

THE INTERNATIONAL COUNCIL ON HUMAN RIGHTS POLICY

Review Meeting

Peace Agreements: The Role of Human Rights in Negotiations

Belfast, 7-8 March 2005

FORCIBLE DISPLACEMENT IN PEACE AGREEMENTS

Catherine Phuong

© 2005, International Council on Human Rights Policy
ICHRP commissioned this document as a Working Paper.
ICHRP has not edited it and is not responsible for its accuracy or for the views and opinions expressed.
ICHRP welcomes the re-use, re-publication and re-distribution of this paper, appropriately cited.

1. Forcible displacement is a consequence, and sometimes even an intended outcome, of most armed conflicts. In many peace processes, the return of refugees and other persons displaced by the conflict is considered to be key to a lasting peace. Linkages are increasingly being made between refugee repatriation and broader peace-building processes. While much has been said about the role of UNHCR in repatriation operations, there is little academic literature analysing the impact of provisions on forcible displacement in peace agreements.
2. Until relatively recently, the emphasis was on providing assistance to returning refugees. There has now been a growing awareness of the rights of such refugees, and this has been reflected in more peace agreements which often contain explicit references to the refugee's rights. Since the late 1980s, most major peace agreements have included such references and more recent agreements contain increasingly detailed provisions on forcible displacement. The need for these provisions has been recognised by several UN bodies. The then Sub-Commission on the Prevention of Discrimination and Protection of Minorities has reaffirmed the rights of refugees and internally displaced persons to return to their homes in safety and security and recommended that "the recognition of such rights should be included within peace agreements ending armed conflicts".¹ The Executive Committee of UNHCR has also recently noted "the desirability of incorporating appropriate legal protections for returning refugees in peace agreements, whenever possible, as a measure to build confidence and in support of their promotion in practice."²
3. The purpose of these provisions in peace agreements is two-fold: it is to address past injustices and prevent future violations of refugees' rights. Some provisions therefore deal with the restitution of property and land of which refugees may have been deprived during the armed conflict, while others attempt to address potential problems which refugees may face upon return.

¹ See preamble to Sub-Commission Res.1998/26, 26 August 1998.

² See EXCOM Conclusion No. 101 (LV) on legal safety issues in the context of voluntary repatriation of refugees, 8 October 2004.

4. After discussing the existence of a right to return in international law, this paper will review references to such a right in recent peace agreements. The relationship between temporary protection and the right to return will also be explored. The paper will then examine other refugee-related provisions, and in particular provisions related to property restitution. It will assess the impact of such provisions on refugee repatriation and peace processes. Finally, some suggestions will be made as to what types of provisions can usefully be included in future peace agreements.

THE RIGHT TO RETURN IN INTERNATIONAL LAW

5. The right to return is not explicitly mentioned in any international treaty. The 1951 Refugee Convention does not address the issue of return.³ Nevertheless, the right to return to one's country can be inferred from a number of provisions contained in international human rights instruments. In particular, the International Covenant on Civil and Political Rights guarantees that "no one shall be arbitrarily deprived of the right to enter his own country."⁴ Several regional human rights treaties contain similar provisions.⁵ The International Convention on the Elimination of Racial Discrimination forbids State parties to deny entry to a national on racial or ethnic grounds and thus implies the existence of a right to return.⁶ The right to return has not been expressly articulated in international humanitarian law, but many of its provisions are premised on the fact that persons who have been displaced by armed conflict have a right to return home.⁷
6. Although the 1951 Refugee Convention makes no reference to return, the 1969 OAU Convention mentions the principle of voluntary repatriation: article 5(1) of that Convention emphasises "the essentially voluntary character of repatriation [...] in all cases."⁸ Although the existence of a voluntariness requirement has been described by some as 'wishful legal thinking',⁹ this principle has also been confirmed in several non-legally binding instruments.¹⁰ Even if one argues that the right to return voluntarily has no legal basis in international law and that the refugee only has the right to return "in safety", who decides whether it safe to return? It may be that the refugee himself is the best placed to make this decision, in which the right to return in safety amounts to a right to return voluntarily.
7. The right to return has been reaffirmed on many occasions by both the General Assembly and the Security Council. The right to return, and indeed the right to return to one's home, was for instance mentioned in SC resolutions dealing with Abkhazia and the Republic of Georgia, Azerbaijan, Bosnia and Herzegovina, Cambodia, Croatia, Cyprus, Kosovo, Kuwait, Namibia, Tajikistan.¹¹ UN human rights bodies have also reaffirmed the right of refugees and displaced

³ *Convention Relating to the Status of Refugees* (hereinafter the 1951 Refugee Convention) 189 UNTS 137, amended by the 1967 Protocol Relating to the Status of Refugees, 606 U.N.T.S. 267.

⁴ See art.12(4) of the 1966 *International Covenant on Civil and Political Rights* (hereinafter the ICCPR), GA Res.2200A(XXI). See also art.13(2) of the 1948 *Universal Declaration of Human Rights*, GA Res.217(A).

⁵ See art.3(2) of *Protocol No.4 to the European Convention for the Protection of Human Rights and Fundamental Freedoms* (1963) 46 ETS; art.12(2) of the *African Charter on Human and Peoples' Rights* (1982) 21 ILM 58; and art.22(5) of the *American Convention on Human Rights* (1969) 9 ILM 673.

⁶ See art.5(d)(ii) of the 1965 *International Convention on the Elimination of Racial Discrimination*, 660 UNTS 195.

⁷ See J. Quingley, "Mass displacement and the individual right of return" (1997) 68 *British Yearbook of International Law* 65, at 70-71.

