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Refugee return and state reconstruction: a comparative analysis

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Introduction

In the past ten years, the discourse on peacekeeping in post-conflict environments has turned into a discussion on state building. Peacekeeping, which is characterized by the absence of war and presence of the international community to prevent the continuation of violence, is different from state building, which is primarily concerned with the emergence of state structures and institutions that can effectively support and win the legitimacy of its people.

The return of refugee populations from exile has been a fundamental objective of UN state building. Arthur Helton would go so far as to define state building as 'efforts by the international community to construct or fortify societies riven by crisis in order to...encourage the repatriation and reintegration of refugees' (2002:30). What is the effect of return on state reconstruction?

While a number of case studies have sought to explain this elusive relationship, little comparative analysis has been done to highlight similar experiences and extrapolate lessons learned for future use. This work combines both methods, beginning with a comparative analysis of Cambodia, Bosnia, Kosovo and Guatemala and ends with a case study on Afghanistan.

The first portion of this paper investigates some preliminary questions that might help us to better understand the relationship between return and statehood. First, what are the main components of state building and what methods are currently being applied to achieve it? How has the UN role in state building developed over time? Second, what ways does population displacement contribute to state failure? Third, what ways do returnees build the state? In what ways do they challenge state development? Fourth, how is the state-citizen relationship rebuilt in the post-conflict period?

The second portion of the paper highlights the way in which return and state building coincide in Afghanistan today. Twenty percent of the country's population is displaced, state structure has been demolished by both internal and external conflict, and the state is seeking to reconstruct itself with the help of the international community (Helton 2002:78).

Knowing what we do about the history of the Afghan state and refugee crisis, how might the current return of more than a million refugees effect state reconstruction (USAID citing UNHCR 2002)? As current events in Afghanistan continue to unfold, it would be premature to prescribe absolute relations between the development of the state and the nearly 10,000 refugees daily crossing back into its borders. However, Afghanistan's long history of attempted state formation and refugee repatriation necessitates an inquiry into potential correlations between previous and unfolding events. Examples from other post-conflict reconstruction efforts support the idea that Afghanistan faces both unique and common challenges as it seeks to redefine itself in the midst of population flux.

State building

This paper argues that repatriation is an important element of state reconstruction. By definition, a refugee is a person unwilling or unable to avail herself of state protection. In principle, UNHCR facilitates return when significant changes have occurred within the country of origin so that the original reason for flight no longer exists or has been appropriately addressed. Because the state is central to the refugees' plight, it is important to define the essential elements of statehood and how the state's characteristics change in a post-conflict environment. It is also necessary to define state reconstruction and take a critical look at the UN's role in state building efforts.

Statehood and state failure

For the purpose of this work, the state will be defined as a political entity that has a recognized territory, a population that sees itself as belonging to the state, and institutions of governance that are sovereign within that state (Goodson 2001:6). In a post-conflict period, these three basic elements of the state undergo significant change.

First, previously defined state territory may be in flux. For example, war throughout the former Yugoslavia split the state into several contested territories, including Bosnia and Kosovo, which are now emerging states of their own.

Second, conflict changes the nature of the population's relationship with the state. In a time of war, the population may become focused on identities that render allegiance to their religion or ethnicity more significant than their nationality, such as in Afghanistan, where one's tribe became the primary focus of social and political organization in state absence. Forced displacement and exile can also have the opposite effect on a population, inspiring a kind of ultra-nationalism in which one's identity with the country of origin becomes the primary focus of social and political organization, as in the case of Rwandan Hutu refugees in Tanzania.

Third, government institutions may be destroyed along with other forms of state infrastructure such as roads, schools and bridges. State institutions may also be weakened by regime transition or simply nonexistent.

In the post-conflict period, the question of governance itself may be in question. There may be an indefinite void in power. The state may be barely capable of functioning and can accurately be described as a weak state. Weak states have poor capabilities to penetrate society, regulate social relationships, extract resources and appropriate or use resources in determined ways (Goodson 2001:11 citing Migdal 1998). Post-conflict, there may be no state at all. This scenario is commonly called state failure or collapse.

State reconstruction

The current international system is defined and regulated by states. Thus, when a state collapses, the international community exerts significant effort to ensuring that the state is rebuilt. While there is no model for effective state building, it is largely characterized by an agreement ending conflict between various parties, a promise to hold elections for representatives of a new democratic government, the deployment of an interim security force provided by the UN or another international body, the return of refugee communities in exile, the construction of multiethnic national institutions, a commitment to establish the rule of law and judiciary, pledges from donors to rebuild the infrastructure and economy, and the involvement of NGOs in the provision of social services (Ottaway and Lievan 2002:4, Helton 2002:75).

While state building involves a long-term investment in the development of institutions that will effectively govern society, it is primarily characterized by the prolonged presence of international actors buffering the humanitarian, political, security and economic needs of societies in the post-conflict period.

Although state building conjures up notions of creating the state *ex nihilo*, the reality in most post-conflict scenarios is that a state has existed at one time or another. The state may have been weak or in collapse, but it at one time provided a formal mechanism by which central authorities exercised control over a specified territory and populous. Thus, state building in the post-conflict period can more accurately be described as state reconstruction. In this essay, states undergoing reconstruction will also be described as transitional or emerging states.

The UN sole in state building and reconstruction

State building can also be described as a process of negotiation between warring parties and those states belonging to the international community. Thus, the United Nations usually presides over the post-conflict period in either an administrative or advisory role. State collapse in the 1990s has led the UN to exercise its authority in new ways, including the interim governance of territories (Matheson 2001:76). Matheson points out that prior to the end of the Cold War, the UN had little experience in this area. Because UN state building interventions are relatively new, concrete results are hard to come by.

With state-building initiatives on the rise, the international community has continuously redefined the UN role in the post-conflict moment. Cambodia was the first major UN exercise in governance, setting up the UN Transitional Authority for Cambodia (UNTAC), which sought to directly regain control of all territory from the Khmer Rouge, repatriate all refugees from the Thai-Cambodia border, and hold elections to install a new government.

