground movements aimed at toppling Saddam Hussein.

275. Afghan post-Taliban politics have been similarly dominated by refugee diaspora elite: three-quarters of the Afghans present during the Bonn negotiations in 2001 were diaspora. Hamad Karzai, chosen at the conference to serve a six month

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<sup>14</sup> Interim Iraqi Prime Minister from 2004-5 and leader of the largest party following the May 2010 polls

<sup>15</sup> Prime Minister from 2005

term as chairman of the transitional administration, and who has remained President since 2002, spent time in exile in Pakistan during the Soviet occupation and returned to Pakistan once more during the Taliban's years in power, in both cases securing power by working alongside the Muhajeedin and anti-Taliban forces.

276. These examples make clear that elite refugees, who in many cases have been politically operative both before and during exile, will continue to be seen as key stakeholders during any peacebuilding process. Diaspora members are likely to be given particular responsibility in cases where – like in Iran and Afghanistan – regime change has been driven by Western powers in pursuit of Western security interests, and so the international community is anxious to select an appropriate allied leader.

277. Yet there is a serious risk that despite the prominence of individual exiles in such peacebuilding processes, elite domination will mask the concerns and political interests of mass displaced populations. Additionally, political leaders who parachute into high office following years in exile may have little social, cultural or political knowledge of their home country: they may continue to speak to a diaspora constituency rather than address stayees or non-elite returnees.

278. In Rwanda, the returned Anglophone Rwandan-Ugandan diaspora (including the RPF's leaders) dominate political and financial life. Elite diaspora domination in post-conflict settings can not be considered a positive or representative form of political participation: it is unlikely to provide a firm foundation for sustainable reconciliation or genuinely democratic transition.

279. These distinctions between diaspora and refugee political interests have been underlined by concerns within the Palestinian Refugee Community regarding the eventual content of any peace settlement between Israel and the Palestinian Authorities. While Yasser Arafat was traditionally seen as the protector of the refugee population, the political machinations following his death in November 2004 within Palestinian political circles means that refugees:

Wonder if there is room within the Oslo framework – which recognizes the right of Israel to exist while relegating the refugee issue to final status negotiations – to exercise their right of return. They fear the Palestinian Authority (PA) could give up refugee rights in exchange for a Palestinian state, limiting refugees' return only to the boundaries of a truncated Palestinian state (Abu-Lyn and Mwad 2006).

280. Researchers who conducted a study tracing Palestinian refugees concerns regarding the right to return in Qalandia and Jalazon camps found that their project underlined a reluctance on the part of both international actors and refugee leaders to engage politically with the general Palestinian population, reflecting the commonly held view that the 'common' refugee is "not sophisticated enough to resist manipulation.". They concluded that:

Mechanisms allowing refugees voices to be heard in the political process are sorely needed. The global trend towards beneficiary participation and leadership in humanitarian contexts is insufficient – refugees deserve also to participate in the political processes that determine their fate (Abu-Lyn and Mwad 2006)

281. Engaging representatives of camp or urban refugee populations in peacebuilding processes could help to counter the risk of elite domination of the diaspora voice in many displacement settings. Yet in practice, pursuing any such initiative is likely to be extremely difficult. Urban refugees, in particular, are often reluctant to engage in formal processes because their legal residency rights in many host states are insecure. Even among camp populations, engagement in peacebuilding commissions can only seriously be considered if solid foundations for democratic engagement are already in existence, including at a minimum citizenship education programmes and recognized representative organizational structures.

282. Elite refugees are seen as important participants in peacebuilding because they represent recognized stakeholders within a political community. In order for camp refugees' presence at such high-level political meetings not be merely tokenistic, they too must be seen to represent a constituency with articulated interests. Such conditions did emerge in Guatemala, and in such cases, UNHCR should be open and supportive of refugee interests in direct participation.

283. However, in general UNHCR should direct its efforts towards supporting foundation-level activities designed to foster general democratic awareness and the development of independent political identities among refugees. These values can be transmitted through activities that underline UNHCR's respect of refugees' political equality – such as organizing elections for camp representatives, providing access to rights-based education, and at all times encouraging female participation in these activities.