⁸ 1969 OAU *Convention on the Specific Aspects of Refugee Problems in Africa*, 1000 UNTS 46.

⁹ See J.C. Hathaway, "The meaning of repatriation" (1997) 9 *International Journal of Refugee Law* 551.

¹⁰ See B.S. Chimni, "Post-conflict peace-building and the return of refugees: concepts, practices, and institutions", in E. Newman and J. van Selm (eds.), *Refugees and forced displacement: international security, human vulnerability, and the State* (Tokyo: United Nations University Press, 2003), 202.

¹¹ See *The return of refugees' or displaced persons' property*, E/CN.4/Sub.2/2002/17, 12 June 2002, para.24.

persons to return. For instance, the Sub-Commission on the Promotion and Protection of Human Rights has confirmed the right all those displaced to return to their homes of origin voluntarily in safety and dignity.¹²

8. Although a right to return to one's country can be established in international law, there has been doubt as to whether this right goes as far as to allow displaced persons to return to their former homes. It could be argued that such a right could be inferred from the right to liberty of movement,¹³ but it must be noted that it can be subject to certain restrictions.¹⁴ In recent years, increasing attention has been paid to this so-called right to return home. Nevertheless, this 'right' has a relatively weak basis in international law. The drafters of the Guiding Principles on Internal Displacement¹⁵ have even argued that "there is no general rule in present international law that affirms the right of internally displaced persons to return to their original place of residence or to move to another safe place of their choice within their country."¹⁶ It must be noted that, while EXCOM has reaffirmed the right of refugees to return to their own country, it has not recognised their right to return to their homes: it has only stated that "refugees, in exercising their right to return to their own country, should, in principle, have the possibility to return to their place of origin."¹⁷
9. On the other hand, there is no doubt that the right to return has increasingly been seen as encompassing not merely the right to return to one's country, but also the right to return to one's home. As mentioned above, the General Assembly, the Security Council and human rights bodies have recognised the right of displaced persons to return to their former homes. This right was also explicitly mentioned in several peace agreements which will be analysed in more detail below.
10. Whereas one can articulate a right to return in international law, it can be argued that the right not to return has a stronger legal basis. The 1951 Refugee Convention explicitly states that no refugee should be returned to a state where he would be at risk of persecution (prohibition of *refoulement*).¹⁸ This guarantee does not apply to refugees who have committed some serious crime.¹⁹ The scope of the prohibition of *refoulement* has been extended under several international human rights instruments. Article 7 of the ICCPR has been interpreted by the Human Rights Committee as including a prohibition to return a person to a territory where he would face torture or inhuman and degrading treatment.²⁰ Article 3 of the Convention against Torture contains an explicit provision prohibiting return to torture.²¹ These provisions have been supplemented by regional instruments containing similar provisions.²² In contrast to the 1951 Refugee Convention, the guarantees contained in international human rights instruments apply to all individuals, regardless of whether they have committed a serious crime.²³ Whereas refugees have a right not to return their country of origin under certain circumstances, it is not entirely

¹² See Sub-Commission Res. 2002/30, 15 August 2002, paras.1-2.

¹³ See art.12(1) of the ICCPR.

¹⁴ See art.12(3) of the ICCPR.

¹⁵ E/CN.4/1998/53/Add.2, 11 February 1998.

¹⁶ See W. Kälin, *Guiding Principles on Internal Displacement – annotations* (Washington DC: ASIL and Brookings Institution, 2000), 69.

¹⁷ See EXCOM Conclusion No. 101, para.(c).

¹⁸ See art.33(1) of the 1951 Refugee Convention.

¹⁹ See art.33(2) of the 1951 Refugee Convention.

²⁰ See *Ng v Canada*, CCPR/C/49/D/469/1991, 7 January 1994.

²¹ See the 1984 *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 23 ILM. 1027 and 24 ILM. 535.

²² See for instance art.3 of the 1950 *European Convention for the Protection of Human Rights and Fundamental Freedoms* (hereinafter *the European Convention on Human Rights*), 213 UNTS 221. See also *Soering v. United Kingdom et al.* (1989) 11 EHRR 439.

²³ See *Chahal v. United Kingdom* (1996) 23 EHRR 413.

clear that internally displaced persons have a similar right. The Guiding Principles on Internal Displacement provide that internally displaced persons have the “right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk” (principle 15). Nevertheless, the drafters of the Guiding Principles acknowledge that “this is a novel principle with no direct antecedent in existing instruments.”²⁴

11. The only international legal provision which identifies states’ duties to ensure that displaced persons return safely is article 5 of the 1969 OAU Convention mentioned above. The country of asylum must “make adequate arrangements for the safe return of refugees who request repatriation”, while the country of origin must “facilitate their resettlement and grant them the full rights and privileges of nationals of the country”. Furthermore, refugees should not be penalised for having left and shall receive assistance to facilitate their return. No such specific duties are imposed upon states under general international law. At a minimum, it can be argued that states have an overall duty to ensure respect for human rights under the various legal instruments to which they have become parties and that such duties are also owed to returning refugees.
12. In summary, there is no doubt that all refugees have a right to return to their country of origin. However, a so-called ‘right to return to one’s former home’ or to resettle in another part of the country has not yet been clearly established under present international law, although it has been affirmed on many occasions by the General Assembly and the Security Council when examining specific situations. The Sub-Commission on the Promotion and Protection of Human Rights has affirmed the general existence of such a right. Considering the uncertain status of this right under international law, it would be useful to restate it in peace agreements. Refugees also have a right not to be returned to countries where they face persecution, torture or any inhuman or degrading treatment. Again, since no similar right has been established under international law with regard to internally displaced persons, it would be useful to formulate such a guarantee in peace agreements. Since general international law does not impose specific duties upon states to ensure the safe return of refugees, such duties should be identified more clearly in peace agreements.