Since Cambodia, the UN has also set up comprehensive interim authorities in Bosnia, Kosovo and East Timor. In each of these countries, a UN Special Representative has assumed all executive and legislative authority for the emerging state (Matheson 2001:77). However, in Afghanistan, the UN has had an advisory mandate, to first

support the Afghan Interim Administration (AIA) and then to assist the Afghanistan Transitional Authority (ATA) through the United Nations Assistance Mission to Afghanistan (UNAMA). In the case of Afghanistan, the AIA and ATA, rather than the UN, have held executive and legislative authority.

The progression of UN peacekeeping to state building activities shows several trends. One, the UN is increasingly interested in separating peacekeeping enforcement through the use of multinational troops from its state building initiatives. The UN is increasingly focusing on state building and leaving the military enforcement of peace to the willingness of powerful member states to contribute troops to the effort. For example, unlike Bosnia or Sierra Leone, security in Kosovo was reliant on NATO, the security force in East Timor was led by Australia, and the current International Security Assistance Force (ISAF) in Afghanistan was recently led by Britain and taken over by Turkey.

Second, the UN is also increasingly willing to assist countries in redesigning government structures rather than create those structures itself. UN support for the loya jirga, or grand counsel which selected Afghanistan's Transitional Authority (ATA), support for the new East Timor President Xanana Gusmao and elections in Sierra Leone all point to the UN's acknowledgement that the governance of territories and peoples is ultimately a role for states.

The United Nations has learned two lessons in state building that have led to the increasing support of state-sponsored, rather than UN led, reconstruction efforts. First, the UN may not have the capacity to comprehensively control a territory without support from emerging state authorities. In Cambodia, the UN was not aware of the extent to which the Khmer Rouge still held control of certain parts of the country. UN administrators would land in districts and find themselves face to face with a Khmer who didn't want to give up control to UN officials (Helton 2002:81).

Had UN authorities mapped out pre-existing state structures and realms of authority inside Cambodia, areas of potential conflict over jurisdiction would have been expected and plans could have been developed to effectively manage such conflicts. Similar contests over control exist in Afghanistan today where warlords refuse to come under the supervision of emerging state or international forces (USAID 2002:4). However, this time it is ultimately the role of the ATA, not the UN, to find a solution for bringing dissidents under their authority. Secondly, UN effort to comprehensively control an area decreases the accountability of local authorities.

This reality was also evident in Afghanistan after the fall of the Communist government through the control of the Taliban. Since nongovernmental organizations and UN agencies took responsibility for public service provision in the absence of state infrastructure, local authorities garnered resources aimed at strengthening their military capacity with little or no regard for the population's welfare (Marsden 1999:61). In the absence of the state, the UN and international agencies can provide a number of essential humanitarian services to a population in need. However, humanitarian effort can never be a substitute for responsible governance.

How returnees contribute to state building

How might returnees build the state? First, The reintegration of returnee populations is one of the first national objectives of transitional states. The well-being of returnee populations serve as an indication of how transitional states manage development goals the post-conflict period. Second, returnee populations are human resources for development. Third, the state cannot achieve legitimacy when a significant proportion of its population remains outside the territory it controls. Repatriation signifies that the population has confidence in the state's ability to reconstruct order. Fourth, returnee populations constitute members of a war-torn society transitioning to a civil society (Juergensen 2000:1). How the state seeks to relate with them, and vice versa, is an indication of the extent to which civil-state relations will be repaired in the post-conflict period.

Managing return: the first national objective?

Any country emerging from a post-conflict situation in partnership with the international community will be bombarded by a series of seemingly unending state building objectives. Setting priorities is a difficult task, but as in most conflict situations, tasks commanding immediacy receive the most attention and support. With media cameras pointing to thousands of refugees returning *en masse*, transitional governments and UN agencies face tremendous pressure to be ready to reintegrate them. Thus, managing return, meeting returnee's basic needs and reintegration often become the first national objective of a transitional state.

Preparing for repatriation also facilitates the process of building government institutions. Setting up a central body in charge of developing ministries and departments is one of the primary objectives of state reconstruction. In Afghanistan, twenty-nine new ministries were set up by the AIA (Helton 2002:25). The newly elected President Karzai has formed nine commissions to address immediate concerns, as well as a cabinet advisor on refugees (IRIN 2002).

The return of large portions of the state population requires that new rules, laws and structures govern society. These structures and laws demonstrate the state's initial effectiveness and indicate state propensity toward inclusivity and transparency. For instance, because returns often occur in conjunction with seasonal replanting, the Ministry of Agriculture must assist farmers with the tools to replant, or in the case of Afghanistan, provide alternative livelihoods to farmers previously engaged in poppy cultivation. In Afghanistan, public outcry that the amount allocated to each poppy farmer is far less than the potential profit of the drug trade indicates that the state will have a difficult time reducing poppy cultivation in the short-term.

Most new government ministries in transitional states are preoccupied with returnee needs. The first task of the Ministry of Justice in Rwanda was to develop guidelines for resolving disputes between repatriates and those who had occupied returnee homes and lands for decades. Property rights issues in Bosnia were also highly contested and served as a major factor in state building (Helton 2002:45). When returnees entered Bosnia, local authorities redirected them to select locations in order to prevent ethnic

mixing, making a number of returnees internally displaced people (IDPs). Bosnian authorities also denied the right of repatriates to reoccupy land. The UN Special Representative sought to mix its housing and ethnic integration goals by encouraging land legislation requiring the resettlement of different ethnicities in the same locality (Helton 2002:45). In this way, meeting the needs of returnees led the UN to foster a more just distribution of state resources and enhance the rule of law.

The very nature of the repatriation process increases state presence among formerly displaced populations. Stepputat's fieldwork among Guatemalan returnees, who constituted 40% of the local population, indicates that there was little state presence in the displaced community pre-flight (1999:215). Yet, when they returned, all the institutions of the government arrived. Similar realities were also documented among displaced communities in Peru, where only 18% of the population had ever been in contact with state authorities pre-flight, yet 46% of the population claimed to have regular contact with locally based authorities after their return home (Whaites and Westwood 1996:17,29). Large-scale returns to Peru and Guatemala served as a catalyst for states to create a local presence among communities previously isolated from government affairs.