### **Transnational politics and peacebuilding**

284. Building peace and opening up space in refugee countries of origin for democratic elections and political participation are slow processes that may involve years of careful negotiation and persistent political campaigning. While refugee participation in peacebuilding elections tends to be connected by the international community to the possibility of return, the political campaigning aimed at precipitating change within a country of origin that might make return possible (particularly in cases where the displaced are a persecuted minority or an authoritarian regime monopolizes power) begins in exile.

285. Furthermore, refugee and diaspora political activities, especially in protracted situations and among self-settled or naturalized populations, may in fact move beyond a national view to build new transnational connections that reshape political frameworks. In the case of the Sri Lankan Tamil community, for example, there is limited evidence that while connections between different national diaspora are increasing, there is a growing disconnect between the diaspora's understanding of Tamil politics and the political interests of the Tamils who remain in Sri Lanka.

286. This fact is evinced by the refusal of the majority of Sri Lankan Tamils and their main party, the Tamil National Alliance (TNA), to adhere to the boycott of the 2010 election which was called for by diaspora groups such as the Global Tamil Forum. Similar developments have been observed with African diasporas and homeland politics (see e.g. Sriskandarajah 2005; African Diaspora Policy Centre 2005).

287. Transnational political practices tend to involve settled populations with legal status in their host communities: visible political activities, particularly when intended to place pressure on a host country to intervene or respond to events in refugee countries of origin, tend to be restricted to those who hold legal status and are not at immediate risk of deportation.

288. As a result, UNHCR's role in facilitating these activities is likely to be fairly limited, particularly in relation to settled diaspora with dual citizenship. However, UNHCR does have a duty to protect all refugees and asylum seekers' rights to freedom of expression and freedom of association, providing that refugees' activities pose no threat to national security or public order.

289. Individuals who flee without the support of any existing political network and whose refugee status has not yet been confirmed - far less any right to permanent residency or naturalized citizenship - are less likely to have any campaigning political activities tolerated by a host country, particularly if domestic political pressures mean that there are increasing restrictions placed on asylum provisions, as is the case in much of Western Europe.

290. To this end, plans announced by the Swiss Federal Council in June 2010 to punish "abusive political activism" by asylum-seekers are extremely concerning. The Swiss government claim that a number of asylum seekers engage in exile politics only once they have arrived and only for the purpose of fabricating new reasons to be granted asylum and preventing return: Amnesty International and the Swiss Refugee Council have both condemned the proposals as an attack on refugee and asylum-seeker rights to freedom of speech.

291. Such measures fail to recognize that refugees may have been fearful of expressing political sympathies when in a country of origin and that experiences of exile - including exposure to democratic politics - may encourage refugee engagement in political activities which are designed to facilitate the brokering of democratic peace and eventual return (Smith 2010). UNHCR has a clear role to play in ensuring that refugee and asylum seeker rights to engage in peaceful political activities whilst in exile are respected by all states.

292. Many refugee diaspora are however able to organize successful transnational political campaigns. Refugee diaspora often focus their energies on lobbying host countries in order to influence foreign policy, "both for factional and for collective ends" (African Diaspora Policy Centre 2005: 46). In 2009, the Tamil diaspora in several Western countries organized several protests intended to urge the international community to press for an immediate ceasefire in Sri Lanka to prevent further alleged human rights violations being carried out against the Tamil population by the victorious Sri Lankan army (BBC 2009).

293. Zimbabwean exiles have similarly held weekly protests outside the Zimbabwean embassy in the UK, intended to highlight failures of the Mugabe government. However, a study of African diaspora lobbying in the Netherlands suggests that this form of national lobbying had become increasingly less common in the post-Cold War period because refugee flows have tended to involve state collapse, so that "lobbying against mal-governance is no longer possible and the diaspora have opted instead to lobby for the cause of the political faction in the homeland with which they identify" (African Diaspora Policy Centre 2005: 47). This

can be seen in the factional nature of Rwandan opposition-in-exile.