THE RIGHT TO RETURN IN PEACE AGREEMENTS

13. Most armed conflicts produce forcible displacement, so it comes as no surprise that most peace agreements contain some provisions dealing with refugee return. Nevertheless, it must be noted that, in some rare cases such as Northern Ireland, “neither refugee nor land rights issues have [...] been at the forefront of the peace process.”²⁵ Recent peace agreements often reaffirm the right of persons displaced by the conflict to return to their homes. Failing this, refugee return is almost invariably addressed in a separate agreement. There have been many tripartite agreements between the host country, the country of origin and UNHCR in order to organise refugee repatriation. For instance, an agreement was signed in 1994 between the Abkhaz and Georgian sides, the Russian Federation and UNHCR on the voluntary return of refugees and displaced persons. The following analysis will focus on peace agreements which contain guarantees for the right to return.
14. Earlier peace agreements did not always mention forcible displacement. For instance, the 1992 peace agreement for El Salvador contained no mention of refugee return. This may be explained by the fact that, at the time of the agreement, the government opposed the return of refugees to rebel-held areas and refused to guarantee their security. Instead, the refugee issue was addressed at the regional level under the Central American Conference on Refugees, Returnees and Internally Displaced Persons (also known as the CIREFCA process).

²⁴ See Kälén, *Guiding Principles on Internal Displacement – annotations*, 37-38.

²⁵ See C. Bell, *Peace agreements and human rights* (Oxford: Oxford University Press, 2000), 246.

15. Even where the issue of refugee return was mentioned in the peace agreements, it appears that these agreements reaffirmed the right to return to the country of origin, but not always to one's home. For instance, the 1991 Paris Agreement dealing with the peace process in Cambodia included specific provisions on forced displacement. Article 20 in Part V of the Agreement provided that refugees and displaced persons, located outside Cambodia, had the right to return to their country. The provision thus does not specify that they have the right to return to their former homes. Protocol III to the 1992 peace agreement for Mozambique contained some provisions dealing with refugees. Section III guaranteed the right of all citizens to return to the country and to choose to reside anywhere. Section IV specified that refugees should return preferably to their "original place of residence", but there was no guarantee that they should be able to do so.
16. More recent peace agreements reaffirm the right of refugees and displaced persons to return to their former homes (as opposed to just a right to return to one's country). This trend seems to have started in 1995. In comparison with the previous peace agreements, the provisions dealing with refugee return in the General Framework Agreement for Peace in Bosnia and Herzegovina (hereinafter the Dayton peace agreement) are relatively well-known. Most famously, Article 1 of Annex VII guarantees the right of all refugees and displaced persons "freely to return to their homes of origin". The 1995 Erdut Agreement for Croatia contains a very similar guarantee (article 7).
17. The 1996 agreement on the definitive ceasefire in Guatemala contained no mention of refugee return. However, there was a separate agreement on resettlement of the population groups uprooted by the armed conflict. The agreement talks about return of refugees and displaced persons to "their place of origin or another place of their choice in Guatemalan territory, and their relocation and integration therein".
18. Protocol IV of the 2000 Arusha Peace and Reconciliation Agreement for Burundi deals with reconstruction and development and its first chapter is devoted to the rehabilitation and resettlement of refugees and displaced persons (*sinistrés*). Article 2 appears to operate a bizarre distinction between refugees who "must be able to return to their country" and *sinistrés* who "must be able to return to their homes".
19. The 1999 Interim Agreement for Peace and Self-Government in Kosovo mentions the right of all persons to return to their homes. The 2001 Framework Agreement for Macedonia states that "all parties will work to ensure the return of refugees [...] and displaced persons to their homes" (section 3 of Annex C). Similarly, the 2003 Peace Agreement for Liberia guarantees that refugees and internally displaced persons wishing to return to "their original Counties or permanent residences" will receive assistance to do so (article XXX).
20. It comes as a surprise that although the 1999 Lomé peace agreement for Sierra Leone guarantees the security of displaced persons and refugees (article XXIII), there is no actual guarantee of the right to return. It may be that such a right was implied in the provision. The agreement creates a National Commission for Resettlement, Rehabilitation and Reconstruction which is to organise the repatriation and reintegration of refugees and internally displaced persons (article XXII). However, there are no other mentions of refugee return, not even in the schedule of implementation of the peace agreement. It can be concluded that with the exception of the 1999 Lomé agreement, virtually all peace agreements which have been concluded since 1995 contain provisions which explicitly refer to return to one's former home, and not just to the country of origin.
21. Most agreements go further than just reaffirming the right to return. Emphasis is also put on the voluntary character of return. This can be seen in the peace agreements for Cambodia,

Guatemala, Sierra Leone, Burundi and Liberia. The peace agreements for Bosnia and Herzegovina and Croatia also refer to the principle of voluntary return by asserting the “right *freely* to return” (emphasis added). The peace agreement for Mozambique does not however make any mention to this principle. More surprisingly, the Interim Agreement for Kosovo does not make any reference to the voluntary character of return either.