Human resources

Returnee populations have long been integrated into the development objectives of transitional states. Because most returnee populations are arriving in places where their homes and infrastructure have been destroyed, from the moment they arrive they must work hard to rebuild. In this way, returnees can be essential human resources for development. They are often employed by international agencies that can provide the necessary capital for reconstruction.

While neither international agencies nor the state can provide employment for every returnee, enabling some to work on reconstruction projects serves three purposes: it provides employment for some returnees; it gives returnees a sense of ownership in the renewal of the country, and it carries out state development objectives. The state, though not yet having the capacity or institutions to provide capital or services for the returning population, benefits from the aggregate results of the reconstruction effort. The international community is increasingly recognizing this fact. The UN transitional plan for Afghanistan states that 'the return of millions of uprooted people will be an important achievement with the dual benefit of providing human resources for reconstruction as well as rebuilding civil society' (ITAP 2002:44).

Legitimacy

In the eyes of the international community, states generating refugee flows lack the legitimacy of their people. Refugees signify a breakdown in the state-citizen relationship. When refugees decide it is safe to return home, they are, in effect, re-availing themselves of their state's protection. A UNHCR official overseeing repatriation in Afghanistan recently stated that by returning to their homes, Afghans are 'showing the world how confident they are about the future of their country'

(UNHCR 2002:1). While repatriation signifies confidence in one's country of origin, it does not automatically guarantee that the bond of loyalty and trust has been or will be restored between the state and its citizens (Stein 1997:160). Sustainable indicators of state legitimacy go far beyond the population's willingness to live within its borders. Respect for human rights, the ability to effectively communicate its intentions and consider feedback from its citizenry, to garner support and effectively deal with competing voices for power are all indicators of the state's legitimate rule. To be legitimate, emerging states must proactively restore their relationship with the populous.

How returnees challenge the state

Large-scale refugee returns can also have adverse effects on state development. First, a state's inability to manage the scope and pace of voluntary returns make it difficult to plan for reintegration. Secondly, return may encourage internal displacement. Third, international pressure to accept returnees may force a country of origin to receive its population without having the capacity to absorb them into society as full members. It may be impossible to fully reintegrate returnees in an environment where the infrastructure has been destroyed and instability continues due to persisting conflict.

Managing return

Managing refugee return is not always possible. Many refugees choose to undergo unassisted voluntary repatriations in the midst of conflict (Cuny and Stein 1992). Juergensen points out that 78% of refugees from Mozambique returned spontaneously without UNHCR assistance (2000:18). The recent situation in Afghanistan led more than 150,000 refugees to return from Pakistan and Iran before the UNHCR began its organized repatriation activities in March (UNHCR 2002).

While planning for return is not always possible, it is essential to managing return in a manner that complements state building initiatives. Inability to plan, or poor repatriation planning, leads to further displacement and vulnerability. For example, the UN made numerous promises to the 370,000 repatriates from the Thai border to Cambodia in 1992 and 1993 that it was eventually unable to keep. Though each returnee was promised land, UNHCR had little knowledge as to how little unmined land was available in the provinces. The repatriation also focused on individuals, separating many families and support systems. Thus, 40-60% of local returnees underwent secondary migration upon return.

In this regard, the UN learned a great lesson: the devolution of refugee camps also constitutes the destruction of communities in which individuals rely on one another for support (Geiger 1994:197). Secondary migration disabled the UN from monitoring the welfare of returnee communities. The fact that many Cambodian returnees didn't come to collect food rations at distribution centers indicates that, while already vulnerable, returnees went without certain material needs in order to reunite with family and friends.

Further displacement

Repatriation is not a durable solution if it encourages further displacement within the country of origin. The danger exists that repatriation alone is a relocation that converts refugees into internally displaced persons (Stein 1997:161). This was the case in Bosnia, where a great number of returnees were forced to resettle by local authorities who insisted on maintaining ethnic divisions (Helton 2002:45).

Stein's claim that people who are physically home but are not participating in the economic and political life of their country are still uprooted persons is true for those secondary migrants who choose to relocate, as in the case of Cambodia, as well as those IDPs who are forced to resettle such as in Bosnia (1997:161). Planning for repatriation at the local level of the returnee village or settlement, in conjunction with aggressive efforts to reunite families and support groups separated by the repatriation process, will decrease the pull for additional migration and displacement upon return.

Urban bias

Where does the process of state reconstruction begin? The first stages of implementing interim administrations nearly always occur within a specific central location in the given territory of the new state. Thus, the foci of reconstruction activities begin at the capital.

While centralized coordination of development activities from the capital may be both inevitable and necessary in the early stages of state reconstruction, the state will not be sustainable if it is seen as a distant national power with no relation to rural areas. Repatriation planning may also influence this perception. For example, after the withdrawal of Soviet troops from Afghanistan in 1988, the Geneva Agreements set up a repatriation scheme requiring returnees to pass through Peace Guest Houses in central locations before being transported to the places of their choice (Maley 1992:13). Yet, there were no national institutions at the local level to support or assist the population once the process of return was complete. Thus, the effective management of refugee return in the post-conflict period, like state building, requires both the centralization of power and the diffusion of authority at the local level.

What effect does central planning have on refugee return? Improper planning for local reintegration can lead a wave of secondary migration of returnees to the capital city. International presence and activity in the capital city can draw returnees to settle there and have a negative effect on the social economy. Inevitably, the first place to benefit from the increased presence of the international community, UN agencies, expatriate personnel and the jobs that their presence creates, are in the capital cities. Centralization occurs before decentralization can be planned. However, this is no excuse for ignoring the negative consequences of urban bias.

Reintegration planning requires local knowledge. Information about the local areas refugees wish to return to must be accurate so that returnees do not face unexpected hardship upon their arrival. For example, the UNHCR's miscalculation of local land availability in Cambodia led many people to take an alternative cash-based

repatriation package. However, the money returnees received was not adequate enough for them to purchase land on their own. Thus, shortly after the initial mass repatriation period, Phnom Penh was flooded with homeless repatriates who continue to drain the capital to this day (Helton 2002:82).