294. Similar trends have been observed in a study of Congolese political protest in South Africa. Researchers found that Congolese protests tended to coalesce around ethnic associations rather than any notion of formal citizenship both when protesting against xenophobia and conditions in South Africa and when addressing events in DRC, because “transplanted to South Africa, [Congolese] refugees find themselves once again in the familiar position of being unable to draw on their citizenship to make demands on the state.” (Amisi and Ballard 2005) The collapse of the DRC state meant that protests in RSA were organized around ethnic rather than Congolese frameworks.

295. However, while such lobbying is ostensibly directed at influencing foreign government policy towards their country of origin (many of the protests in South Africa were focused on demanding that the international community work to ensure Rwanda leave Eastern DRC), it is equally clear that such factional politics in exile can exacerbate divisions with their country of origin (African Diaspora Policy Centre 2005: 48).

296. This trend can be further intensified in a protracted setting: many observers have claimed that the attitudes of the Tamil diaspora and their continuing support for the Tamil Tiger guerrillas (LTTE) fed continued civil war in Sri Lanka without fully understanding the conditions of war experienced by those still living in the territory (Sriskandarajah 2005). Such activities are unlikely to build peace, and may even exacerbate war. However, it must be noted that this considers the activities of elite refugees who are shielded from the hardships endured by camp-based refugees, who may be more effective advocates for peace.

297. It is therefore important not to assume that the transnational political involvement of refugees in their country of origin will necessarily fit a national framework: instead refugee diaspora may pursue local or ethnic concerns, particularly in cases where conflict has resulted in or been precipitated by state collapse. Equally, the exercise of transnational political power may not be solely restricted to political activities.

298. Economic wealth and political influence are closely linked, particularly when the financial importance of diaspora remittances (an estimated \$290 billion globally in 2010) are considered. In post-conflict reconstruction, harnessing the diaspora’s financial resources may prove crucial to the building of sustainable peace: research shows that Afghan remittances, for example, are far more effective than conventional donor funds in reaching communities in need and far less susceptible to corruption and embezzlement.

299. UNHCR has already recognized the important links between sustainable reconstruction, diaspora remittances and durable solutions, but further work needs to be done in this area in order to consider how remittance-sending by diaspora to states emerging from conflict can be best harnessed to promote reconstruction (Fagen 2006). In particular, projects need to consider how funds can be channelled towards community development – perhaps using plans such as the Mexican Tres por Uno initiative that matches remittance dollars with equal federal, state and municipal fund for community projects (see Long (2010)).

300. This is important if one goal in facilitating refugee and diaspora participation is to promote equality within the community rather than concentrate power in the elite. However, evidence from both Liberia and Rwanda suggests that if left unregulated, remittance flows may exacerbate social inequality – and thus political influence – between elites with relatives based in Europe and North America and ordinary returnees.

301. The diaspora's financial power also means it is likely to have considerable influence over the development of political parties and infrastructure, as financial wealth is translated into political influence through donation. Many states have attempted to harness this power directly. Eritrea, for example, has asked its diaspora to pay a two per cent tax (Koser and van Hear 2003).

302. Financial transactions between the diaspora and political parties in the country of origin, particularly during continued period of conflict, also highlight the subjective nature of distinguishing between legitimate and non-legitimate transnational political activities which may help to support military groups. Most notoriously, Sri Lankan diaspora support for the LTTE has been the subject of considerable scrutiny, particularly since its proscription as a terrorist group first by India in 1992, followed by the US (1997), UK (2000), Canada (2006) and the European Union (2006) which have effectively prevented the large Tamil diaspora in the West from openly supporting the LTTE.

303. The Tamil diaspora have claimed that the ban has prevented legitimate community support activities: for example, in 2008, the Canadian Government added the World Tamil Movement (WTM) to the list of terrorist entities proscribed under Canadian law, alleging ties with the LTTE. WTM leaders protested that their organization provided "much needed settlement, counselling and cultural services to tens of thousands of Tamil Canadians" and that their listing as a terrorist organization was "a political move intended to silence a voice within the Tamil diaspora" (Sittampalam 2008).