22. Beyond the principle of voluntary return, most peace agreement also specify that refugee return should take place under conditions of safety/security. This was the case for the peace agreements for Cambodia, Bosnia and Herzegovina, Croatia, Guatemala, Sierra Leone, Kosovo and Burundi. The latter peace agreement contains a well-worded, short and precise statement of principle: article 2(2)(c) states that "return must be voluntary and must take place in dignity with guaranteed security, and taking into account the particular vulnerabilities of women and children." Most peace agreements often do not contain any further elaboration of what these conditions of safe return should be. The Dayton Peace agreement contains an especially useful definition of safety in the context of refugee return. Indeed, article 1(2) of Annex 7 provides that "refugees and displaced persons are permitted to return in safety, without risk of harassment, intimidation, persecution, or discrimination, particularly on account of their ethnic origin, religious belief, or political opinion."
23. A brief review of recent peace agreements demonstrates that a reaffirmation of the right to return is often accompanied by guarantees that return should take place on a voluntary basis and in safety. Such guarantees should be provided in every peace agreement.²⁶

TEMPORARY PROTECTION REGIMES AND THE RIGHT TO RETURN (AND NOT TO RETURN)

24. The human displacement produced by the wars following the disintegration of the former Yugoslavia constituted the first massive displacement crisis in Europe since the Second World War. As a response to that crisis, several European states established temporary protection schemes. This was suggested by the then High Commissioner for Refugees trying to respond to the reluctance of European states to grant asylum to applicants from the former Yugoslavia. Temporary protection was presented as “a flexible and pragmatic means of affording needed protection to large numbers of people fleeing human rights abuses and armed conflict in their country of origin, who might otherwise have overwhelmed asylum procedures.”²⁷
25. The idea of temporary protection was not a new one, since asylum is, by its nature, temporary. According to article 1(c) of the 1951 Refugee Convention, refugee status can be withdrawn when the grounds for asylum cease to exist. These clauses are rarely applied.²⁸ However, there are still several difficulties with temporary protection. Firstly, it was granted to persons who may have qualified as refugees under the 1951 Convention and thus benefited from the full range of rights guaranteed under the Convention (in particular the prohibition of *refoulement*). Access to asylum procedures was not always guaranteed. As a result, by granting temporary protection to these persons, some states were evading their international obligations under the 1951 Convention. Secondly, there was uncertainty about which rights would be granted to those benefiting from temporary protection schemes, or how it would be terminated. Back in the early 1990s,

²⁶ See UNHCR’s Global Consultations on International Protection, *Voluntary repatriation*, EC/GC/02/5, 25 April 2002.

²⁷ See *Note on International Protection*, A/AC.96/815, 31 August 1993, para.25.

²⁸ See J. Fitzpatrick and R. Bonoan, “Cessation of refugee protection”, in E. Feller, V. Türk and F. Nicholson (eds.), *Refugee protection in international law: UNHCR’s Global Consultations on International Protection* (Cambridge: Cambridge University Press, 2003).

temporary protection schemes varied greatly from one country to another.²⁹ Efforts have now been made to harmonise these schemes at the EU level.³⁰

26. Temporary protection is granted in situations of mass influx and its focus is on return. When the conflicts came to an end, many beneficiaries of the temporary protection schemes were returned to Bosnia and Herzegovina, most notably by Germany and Austria. It was often argued that such returns were premature.³¹ Similarly, those who were granted temporary protection by the states participating in the Humanitarian Evacuation Programme in 1999, were promptly returned to Kosovo at the end of the NATO operation. Some of these people did not actually manage to return to their homes and became internally displaced. Where temporary protection schemes have been established as a response to the conflict, peace agreements should address the conditions of return.

OTHER REFUGEE-RELATED PROVISIONS IN PEACE AGREEMENTS

27. To guarantee that all refugees and displaced persons have the right to return to their former homes in safety is far from sufficient. Additional provisions dealing with the safety and the sustainability of refugee repatriation have been included in many peace agreements. Once again, peace agreements which were negotiated in the early 1990s do not contain very extensive provisions. For instance, Annex 4 to the Paris Agreement for Cambodia deals specifically with refugee repatriation. Section 4 of this Annex recalls that “there must be full respect for the human rights and fundamental freedoms of all Cambodians, including those of the repatriated refugees and displaced persons.” It briefly identifies these rights as including freedom of movement, the choice of domicile and employment, and the right to property. However, no mechanisms were put in place to ensure the actual respect of these rights.
28. In contrast, a more recent agreement, such as the 1996 Agreement on resettlement of the population groups uprooted by the armed conflict in Guatemala, reflects an understanding that the physical return of refugees is only a first step in the return process. The agreement addresses many aspects of refugee return. The provisions are comprehensive and put the emphasis on full respect for the human rights of returnees. They also deal with refugee integration, security, development, and reconciliation with host communities. Potential problems facing returnees are identified and addressed in the agreement. For instance, the agreement discusses the problems faced by female-headed households and of gender discrimination with regard to access to land. In the Agreement, the Government agrees to a comprehensive range of measures in order to ensure the successful reintegration of returnees and the development of resettlement areas (part III). Of all peace agreements, this is the most comprehensive when it comes to refugee reintegration. Structural inequities have obviously been considered to be a central issue in the conflict. As a result, a separate agreement was concluded on social and economic aspects and agrarian situation. In particular, the agreement provides for the prompt settlement of land conflicts, a matter of direct interest to returning refugees.
29. When examining references to forcible displacement in peace agreements, several trends can be identified. Peace agreements often contain references to human rights and these general

²⁹ For a comparative analysis of temporary protection schemes in four European countries, see J. van Selm-Thorburn, *Refugee protection in Europe: lessons from the Yugoslav crisis* (The Hague: Martinus Nijhoff Publishers, 1998).