Restoring the state-citizen relationship

UNHCR states that its objective in monitoring returnees is to ensure the re-establishment of an effective and durable state-citizen relationship (UNHCR 1997:64). How is the state-citizen relationship rebuilt? Civil-state relations at the national level cannot be repaired if the state is not in place. In order to effectively redesign an inclusive state structure responsible for and responsive to its citizens, the historical relationship between the citizenry and previous forms of statehood in the country of origin needs to be explored. Destructive patterns that led or contributed to the demise of state protection must be addressed.

The question of restoring the state-citizen relationship assumes that the state, in its original condition, had a particular relationship with society. In many states characterized by continuous and varied refugee flows, the state-citizen relationship has been negligible or negative. Many oppressive regimes subsist on clientelism, in so much as those with power and money within society benefit from an exchange of favors with formal authorities. This was the case in both Guatemala and Afghanistan, where citizens saw the state as an elusive and corrupt authority, avoiding it as much as possible (Stepputat 1999:215 and Shahrani 1998:230). In such circumstances, a general mistrust of central government is likely to exist and may take a long time to overcome.

Civil society

The question of restoring the state-citizen relationship also implies an active citizenry, conjuring up various notions of what is meant by the term *civil society*. I define civil society as an intermediary associational realm between state and family, populated by organizations enjoying some autonomy in relation to the state and formed voluntarily by members of society to protect their interests or values (Harvey citing White 1994).

Harvey points out that since most literature pertaining to civil society assumes the existence of a coherent nation-state, it is problematic to adapt the concept to a post-conflict situation in which the state has collapsed or is re-emerging (1997:4). However, since civil society has been used as an analytical tool for evaluating state-society relations, it is important to consider how return might influence civil society and its part in the state reconstruction process.

Several general characteristics of civil society indicate what forms it may take in a post-conflict scenario. First, civil society is not a part of the state and can exist in state presence or state absence. Thus, in post-conflict societies, the areas of civil society that flourish are those least associated with state forms of power (Harvey 1997:16). For example, the leadership of elders and social organization around trade

routes remain vibrant elements of society even in the midst of state collapse (Harvey citing Zartman 1995).

Second, a strong civil society can regulate state power. In the case of Afghanistan, civil society flourished amidst decades of state collapse. *Shuras*, a traditional council of elders, order community life and mediate disputes.

Third, while civil society might serve as an effective balance to state power, it cannot replace the state itself. Some argue that given that there is no government to work with, governance capacity needs to be rebuilt from the bottom up, by strengthening civil society and rebuilding social capital (Harvey 1997:6). The assumption here is that if civil society is capable of meeting community needs, it can effectively replace state structures. Yet, civil society, by its very definition, is a non-state actor.

Does return facilitate the emergence of a new civil society that can positively influence state development? Guatemala and Peru are good examples of returns that supported the growth of new ideas about civic participation and responsibility. In Guatemala, returnees no longer saw themselves as being repressed or outcast, but came to see themselves as both 'developers' and 'modernizers' who were active participants in a new society (Stepputat 1999:226).

This mindset positively contributes to community development initiatives aimed at strengthening civil society, which can have a stabilizing effect on the state. In Peru, returnee communities with no previous experience of local administration demanded to manage their own civil registers, elect their own judges, to be able to carry out military service within their own communities, and have greater influence over the local government budgetary process (Whaites and Westwood 1996:28).

While there is evidence that return in Peru and Guatemala facilitated greater state presence, which in turn prompted organizations of civil society to emerge in order to facilitate dialogue with the state, in other post-conflict societies this process may not occur for some time. The state's presence in local communities may be delayed by a number of factors, such as the continuation of hostilities between groups competing for power or a lack of resources to expand state presence. Secondly, the social fabric may be so constrained by ethnic tensions, trauma in dealing with past atrocities and a general mistrust of authority that citizens are unable or unwilling to collectively pursue a relationship with the state.

International support for civil society

One of the primary ways UN missions and international organizations have sought to assist the reconstruction of state-citizen relations in the post-conflict period has been to promote the growth of civil society through the creation of indigenous NGOs. The UNHCR has been actively involved in this process, equipping new NGOs around the world to implement Quick Impact Projects (QIPs) in returnee communities. Though international NGOs and UN agencies are good at creating such organizations, experience has shown that they have been unable to ensure their sustainability.

In post-conflict situations, many local NGOs emerge out of opportunity rather than local initiative. UN agencies and international organizations have an interest in finding or creating partners who can effectively assist in aid delivery and the implementation of programs. Smillie has pointed out that in Bosnia, local NGOs have been formed by international NGOs wanting to leave something behind, or by national staff who wanted to strike out on their own (1996:iii). Few have developed out of community spirit and questions of financial accountability or sustainability have been absent (Smillie 1996:iv).

One reason for the absence of grassroots activities in Bosnia is that the concept of civil society is essentially foreign. Organizations supporting civil society initiatives in Bosnia faced the difficulty of explaining their mission and objectives to an audience unfamiliar with their language and purpose. For example, government officials in Bosnia admit that as recently as 1993 or 1994, they had no idea what an NGO was, or what the establishment of a non-profit sector might mean (Smillie 1996:4). In such circumstances, educating communities and governments about the value and nature of civic participation becomes a development goal secondary to immediate relief provision.

The phenomenon of creating local NGOs without ensuring their accountability and sustainability is not unique to Bosnia, but can be seen all over Central America, Cambodia and Afghanistan. In Central America, UNHCR promoted community participation and an increased role for NGOs. However, the initiative to foster such organizations was not accompanied by training or institution building (Stein 1997:171). The growth of local NGOs with a focus on human rights monitoring is one of the most tangible legacies of the UN operation in Cambodia. However, these organizations are primarily based in Phnom Penh, flailing due to lack of financial support, and do not have a conducive relationship with the government (Geiger 1994).

During the 1992 repatriation in Afghanistan the UNHCR also encouraged the formation of a large number of Afghan NGOs, yet most have not moved beyond being merely UN subcontractors with minimal, if any, links to community based structures (Marsden 1999:67). These same organizations are now closing down as the transitional authority, UN agencies and international organizations poach their staff in order to pursue their own pre-determined objectives (HPCR 2002:2).

The failure of international organizations and UN bodies to appropriately build local NGOs can be explained by several factors. First, the motive for creating such organizations is misplaced. Local NGOs subcontracting with larger partners face enormous pressure to implement projects beyond their capacity to sustain them. Rather than see local organizations as merely subcontractors of international organizations, the international community might want to consider how to develop civil society for the beneficial social and political roles it will play in stabilizing a country (Smillie 2001:182).