304. However, Tamil organizations continue to be the focus of close government scrutiny. In July 2010, the Canada Revenue Agency shut down the Tamil (Sri Lanka) Refugee Aid Society of Ottawa because of its loose connections to a Canadian-Tamil arms dealer and concerned that CA\$ 713,000 had been earmarked for delivery to the Social and Economic Development of Tamils organization (SEDOT), alleged to be a front for the LTTE (Agency 2010).

305. The Tamil diaspora's close connections with the LTTE blurred the lines between funding for community development and political and military activities. This underlines the difficulties that transnational diaspora political engagement can create in conflict settings. Yet the WTM's response to the Canadian decision also aptly captures the difficult and subjective nature of determining what constitute subversive refugee activities whilst balancing refugee rights to exercise the political freedoms which may have been denied in their country of origin:

It is no secret that the World Tamil Movement supports the right of the Tamil people to self-determination in the North and Eastern part of Sri Lanka. This is a political position – perhaps one that not everyone will agree with, but one that we are constitutionally entitled to hold. Many of us came to Canada precisely because this country



safeguards the right of everyone to hold and express their own opinions (Sittampalam 2008).

306. Transnational political activities such as these, particularly those involving a settled diaspora, are likely to fall well beyond the scope of UNHCR. Ultimately, states – and state political interests – are likely to continue to determine which diaspora community organizations will be subject to political embargo and which will be tolerated or even actively encouraged as freedom fighters rather than terrorists. UNHCR nevertheless has an important role to play in working with host states to try and ensure that refugee rights to freedom of expression and freedom of association within the law are respected.

307. UNHCR must also work to ensure that involvement in peaceful political activity directed towards a country of origin government is not used as a pretext for removing a refugee's legal status and expelling him from a state's territory unless their presence genuinely threatens national security (and that authorities only act when presented with proof of such activities). In all cases, UNHCR must ensure that provisions against the refoulement of refugees and asylum-seekers – including the universal prohibition of return of an individual at risk of torture under the provisions of the Convention Against Torture – are respected.

## 5. Conclusions and recommendations

308. What role should UNHCR play in facilitating or even promoting refugee participation in country of origin politics? Before considering the nature of UNHCR's engagement with refugees' political activities, the case must first be made that such engagement is both necessary, potentially beneficial and compatible with UNHCR's humanitarian mandate.

309. Commentators are clear in their judgement that refugees are "among the last of marginalized groups to become enfranchised," and as such are often unable to access their political rights (Fischer 2007: 153). There is an equally obvious connection between peacebuilding political activities - which include but are not limited to transitional elections - and prospects for sustainable return.

310. UNHCR's mandated duty to protect refugee rights in exile, and to search for and secure durable solutions to their displacement indicates that UNHCR's involvement in advocating for refugee engagement in post-conflict political reconstruction is necessary. This is especially true given that the political exclusion of refugees from peacebuilding processes in their country of origin both violates their rights and hinders their repatriation.

311. However, it is equally clear that there is very little need for UNHCR to play a technical role, particularly in terms of facilitating OCV. IOM - in conjunction with other electoral bodies such as OSCE and IFES - have built up strong expertise through 15 years of experience in organizing post-conflict OCV.

312. While these operations have had variable success in fostering peacebuilding aims, this has largely been because of differences in security in the country of origin, popular commitment to the peace process and international interest in supporting the electoral processes. UNHCR should therefore focus on peacebuilding and political engagement in a refugee-specific context, lending its support to IOM's organization of OCV programmes where appropriate (as occurred in the 2005 and 2010 Iraqi elections).

313. UNHCR's facilitation of refugee and IDP political engagement with post-conflict processes in their country of origin is potentially beneficial to both displaced populations and UNHCR. UNHCR's engagement will help to secure refugee inclusion in political peacebuilding processes that will build self-confidence, protect and express their political rights as citizens. It may strengthen the prospects that a durable solution may be found for refugees through their voluntary return to a post-conflict state. In light of these potential benefits, this paper argues that UNHCR should move towards more explicit facilitation of refugee engagement in country of origin political processes.