³⁰ See Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, OJ 2001 L212/12. See K. Kerber, “The temporary protection directive” (2002) 4 *European Journal of Migration and Law* 193.

³¹ See for instance S. Bagshaw, “Benchmarks or Deutschmarks? Determining the criteria for the repatriation of refugees to Bosnia and Herzegovina” (1997) 9 *International Journal of Refugee Law* 566.

provisions are sometimes supplemented by a statement of principle declaring that there will be full respect for the human rights of returnees (Cambodia, Mozambique, Bosnia and Herzegovina, and Guatemala).

30. Most provisions focus on the repatriation process and the guarantees which must be provided in order to ensure that return is safe. For instance, several peace agreements mention the issue of information which is crucial to return decisions and sustainability. Although section 7 of Annex 4 to the 1991 Paris Agreement stated that “decisions [to return] should be taken in full possession of the facts”, there was no corresponding commitment from the parties to the agreement to provide such facts to the refugees. As a result, refugees had insufficient and inadequate information on return areas and most refugees decided to return to the Province of Battambang where there was insufficient land for returnees.³² In contrast, in the 1994 Quadripartite Agreement on Georgia, the parties agreed to guarantee for refugees and displaced persons unimpeded access to all available information on the situation in return areas. Similarly, the 1995 Dayton Peace Agreement states that “the Parties shall facilitate the flow of information necessary for refugees and displaced persons to make informed judgements about local conditions of return”(article 1(4)). More recently, the 2000 peace agreement for Burundi provides that the National Commission for the Rehabilitation of Sinistrés will organise information and awareness campaigns for refugees and sinistrés as well as visits to their places of origin (article 3(f)). Such preliminary visits took place in Bosnia and Herzegovina and Kosovo, but were organised by international organisations such as UNHCR and/or IOM.
31. Many peace agreements identify or establish one or several international and/or national organisations to give them responsibility for implementing the provisions dealing with forcible displacement. It comes as no surprise that UNHCR is often given that responsibility. It is crucial that whichever institution is made responsible for organising the repatriation process should be set up as soon as possible and given adequate financial and technical support. For instance, Protocol IV of the 2000 Arusha peace agreement for Burundi could not be implemented until the National Commission for the Rehabilitation of Sinistrés was set up in March 2003. Even then, it was not given the appropriate support to prepare for the possible influx of returnees into the country.³³
32. Monitoring of the repatriation process by international organisations is sometimes mentioned. For instance, the 1991 Paris Agreement guarantees access in order “to enable the relevant international organisations to carry out their traditional monitoring”. The 1995 Dayton Peace Agreement provides that all organisations dealing with refugees and displaced persons shall monitor basic human rights and humanitarian conditions. The Kosovo Interim Agreement contains a very similar provision. In some cases, specific institutions are established in order to deal with the property claims of refugees. These will be examined below.
33. Political, economic and social reintegration of the returnees has become more prominent in recent peace agreements. Depending on the root causes of the conflict, various peace agreements have put a differing emphasis on each aspect of refugee reintegration. As mentioned above, the Agreement on resettlement of the population groups uprooted by the armed conflict in Guatemala focuses on economic reintegration and contains detailed provisions on the “productive integration policy” to be pursued by the Government. Other peace agreements which put an end to ethno-national conflicts put more emphasis on reconciliation. For instance, the peace agreement for Burundi provides that the National Commission for the Rehabilitation

³² See M. Eastmond and J. Ójendal, “Revisiting a ‘repatriation success’: the case of Cambodia”, in R. Black and K. Koser (eds.), *The end of the refugee cycle? Refugee repatriation and reconstruction* (New York/Oxford: Berghahn Books, 1999).

³³ See ICG, *Réfugiés et déplacés burundais: construire d'urgence un consensus sur le rapatriement et la réinstallation*, Briefing Afrique, Nairobi/Bruxelles, 2 décembre 2003.

of Sinistrés is to “undertak[e] information and awareness campaigns on the mechanisms of peaceful coexistence and return to *collines* of origin” (article 3(g)). In the 2003 peace agreement for Liberia, the parties “commit themselves to peaceful co-existence amongst returnees and non-returnees and all Counties” (article XXX(c)).

34. In order to encourage refugees to return home, several peace agreements contain provisions on amnesty. The 1995 Dayton Peace Agreement grants an amnesty to all returning refugees and displaced persons, except to those who have committed a serious crime as defined by the ICTY Statute or a common crime unrelated to the conflict. The provision contained in the Protocol on refugees annexed to the 1997 General Agreement on the Establishment of Peace and National Accord in Tajikistan is much better worded: the Government agrees “not to institute criminal proceedings against returning refugees or displaced persons for their participation in the political confrontation and the civil war” (article 2). As a minimum, UNHCR believes that “returnees should not be subjected to any punitive or discriminatory action on account of their having fled their country.”³⁴ In its sample declaration of amnesties and guarantees, UNHCR suggests that amnesties should be provided for “all criminal offences committed for whatever reason prior to, or in, exile.” This appears to be unreasonably broad. Nevertheless, UNHCR also acknowledges that exclusions may be required to address war crimes, crimes against humanity and acts of genocide.