Second, the UN is not adequately resourced to provide unending financial support for all of its intended activities (Marsden 1999:67). Third, the continuum of relief-development planning still lacks institutional cooperation among UN agencies. In Central America, while the UNHCR created local NGOs to assist the distribution of

relief, building local capacities for development and strengthening the institutional base of community participation was seen as the role of UNDP (Stein 1997:171).

What we have seen from the past in Guatemala, Bosnia, Cambodia and are now seeing in Afghanistan is that setting up new state structures often takes much longer than the initial post-repatriation and reintegration phases. In the initial post-conflict period, it is impossible for refugees to return to a ready-made situation in which the state can absorb them to full capacity in a way that fully respects their human as well as economic development needs. The United Nations cannot completely fill this gap, but can serve an essential advisory role in setting up state structure and planning for national development. NGOs and multilateral agencies should work together with emerging state structures in order to compliment development goals.

Repatriation planning can have a positive effect on absorption capacity if it takes local realities into consideration and implements targeted interventions aimed at assisting returnee settlements and villages. Poor planning for rural areas and the absence of targeted interventions to combat urban bias can lead to increasing vulnerability of returnee communities and have a destabilizing effect on the long-term development of state infrastructure.

The creation of local NGOs is not akin to building a strong, effective civil society capable of engaging with the state. In order for the growth of civil society to be sustainable, it must be community driven and supported, less focused on service delivery and subcontracts with international agencies, and capable of creating its own structure and form.

The case of Afghanistan

Thus far, this work has sought to understand some of the dynamics of the relationship between refugee return and state reconstruction. Particular attention has been paid to lessons learned in managing return and reconstruction in Cambodia, Guatemala, Bosnia, and Kosovo. At times, supporting evidence from Afghanistan has been particularly relevant.

Afghanistan will be the primary focus of the remainder of this piece. It is a particularly challenging and relevant case study. The following three areas will be explored: the history of the Afghan state and the refugee crisis; how return is currently being managed; and the future of state governance.

Overview

Twenty percent of Afghanistan's population is displaced, with nearly one million internally displaced and three million refugees remaining in neighboring Pakistan and Iran (UNHCR 2002, Helton 2002:78). More than 1.3 million refugees have made their way back to Afghanistan since January of this year, surpassing UNHCR's original goal of seeing 1.2 million repatriate before the end of 2002 (USAID citing UNHCR 2002). Since the Bonn peace agreement was signed in December 2001, an

Interim Authority (AIA) has taken up the task of administering the country in the immediate post-crisis period. In June, a loya jirga was selected by special committee to form the Afghanistan Transitional Authority (ATA), which will reconstruct the state over the next two years and plan for elections sometime in 2004. The Bonn agreement stipulates that a representative from refugee communities in Iran and Pakistan must be part of the new administration.

While the Afghan state has a recognized boundary defining its territory, it lacks a population that feels it belongs to the state and appropriate institutions of government. Goodson describes Afghanistan as a historically weak state that has failed due to prolonged conflict and war (2001:183). The legacy of early statehood in Afghanistan produced ethnic tensions that led to the demise of centralized authority as various ethnic groups vied for power. Increased Soviet presence in the 1930s led to the development of a constitutional monarchy under Zahir Shah. The Soviet invasion of 1979 led to social dislocation and the disintegration of political structures on a large scale (Maley 1992:7). The US and other foreign powers channeled military support for resistance groups through Pakistan, enabling freedom fighters known as the mujahideen to war with the Soviets.

In 1988, the UN negotiated the Geneva Agreements, preparing for the complete withdrawal of Soviet troops and installing an interim government in Kabul. In 1992, the mujahideen took over the interim government, which fell apart due to infighting among political parties and the exclusion of certain ethnic groups from power. The mujahideen set up a ruling council, but rivalries among them resulted in civil war. It was at this time that structures of authority in Afghanistan broke into tiny, fragmented pieces and the regionalization of power based on ethnic and tribal ties was consolidated (Rubin 1989:166).

In 1996, the Taliban, a group of well-armed former university students who organized in refugee camps in Pakistan, took over Kabul to form an Islamic government. When Al Qaeda terrorists attacked the US on September 11, the Afghan state changed forever. The Taliban's tolerance of Osama Bin Laden and Al Qaeda's presence within its territory led the United States to drive the Taliban from power. In spite of post-Taliban fervor within the country, the fragmentation and regionalization of power remains a challenge to the construction of a centralized state.

The Afghan refugee crisis

The refugee crisis in Afghanistan began with Soviet invasion. By the end of 1980, nearly two million refugees fled to Pakistan and Iran (UNHCR 1997:4). This number increased as fighting between the mujahideen and Soviet backed government intensified, swelling to nearly six million once the Geneva agreement was signed in 1988 (UNHCR 1997:5). Three million of those returned between 1992 and 1994, with repatriation slowing down significantly as the Taliban took control of the country.

With a US attack on Afghanistan imminent in the aftermath of September 11th, Afghans began to move toward the border of Pakistan. Between October and January

2002, 200,000 additional Afghanis made their way to Pakistan as a result of the US bombing campaign and an additional 1.2 million were internally displaced (Helton 2002:74). After the Bonn agreement was signed in December, donors met to draft an Immediate and Transitional Assistance Programme for the Afghan People (ITAP). The ITAP reports an estimated five million Afghans remain uprooted from their homes (2002:42).

Managing refugee return

From 1989 until 1994, returns took place in the context of civil war. Only mujahideen with regional authority could guarantee the security of returnees. Protection was a factor of one's association with a commander or mujahideen group, with whom citizens developed a reciprocal relationship where protection was exchanged for taxes and conscription (RPG 1992:29).

While the Geneva agreement set up Guest Peace House centers to facilitate registry with the state before returnees were disseminated to their local villages, no intermediary structures existed between the state and citizens at the national level to assist with reintegration (Maley 1992:13). The absence of government institutions to facilitate return is not surprising given the lack of peace and security. One way the current ATA hopes to reform the repatriation management is by placing offices of the new Ministry of Repatriation in countries of asylum (ITAP 2002:23). This signifies the new government's proactive stance on encouraging repatriation.