314. Traditionally, UNHCR has been wary that the facilitation of refugee political participation could compromise the humanitarian and non-political mandate of UNHCR. Yet UNHCR has a duty to protect the human rights of refugees and refugee political participation should thus be viewed as part of this rights-based framework. Enfranchising refugees does not negate humanitarian neutrality but should be seen as a form of rights-expansion entirely compatible with humanitarian principles.

315. Ensuring that UNHCR acts without any politicized interest does not mean that refugees must be denied a political identity. Instead, the principles of neutrality and impartiality should apply when considering how UNHCR should facilitate refugee political engagement in country of origin politics, ensuring that all refugees are included, without prejudice, and all are provided with access to all available electoral and political party materials.

316. UNHCR's role in facilitating refugee political participation flows from the agency's core duty to protect refugee rights, including their political rights as detailed in the UDHR and ICCPR. As a result, refugee political participation should not be conceived of merely in narrow electoral terms – where the connection with peacebuilding interests may often be most apparent – but as part of a much broader context.

317. UNHCR's engagement in protecting and facilitating refugees' expression of their political identities should begin in exile and continue through to return, reintegration and reconciliation processes. In particular, UNHCR should work to protect the political identities of refugees and facilitate their political engagement in country of origin politics in the following ways.

### **Protecting rights**

318. UNHCR should:

- Publicly affirm its commitment to supporting the right of refugees to express and develop their own political identities, particularly through engagement in country of origin political processes designed to end conflict and build sustainable peace which may enable return.
- Work to protect refugee rights to political participation during exile, in particular by encouraging host countries to accept that refugee engagement in peaceful political activities does not constitute a subversive act that must be controlled in the interests of state security. UNHCR should emphasize refugees' right to freedom of association and freedom of expression within the limits set to safeguard public order and national security. UNHCR should also encourage host communities to allow refugees access to political debate in their country of origin and to permit refugees to engage in peaceful protest and demonstration. Where voting in post-conflict elections requires the temporary return of refugees to their country of origin, UNHCR should work with host states to ensure that such visits are not used as a pretext to withdraw asylum rights.
- Affirm that UNHCR has a duty to provide refugees, where possible, with meaningful choice. Choice offers refugees freedom and dignity: this means that the right of refugees to participate in country of origin politics must be respected alongside their right not to participate in country of origin political processes. Refugees may have valid reasons for refusing to engage in country of origin politics: they may be focused upon local integration and/or naturalization or they may mistrust an incomplete or premature process and fear for their security. In cases where refugee participation in elections and/or return are being advocated by an international community

eager to demonstrate the end of a displacement crisis, but where UNHCR has serious concerns about the legitimacy and accountability of a political process and the viability of a peace process, UNHCR should not be afraid to voice its concerns publicly.

### **Changing institutional cultures**

319. UNHCR should:

- Recognize that within the organization, there remains significant cultural resistance to treating refugees as political equals. While recognizing the considerable changes that have taken place in the past decade, and acknowledging the validity of some operational and logistical limits on the scope for refugee political involvement, UNHCR must renew its commitment to changing institutional attitudes to refugee participation among its own staff, and consider what new initiatives might be developed to encourage this.
- Explicitly affirm that working to foster refugees' commitment to and understanding of democratic political structures during exile forms part of UNHCR's existing community development approach. In particular, the election of camp representatives should be encouraged not only because of the benefits this brings to camp organization, but also because such processes help to provide a practical political education, helping to prepare refugees to vote as citizens and/or stand as representatives should a peace settlement be achieved in their country of origin.