PROPERTY RIGHTS OF REFUGEES AND INTERNALLY DISPLACED PERSONS

35. The right to a remedy for human rights violations should include the right to reparation or compensation for forcible displacement.³⁵ This right has been discussed on many occasions, but mainly in the context of population transfers. For instance, it was recommended to the then Sub-Commission on the Prevention of Discrimination and Protection of Minorities that compensation be paid to the victims and survivors of population transfers.³⁶ However, compensation for forcible displacement has not become a reality.
36. In contrast, property restitution and compensation for loss of property in the context of refugee return have been given much more attention. As a result of being displaced, refugees and displaced persons often lose their property. When they attempt to return to their homes, they may discover that their property has been destroyed or is now occupied by other families who may have lived there for several years. In order to facilitate the return of refugees and displaced persons to their homes, many peace agreements contain increasingly detailed references to the issue of property restitution. This is a very recent trend, but there is no doubt that increasing awareness has been paid to this issue as being essential to any successful repatriation operation. In this regard, it has been argued that “conditions of safe and dignified return will not and cannot be met without adequate safeguards designed to protect the rights to housing and property restitution of returnees.”³⁷ Nevertheless, it is only in the 1990s that the right of refugees and displaced persons to repossess their property was developed. Restitution of property can prove more difficult to achieve than compensation (especially if the property is occupied by third parties), but it is much more likely to lead to the return of refugees and internally displaced persons to their homes.

³⁴ See UNHCR, *Handbook on voluntary repatriation* (Geneva: UNHCR, 1996), section 6.2.

³⁵ See *Draft Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law*, E/CN.4/2000/62, 18 January 2000.

³⁶ See *Human rights and population transfers*, E/CN.4/1997/23, 27 June 1997, para.60.

³⁷ S. Leckie, “Housing and property issues for refugees and internally displaced persons in the context of return: key considerations for UNHCR policy and practice” (2000) 19:3 *Refugee Survey Quarterly* 5, at 7.

37. The right to property restitution is not explicitly mentioned in any international legal instruments. The Universal Declaration of Human Rights, which is not legally binding, recognises a right to own property (article 17(1)) and to be protected against arbitrary deprivation of property (article 17(2)). The two International Covenants do not contain similar provisions. The right to property is mainly guaranteed under regional instruments. For instance, article 1 of Protocol No. 1 to the European Convention on Human Rights states that “every natural or legal person is entitled to the peaceful enjoyment of his possessions.”³⁸ However, it is, in any case, not an absolute right. Only article 21(2) of the American Convention on Human Rights mentions the issue of compensation. However, restitution or compensation is difficult to obtain in situations of armed conflict and/or forcible displacement: the authorities are obviously reluctant to compensate for the loss of property caused by their deliberate action to drive people out of their homes. As recently as 1995, it was argued that “the question as to whether nationals are generally entitled to compensation for losses of their property [...] probably [had] to be answered in the negative.”³⁹
38. Nonetheless, there is a definite trend in international law to award compensation for loss of property resulting from displacement.⁴⁰ A principle of compensation for loss of property resulting from forced eviction has been developed mainly by the European Court of Human Rights and the Inter-American Commission on Human Rights. In the *Miskito* case, the Inter-American Commission on Human Rights recognised that compensation should be awarded to returning internally displaced persons for loss of property.⁴¹ Since 1998, the European Court of Human Rights has awarded on several occasions compensation for destruction of property by armed forces. In *Akdivar*, the Court declared that the burning of houses by Turkish security forces amounted to violations of article 8 of the European Convention on Human Rights (right to respect for private and family life, home and correspondence) and of article 1 of Protocol No. 1.⁴² It subsequently ordered Turkey to compensate the applicants for loss of their houses, cultivated and arable land, household property, livestock, and feed and cost of alternative accommodation.⁴³ This decision was taken on the basis of article 50 (now article 41) of the Convention which allows the Court to award damages to the injured party. Compensation for loss of property has been awarded mainly in cases arising from the eviction of Kurds from their villages in South-East Turkey such as *Selcuk and Asker*,⁴⁴ *Mentes*,⁴⁵ *Bilgin*⁴⁶ and *Yöyler*.⁴⁷ In *Loizidou*, compensation was also awarded to a woman who was denied access to her property situated in the northern part of Cyprus which had been invaded by Turkey.⁴⁸ Finally, in *Cyprus v. Turkey*,⁴⁹ the Court found a continuing violation of article 1 of Protocol 1 by Turkey which denied Greek-Cypriot owners of property in northern Cyprus access to their property and awarded compensation for this interference with their property rights.
39. The then Sub-Commission on the Prevention of Discrimination and Protection of Minorities has examined the issue in the late 1990s and commissioned several reports on housing and property restitution in the context of the return of refugees and internally displaced persons. These reports

³⁸ See *First Protocol to the European Convention on Human Rights*, 213 UNTS 262.

³⁹ See R. Hofmann, “International humanitarian law and the law of refugees and internally displaced persons”, in European Commission, *Law in humanitarian crisis*, vol. 1 (Brussels: European Commission, 1995), 249-309, at 297.

⁴⁰ See COHRE, *Housing and property restitution for refugees and internally displaced persons: international, regional and national legal resources* (Geneva: COHRE, 2001).

⁴¹ *Report on the situation of human rights of a segment of the Nicaraguan Population of Miskito origin*, 29 November 1983, OEA/Sev.L/V/II.62, Doc. 10, rev. 3.

⁴² *Akdivar and others v. Turkey* (1997) 23 EHRR 143.

⁴³ *Akdivar and others v. Turkey* (article 50), 1 April 1998, Reports, 1998-II, 711.

⁴⁴ *Selcuk and Asker v. Turkey*, (1998) 26 EHRR 477.

⁴⁵ *Mentes and others v. Turkey* (article 50), 24 July 1998, Reports, 1998-IV, 1686.

⁴⁶ *Bilgin v Turkey* (2003) 36 EHRR 879.

⁴⁷ *Yöyler v. Turkey*, application No. 26973/9524, decision of 24 July 2003.