While the ATA and UNHCR seek to improve ways of managing current repatriation exercises, a few trends from post-Soviet repatriations continue today. First, 1992 repatriations indicated a growing trend toward secondary migration and urbanization. Many of those who had been in urban refugee camps in Pakistan and Iran had no desire to return to the agricultural sector (Marsden 1999:63).

Nongovernmental organizations today recognize an increased presence of young men in Kabul who are looking for employment in the absence of opportunity in the villages (BAAG 2002). A UNHCR survey indicates that 52% of returnees plan to settle in Kabul (USAID citing UNHCR: 2002). This means that within the past five months, more than 500,000 returnees have come to Kabul alone, an area where 50% of the housing infrastructure has been destroyed (Helton 2002:74). Increased population pressure on the capital has contributed to inflation, homelessness and crime (BAAG 2002).

A second trend is the tendency of UN agencies and international organizations to partner with local agencies for project implementation and service delivery. NGOs created by the UNHCR in the 1992 repatriations are now working with a myriad of other agencies or becoming obsolete due to large numbers of their staff taking higher paid employment with international organizations (HPCR 2002:1). This stark reality challenges all international organizations currently working in Afghanistan to see if they are really building capacity through local partnerships with a view on long-term sustainability or whether they are looking for service providers who can meet their immediate short-term objectives.

A new dynamic in managing refugee return is international pressure from countries of asylum. Eagerness on the part of countries of asylum to facilitate the return of refugees to their country of origin in the post-conflict period may further challenge state control. Even though the UNHCR has urged Western resettlement states not to hasten the return of Afghans seeking asylum on their territory, Australia has gone ahead and made its own arrangement with the International Organization for Migration (IOM) and the AIA to facilitate the return of Afghans who have sought refuge there (USAID citing UNHCR: 2002, IOM 2002). Although the security situation in Afghanistan remains precarious, the speed and volume of returns is challenging government authorities and international agencies alike, the assumption remains the same: when the UN comes into a country to facilitate state reconstruction, return is justified.

The role of UNHCR

According to UNHCR, the most important precondition for return is the absence of persecution in the country of origin. As long as conditions have fundamentally changed in the country of origin, the UNHCR feels that repatriation is a viable durable solution. Former High Commissioner Ogata named the 1990s the decade of repatriation. It is no coincidence that the push for repatriation as a durable solution coincides with a shift from peace building to state reconstruction.

As this piece has continuously pointed out, the return of refugees is an integral aspect of state reconstruction and can provide the state with internal legitimacy, human resources and international recognition. UNHCR is a product of the state system, relying on the interests of individual country donors to carry out its mandate in conjunction with state cooperation. It is in the UNHCR's interest to maximize the potential benefits of return on state reconstruction and minimize its harmful tendencies.

The problem with promoting repatriation is that return has now become an end in itself. Repatriation is being conducted apart from considerations as to whether it is in the best interest of refugee communities and if emerging states and/or international donors are capable of providing enough support for the returnee population to be absorbed. This is exemplified by UNHCR's recent statement that its initiatives in Afghanistan should 'allow for the eventual early phase out of humanitarian programmes' (ITAP 2002:45).

Early phase out in order to reach the end of the year 1.2 million repatriation quota could render returnee projects incomplete, increase vulnerability among returnees who may be internally displaced or undergoing secondary migration, and jeopardize opportunities for the millions of Afghan refugees remaining in exile to find an alternative durable solution.

The cessation of refugee status for those who refuse to return is also a viable concern, as Cambodians who failed to repatriate after 1992 were no longer protected by the UNHCR. In fact, cessation of refugee status is becoming a *sine qua non* of UNHCR's

post-repatriation policies. High Commissioner Lubber's announcement on the day of East Timor's independence that the 50,000 refugees remaining in Indonesia will loose their refugee status on December 31st seriously blurs the line between voluntary and forced repatriation (UNHCR News 2002). This announcement should be of concern to anyone with an interest in the future of Afghans remaining in exile at the end of the year.

The future of state governance in Afghanistan

Without September 11th, the intervention of the international community and the defeat of the Taliban, the Afghanistan state would not be under reconstruction. Refugees would not be repatriating by the thousands every day. Due to the harboring of terrorists on Afghan territory, the world now has a concerted interest in seeing the development of a strong Afghan state capable of policing its regions, controlling its factions, and providing for the needs of its people.

The question remains: Will Afghanistan be able to construct a viable state? Will the majority of its people in exile return? The first and most pressing challenge is the ability of the state to provide a secure environment for its people. Whether national security is possible depends on the generosity and commitment of the international community. Security also largely depends on the ATA's ability to either incorporate warlords or bring them under the control of national authorities.   The second challenge is what kind of state structure will be legitimate in the eyes of its people. This largely depends on what form of government the society is willing to adhere to after a long period of state absence.

Internal security and international affairs

On December 20, 2001 the Security Council sanctioned the creation of the International Security Assistance Force (ISAF), which was to maintain a secure environment in Kabul for the initial six months of the AIA's rule. The ISAF is not under UN command, but works closely with the UN under Turkish leadership. On May 23, the Security Council expanded the ISAF's presence six months beyond its initial term.

In between December and May, numerous voices within the international community have called for the expansion of the security force to all the major regions in Afghanistan. Leaders of nonprofit organizations within Afghanistan have also called for the expansion of international security forces outside Kabul (HPCR 2002). However, the United States has insisted that no international forces be placed outside the capital, as its military operations within the country are ongoing (EurasiaNet 2002). The United States continues to search for Taliban and Al Qaeda members in the Southwestern and Central-Eastern regions of the state.   In the meantime, the United States military is also training Afghanistan's first national army, whose time of deployment has yet to be specified (USAID 2002:3).

The United States military campaign and subsequent hold on the expansion of security forces throughout the country has wide sweeping implications for repatriation exercises. First, it may inhibit some refugees from returning to Afghanistan. Recent interviews among Afghan refugee communities in Iran indicate that security is their number one concern (HPCR 2002:5).