### **Participation distinct from repatriation**

320. UNHCR should:

- Continue its work to ensure that the process of physical repatriation is not directly linked to the participation in peacebuilding elections. Evidence from past operations shows that linking return too closely with post-conflict election timetables places unnecessary pressure on repatriation programmes and undue strain on refugees to return in order to vote. Instead, UNHCR must continue to encourage the international community to view post-conflict elections as a potential precursor to eventual return – in that successful elections may help to establish conditions conducive to successful repatriation. UNHCR should work to ensure recognition among host states and other interested international actors that the symbolism election must be matched by substantive changes.
- Consider how it can best respond in cases where post-conflict or transitional election processes may be manipulated and, far from creating the conditions for return, actually exacerbate existing displacement flows or create new refugees. In such cases, UNHCR may have an important role to play in joining with other civil society actors in order to discourage xenophobic and ethnically-divisive political campaigning, with the aim of preventing politically-motivated forced displacement.

## **Out-of-country voting**

321. UNHCR should:

- Support measures to introduce OCV as a usual part of peacebuilding transitions in post-conflict states. Although there is relatively little need for UNHCR to play a technical role in facilitating OCV, UNHCR does have an advocacy role to play in encouraging the use of OCV, particularly in order to reach forcibly displaced populations. As this paper makes clear, one of the major flaws in current OCV practices is the lack of a consistent international approach to the use of OCV in peacebuilding, with decisions to incorporate OCV often taken at short notice and providing minimal preparation time. UNHCR should work to encourage the international community to move towards adopting the use of OCV for refugee populations in post-conflict elections as a general peacebuilding principle, and encourage the explicit codification of refugees' right to participate through OCV in peace settlements and as part of tripartite negotiations that may precede UNHCR's involvement in organized repatriation.
- In technical and logistical terms, offer its assistance to IOM or any other organization involved in establishing an OCV programme with regards to demographic data and the use of camp facilities on polling day. In particular, in regions where OCV or temporary voter return programmes are likely to be established, UNHCR should redouble its efforts to ensure that refugees are able to legally document their identity.
- Ensure that all refugees in a host states have access to civic and political information during election campaigns. In camps, UNHCR may be able to offer in-person voter education and facilitate campaign visits from political parties: in all cases, UNHCR should negotiate with host countries if necessary to ensure that refugees are able to obtain materials explaining both the civic duties and rights attached to enfranchisement and democracy and political party materials that appeal for refugee votes.

## **Legal identities**

322. UNHCR should:

- Consider in practical terms how it can best work with other international actors to establish refugees' legal identities in order to allow them to register as voters. UNHCR should also consider whether existing UNHCR registration data or ration cards could be used in some settings to establish identity in the absence of other documentation, facilitating registration. Conversely, UNHCR must continue to ensure that any personal information it holds regarding refugee identities is only passed onto electoral authorities with the informed consent of the individual in question.
- Consider how – in the light of UNHCR's new urban refugee policy – urban and self-settled refugee groups can be given maximum opportunities to participate in peacebuilding political activities in their country of origin, particularly if they are wary of formal recognition. UNHCR should also

consider how it can build on its existing programmes to ensure that it encourages the participation of all genders and all generations in political decision-making, both during displacement and during peacebuilding and return processes.

- Work to try and persuade host communities operating OCV programmes not to require proof of legal residency during refugee voter registration exercises, as such requirements are likely to prevent many urban and self-settled refugees from participating in country of origin political processes for fear that exercising their right to vote may lead to detention and deportation. UNHCR should encourage the international community to facilitate refugee participation in peacebuilding elections on the basis that citizenship of the country of origin – not legal residency in the host community – is the criteria for eligibility.

### **Peacebuilding Commissions**

323. UNHCR should:

- Encourage the international community to consider the membership of peacebuilding commissions, particularly if a refugee population develops a grassroots political movement during exile – a process which should be fostered by UNHCR's commitment to democratic education and practice within camp settings.
- Facilitate the inclusion of mass or non-elite refugee representatives in political processes in order to balance the overwhelming tendency of elite exiles and diaspora to dominate the refugee voice during peacebuilding negotiations. These measures will also ensure that when it is possible, refugees themselves rather than UNHCR express and protect their own interests during repatriation negotiations.



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