⁴⁸ *Loizidou v. Turkey* (article 50), 28 July 1998, Reports 1998-IV, 1807.

⁴⁹ *Cyprus v. Turkey* (2002) 35 EHRR 30.

have led to the drafting of Principles on Housing and Property Restitution for Refugees and Displaced Persons.⁵⁰ It remains to be seen whether these principles will be adopted by states.

40. Many recent peace agreements provide for the restitution of property lost as a result of displacement, or for compensation for that loss. The provisions dealing with property restitution and compensation can be quite extensive. They range from a simple reassertion of the refugees' right to property to detailed provisions establishing elaborate mechanisms to deal with property claims. An example of the former is contained in the 1991 Paris Agreement for Cambodia which merely asserts that there should be full respect for the refugees' right to property. The 1992 peace agreement for Mozambique goes a bit further in guaranteeing the "restitution of property owned by them which is still in existence and the right to take legal action to secure the return of such property from individuals in possession of it." The 1994 Agreement on Resettlement of the Population Groups Uprooted by Armed Conflict in Guatemala contains slightly more elaborate provisions in providing for the adoption of legislation on abandoned land, the promotion of restitution and/or the search for "adequate compensatory solutions". These provisions focus on the issue of land, rather than other property. The separate Agreement on Social and Economic Aspects and Agrarian Situation calls for the prompt settlement of land conflicts and establishes a specific institutional mechanism (the Presidential office for legal assistance and conflict resolution in relation to land). The specificity of the Guatemalan agreements was that the land issue concerned the entire population, rather than just the refugees.
41. The 1995 Dayton Peace Agreement probably marks a turning point to the extent that it clearly affirms the right of refugees and displaced persons to have their property restored to them (or be compensated where restitution is not possible). It also establishes a specific institution to deal with property claims. The Commission for Refugees and Displaced Persons was eventually set up as the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC). This was the first institution of its kind to be set up to deal exclusively with the property claims of refugees and displaced persons. A Human Rights Chamber was also established (annex VI) and has dealt with many cases involving property issues (as well as cases of discrimination against returnees).
42. Subsequent peace agreements in Rwanda, Kosovo, and Burundi followed suit. The 2000 peace agreement for Burundi contains extensive provisions dealing with property restitution (article 8 of Protocol IV): refugees have the right to recover their property or be compensated, and the government must implement a number of measures in order to give effect to that promise. Unfortunately, such provisions have not so far been implemented.⁵¹
43. In some cases, the peace agreement imposes positive obligations on the government to repeal any property-related legislation which would prevent the refugees from recovering their property. The authorities may also be obliged to adopt new legislation. As already mentioned above, a specific institution may be established in order to deal with the property claims of refugees and displaced persons. This can be a national institution or, as in Bosnia and Herzegovina and Kosovo, an international institution. These institutions can be granted special powers in order to facilitate the resolution of property claims. For instance, the CRPC was authorised to ignore property transactions which had taken place under duress and had access to all property records. As the Bosnian experience showed, any property restitution process should include a credible enforcement mechanism. In Kosovo, the Housing and Property Claims Commission issues decisions which the Housing Property Directorate implements.⁵²

⁵⁰ See *Progress Report on housing and property restitution in the context of the return of refugees and internally displaced persons*, E/CN.4/Sub.2/2004/22, 2 June 2004.

⁵¹ See FMR editors, "Reintegration challenges for Burundi" (2004) *Forced Migration Review* 26.

⁵² See H. Das, "Restoring property rights in the aftermath of war" (2004) 53 *International and Comparative Law Quarterly* 429, at 441.

44. More specifically on the issue of compensation, this possibility is made available only where restitution is not possible. This apparently reflects “the overwhelming consensus regarding the remedies of restitution and compensation [which] is that compensation should not be seen as an alternative to restitution and should only be used when restitution is not factually possible or when the injured party knowingly and voluntarily accepts compensation in lieu of restitution.”⁵³ Accordingly, Article 1 of the 1995 Dayton Peace Agreement stated that refugees and displaced persons would be “compensated for any property *that cannot be restored to them*” (emphasis added). Refugees and displaced persons who chose not to exercise their right to return to their homes and decided to relocate had no right to receive any compensation for the home they left behind. Article 14 provided for the establishment of a Property Fund to be replenished “through the purchase, sale, lease and mortgage of real property which is subject of claims before the Commission and by direct payments from the parties, by states, or international and non-governmental organisations.” In fact, funds were never made available for compensation.⁵⁴
45. The 1995 Erdut Agreement in Croatia also established a right to receive compensation for property that cannot be returned, but that provision was not implemented. As already mentioned above, the 2000 peace agreement for Burundi envisaged compensation if recovery is not possible. Once again, such a provision was not implemented. In contrast, the Interim Agreement for Kosovo did not allow for compensation (except for apartments which had been lost in the early 1990s on the basis of discrimination). It follows that although the possibility of compensation is often mentioned in recent peace agreements, it has not become a real alternative to restitution and return. With regard to ethnic conflicts, there has been a lack of political will to implement the provisions on compensation as it was felt that “any prospect of compensation would provide an incentive not to return and entrench the results of ethnic cleansing.”⁵⁵
46. One should note that although the restitution of property is an essential precondition to refugee return, there is increasing awareness that it is by no means a sufficient condition. For instance, many Bosnian refugees have now recovered their former property, but have not returned to live there for a variety of reasons. Some have simply sold their house, others have rented it out, yet others use it as a vacation home and hope to live there once they retire.⁵⁶

THE RELATIONSHIP BETWEEN MEASURES DEALING WITH FORCIBLE DISPLACEMENT AND THE SUSTAINING OF PEACE.