Second, it may decrease the legitimacy of the transitional government. Remaining refugees in Iran have also stated that the main responsibility of the interim administration is to maintain the same level of security throughout the country (HPCR 2002:5).

Third, the presence of security forces in Kabul may act as a pull factor for secondary migration to the city. Fourth, the absence of national security forces in the regions may encourage people to continue to bear arms in order to protect themselves (HPCR 2002:4). While the United States may be justified in keeping security forces out of certain areas of the country, the UN and upcoming Transitional Authority will have to find creative measures to address these concerns in the absence of national security infrastructure.

Community leaders within Afghanistan have a more pragmatic view of how internal security will be achieved. Local NGO leaders at a recent forum in Peshawar claimed that it is unrealistic to assume that the resources of the national government will be able to provide security by deploying personnel to all parts of the country (HPCR 2002:4). They insist that reinvigorating community governance and policing initiatives by shuras are of central importance. In the absence of the state, collective security efforts will provide communities with some level of protection. However, it is understandable that those refugees remaining in Pakistan and Iran whose former community structures have been so displaced by war would not want to put their trust in collective security measures as the basis for their return.

State structure and community governance

Aside from providing security, the biggest challenge for authorities in charge of reconstruction is determining state structure. Different kinds of authority remain spread out among national, regional and local foci. Shahrani highlights that the 'well-worn formula' of getting the right mix of ethnolinguistic and sectarian representation for a broad-based transitional central government in Afghanistan has been tried time and time again, but ultimately failed (1998:237). He advocates writing a constitution that would lend national support to community self-rule.

Goodman challenges Shahrani's assumption that reconstruction is possible without central control, stating that local communities cannot work toward a viable national economy or foreign relations (2001:172-3). The question remains, is some form of congruent centralization and decentralization possible? Maley insists that it is possible to locate the main coercive powers of the state exclusively in the hands of central authorities, through the control of armed forces, but at the same time to distribute important responsibilities to levels of government which are closer to ordinary citizens (2002:7). It remains to be seen.

There are some indications that international attention given to the reconstruction of the Afghan state is fostering more local interest in ensuring that traditionally strong elements of societal organization, like shuras, be part of reconstructing government institutions. For instance, refugee community leaders in Iran have stated that any new legal framework in Afghanistan could be based on the shuras and that local shuras could also ensure that people are following new national laws (HPCR 2002:2,6).

The question of state structure remained unanswered by the Interim Authority and was a subject of intense debate at the June loya jirga. The effect of repatriation management on state reconstruction was seen most clearly as delegates debated methods of representation for a national legislature. Due to the large influx of returnees into the area, Kabul's population has been significantly inflated, leading some delegates to believe that the number of government representatives should be selected according to the population of a province rather than divided equally among each province (Neuffer 2002).

As demographics change within a country over time, deciding between regional or numerically based seats in government is an issue for all representative states. However, states facing large-scale returns in conjunction with reconstruction face a particular challenge in this regard, as population statistics are likely to be false or inflated at best until the secondary migration of returnees has come to a halt and people have settled in secure areas.

Conclusion

Helton points out that the UN does not have a comprehensive agenda for state building (2001:292). Lessons learned from state building initiatives in Cambodia, Bosnia, Kosovo, Guatemala, and Afghanistan question whether a comprehensive framework for transplanting modern nation-states in post-conflict scenarios would work, given that each territory comprises a unique political history and social makeup. Rather than being defined by the international community, transitional states should be given the opportunity to redefine themselves within their given context. Though the international community can effectively support the reconstruction of states in the post-conflict period, the ultimate process of state regeneration is a long-term process that rests with the state and its people.

The return of refugees is an integral aspect of state reconstruction that provides substantial benefits and poses significant challenges to the state. Returnees lend a measure of internal legitimacy to the state, giving it international recognition and furnishing it with additional human resources for development. The manner in which emerging states respond to returnee needs in the post-conflict period serves as an indicator as to whether the state can meet its immediate development goals. Repatriation can be planned and managed in such a way that return contributes to strengthening national infrastructure, reconciliation efforts between opposing ethnic groups, and the renewal of conducive civil-state relations. When large-scale returns are unmanageable or poorly planned, internal displacement and urban bias pose significant challenges to emerging state infrastructure.

The restoration of the state-citizen relationship in the post-conflict period demands both a functional state and active civil society, both of which take years to develop and may be absent in certain contexts. Like states, civil society cannot 'just be built'.[1] Attempts of the international community to strengthen civil society through the creating of local NGOs have had both promising and offsetting effects. While local organizations have implemented humanitarian service delivery programs in the short-term, their long-term sustainability has been virtually ignored. The legacy of promoting civil society must be followed up with concrete measures to ensure that local organizations have the capacity to be self-governing and duly financed.

These lessons have significant importance for Afghanistan today. With a history of a weak state and strong society, Afghanistan faces many challenges in reconstructing a state that will be legitimate in both the eyes of its people and the international community (Maley 1997:181). As the UNHCR facilitates the repatriation of more than a million Afghanis, the UN can implement measures that will help return have a stabilizing effect on the state. The UN should also be aware of the destabilizing pitfalls of poor local planning and not be concerned with getting out too quickly.

The future of the Afghan state is uncertain, but one thing is for sure. In the short-term, neither state reconstruction nor repatriation will be as comprehensive as the international community would like it to be. The state will continue to be restricted by the parameters set by the United States, whose security conditions have the strong possibility of restraining the full repatriation of Afghans in exile and encouraging further population flux through secondary migration and urban bias. Goodson describes a historical trend for Afghanistan's state structures to persist because of other countries' geopolitical maneuvering (2001:8). This is the ironic twist of Afghan's current state reconstruction process: it was ignited by the same powers that will continue to limit it for the foreseeable future.

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[1] Helton points out that states cannot 'just be built' (2001:301).

REFERENCES

Agence France-Presse. (2002) 'Australia and Afghanistan agree on return of refugees', 17 May.

British Agencies Afghanistan Group (BAAG). (2002) Afghanistan Monthly Review, March, April and June.

Cuny, Frederick C., Stein, Barry N., Reed, Pat. (1992) *Repatriation During Conflict in Africa and Asia*, Texas: Center for the Study of Societies in Crisis.

Donnelly, John. (2002) 'Afghanistan: a liberated nation seeks elusive unity', *The Boston Globe*, May 12.

Eastmond, Marita and Ojendal, Joakim. (1999) 'Revisiting a 'Repatriation Success': The Case of Cambodia', Black, Richard and Koser, Khalid, eds. *The End of the Refugee Cycle*. Oxford: Berghahn Books.

Geiger, Vance. (1994) 'The Return of the Border Khmer: Repatriation and Reintegration of Refugees from the Thai-Cambodian Border', Utting, Peter ed. *Between Hope and Insecurity: The Social Consequences of the Cambodian Peace Process*. UNRISD, Geneva.

Goodson, Larry P. (2001) *Afghanistan's Endless War: State Failure, Regional Politics and the Rise of the Taliban*. London: University of Washington Press.

Helton, Arthur C. (2002) *The Price of Indifference: Refugees and Humanitarian Action in the New Century*. Oxford: Oxford University Press.

— (2002) 'Rescuing the Refugees' *Foreign Affairs*, Vol. 81 No.2, March-April 2002, p. 71-82.

Harvey, Paul. (1997) 'Rehabilitation in Complex Emergencies: Is Rebuilding Civil Society the Answer?', Institute for Development Studies (IDS) Working Paper 60.

HPCR. (2002) 'Securing Communities for Reconstruction in Afghanistan: A Summary of Interviews and Discussions with Community and NGO Leaders', *HPCR Central Asia*, Issue 5, Vol. 1, April 16.

— (2002) 'Securing Communities for Reconstruction: Views from Afghan community leaders in refugee camps in Iran', *HPCR Central Asia*, Issue 6, Vol. 1, May 23.

International Organization for Migration (IOM). (2002) IOM Press Briefing Notes 24 May: Australia/Afghanistan.

IRIN. (2002) 'Afghanistan: Mixed reaction to Karzai's speech', June 18.

Juergensen, Olaf Tataryn. (2000) 'Repatriation as peacebuilding and reconstruction: the case of Northern Mozambique, 1992-1995' UNHCR New Issues in Refugee Research, October.

Kumar, Radha. (2001) 'A Roadmap for Afghanistan', Paper for the Council on Foreign Relations Ad Hoc Round Table on Afghanistan, December 13.

Lowenstein, Chris. (2002) 'Registration at the Maslakh camp for the internally displaced', *IOM News*, March.

Maley, William. (1997) 'The dynamics of regime transition in Afghanistan', *Central Asia Survey* 16 (2).

— (1992) 'The Political Reintegration of Refugee Communities: the case of Afghanistan', University of New South Wales, January.

— (2002) 'Reconstituting State Power in Afghanistan', *Afghanistan Info* no 50, March.

Marsden, Peter. (1999) 'Repatriation and Reconstruction: The Case of Afghanistan', Black, Richard and Koser, Khalid, eds. *The End of the Refugee Cycle*. Oxford: Berghahn Books.

Matheson, Michael J. (2001) 'United Nations Governance of Post-Conflict Societies', *American Journal of International Law*, v.95, January.

Moore, David. (2000) 'Humanitarian Agendas, state reconstruction and democratisation processes in war-torn societies', UNHCR New Issues in Refugee Research, July.

Neuffer, Elizabeth. (2002). 'Afghan Politics in Fits and Starts', *The Boston Globe*, June 18.

Ottaway, Marina and Lieven, Anatol. (2002) 'Rebuilding Afghanistan: Fantasy versus Reality' Carnegie Endowment Policy Brief, January.

Refugee Policy Group. (1992) 'Afghanistan: Trends and Prospects for Repatriation', April.

Rubin, Barnett R. (2001) 'Afghanistan and Threats to Human Security', Speech delivered at the International Symposium on Human Security in Tokyo, December 15.

— (1992) *The Fragmentation of Afghanistan: State Formation and Collapse in the International System*. London: Yale University Press.

⸻ (1995) *The Search for Peace in Afghanistan: from Buffer State to Failed State.*
London: Yale University Press.

Shahrani, Nazif M. (1998) 'The future of the state and community governance in
Afghanistan', Maley, William, ed. *Fundamentalism Reborn? Afghanistan and
the Taliban.* London: Hurst & Co.
Smillie, Ian. (ed) (2001) *Patronage or Partnership: local capacity building in
humanitarian crises*. Connecticut: Kumarian Press.

⸻ (1996) 'Service Delivery or Civil Society? Non-governmental organizations in
Bosnia and Hercegovina', CARE Canada.

Stepputat, Finn. (1999) 'Repatriation and Everyday Forms of State Formation in
Guatemala', Black, Richard and Koser, Khalid, eds. *The End of the Refugee
Cycle*. Oxford: Berghahn Books.

Stiefel, Matthias. (1998) 'Rebuilding after war: a summary report of the war-torn
societies project', UNRISD.

UN. (2001) Agreement on Provisional Arrangements in Afghanistan Pending the Re-
establishment of Permanent Government Institutions (Bonn Agreement),
December.

⸻ (1988) Geneva Agreements: background and commitments. Alberuni Publishing
House.

⸻ (2002) Immediate Transitional Assistance Programme for the Afghan People 2002
(ITAP), January.

UNHCR. (2002) 'East Timorese to lose refugee status by year's end, says UNHCR',
UNHCR News Stories, 27 May.

⸻ (1997) 'Focus: Afghanistan Refugees, the unending crisis', n° 108.

⸻ (2002) 'Half million Afghan returnees face urgent needs at home', UNHCR News
Stories, 8 May.

⸻ (1996) Handbook on Voluntary Repatriation, UNHCR Division of International
Protection.

USAID. (2002) 'Central Asia Region – Complex Emergency Situation Report #33,
(FY 2002)', May 17.

⸻ (2002) 'Central Asia Region – Complex Emergency Situation Report #34, (FY
2002)', May 24.

Wedgwood, Ruth and Jacobson, Harold K. (2001) 'Symposium: State Reconstruction

After Civil Conflict' Forward in *American Journal of International Law*, v.95, January.

Whaites, Alan and Westwood, David. (1996) 'Displacement and civil society in Peru', World Vision, Towards peace and justice: Discussion papers, No. 2.