47. Refugee repatriation is often considered to be essential to post-conflict peace-building, and in particular to reconstruction, reconciliation and democratic transition. There are a number of linkages which can be made between refugee repatriation and peace-building.⁵⁷ Firstly, considering that forcible displacement is the physical manifestation of the collapse of state protection, refugee repatriation constitutes a visible indicator that national protection is re-established, and thus that the peace process is progressing in the right direction. Refugee repatriation is often perceived as an important sign of public confidence in the peace process. Conversely, it can also be argued that as long as repatriation of all refugees does not take place, this may demonstrate that problems still persist. There can be no lasting peace if a substantial number of citizens are excluded from the process, have no sense that justice has been done, and

⁵³ See *Working paper on the return of refugees' and displaced persons' property*, E/CN.4/Sub.2/2002/17, 12 June 2002, para.57.

⁵⁴ See E. Rosand, “The right to compensation in Bosnia: an unfulfilled promise and a challenge to international law” (2000) 33 *Cornell International Law Journal* 113.

⁵⁵ See Das, “Restoring property rights”, 442.

⁵⁶ See A. Stefansson, “Return and the politics of property in a post-war Bosnian town”, paper delivered at the 9th Conference of the International Association for the Study of Forced Migration, Sao Paulo, 9-13 January 2005.

⁵⁷ See UNHCR, *The state of the world's refugees – a humanitarian agenda* (Oxford: Oxford University Press, 1997), 160-163.

if no durable solution has been found to their plight. Secondly, refugee return often plays a legitimising function for the new post-conflict regime. The mere fact that refugees choose to return grants some credibility to the new regime. This is why it was considered so important that refugees should repatriate before the elections in Namibia, Cambodia and Mozambique. Thirdly, refugee repatriation is essential to the peace process in situations where the refugees were politically and/or militarily active in the conflict. Such conflict cannot be fully resolved if these refugees remain outside the country. Finally, returning refugees can contribute to the economic recovery of the country, which in turn will consolidate the peace. Consequently, UNHCR suggests that “refugee and repatriation issues [be] considered in negotiations aiming at conflict resolution.”⁵⁸

48. Nevertheless, it is also acknowledged that refugee repatriation may also raise some serious problems. Indeed, a sudden and large influx of refugees may alter the ethnic balance in a country or area of that country, and create renewed tensions. It may also contribute to reverse “the territorial compromises at the heart of the [peace] deal.”⁵⁹ Consequently, it could be argued that the return of all refugees to their country of origin may not always contribute to building a lasting peace. One could cite the example of El Salvador. It has been argued that the resettlement of many refugees to third countries (rather than repatriation) contributed to the successful implementation of the peace agreement.⁶⁰
49. Some may sometimes wonder whether refugee repatriation is really so central to the success or failure of peace agreements and peace processes.⁶¹ In some rare cases, refugees are mentioned very briefly (e.g. Liberia) or not even mentioned at all (e.g. Northern Ireland) in the peace agreement. Adelman thus argues that the issue of refugee return is mainly crucial to the peace process where forcible displacement was a central part of the conflict itself (rather than just a by-product), but that it remains marginal otherwise.⁶² His analysis may explain why some past agreements contained refugee-related provisions.
50. In any case, Adelman notes that refugee repatriation seems to bear little correlation with whether or not provision is made in the peace agreement. There have indeed been situations in which refugees have started returning spontaneously at the cessation of the conflict, but before the peace agreement was concluded. For instance, in Mozambique, some of the 1.7 million refugees started returning home even before the peace agreement.⁶³ The same phenomenon could be witnessed in other countries such as El Salvador and Guatemala.⁶⁴ In some countries such as Sierra Leone, 178,000 refugees have returned and the repatriation operation was relatively successful, even though the peace agreement contained very few provisions dealing with forcible displacement. In such circumstances, one is led to wonder whether the provisions on forcible displacement contained in peace agreements make any difference at all to the repatriation process. It could be argued that such provisions should still be included in the final agreement, not only because their purpose is not just to open the way for large scale repatriation, but also to prompt the parties to the agreement to create safe conditions of return and ensure full respect for the human rights of returnees.

⁵⁸ See UNHCR, *Handbook on voluntary repatriation*, section 3.5.

⁵⁹ See Bell, *Peace agreements and human rights*, 256.

⁶⁰ See S.J. Stedman, *Implementing peace agreements in civil wars: lessons and recommendations for policymakers*, IPA policy paper series on peace implementation, New York, May 2001, 18.

⁶¹ See H. Adelman, "Refugee Repatriation", in S.J. Stedman, D.S. Rothchild and E.M. Cousens (eds.), *Ending Civil Wars: The Implementation of Peace Agreements* (Boulder: Lynne Rienner Publishers, 2002), 273-302, at 276-279.

⁶² *Ibid.*, 284-185.

⁶³ See UNHCR, *The state of the world's refugees – fifty years of humanitarian action* (Oxford: Oxford University Press, 2000), 149.

⁶⁴ See UNHCR, *Refugee repatriation and reintegration in Guatemala: lessons learned from UNHCR's experience*, EPAU/2000/003, September 2000, 5.

51. This can be illustrated by the problems encountered in the repatriation process in Cambodia. In the aftermath of the Paris Agreement, about 350,000 refugees returned to Cambodia in 1992-1993. The operation was a logistical success. Nevertheless, one must note that this refugee return was not sustainable in the medium to longer term: many refugees returned to insecurity and open conflict, and some actually fled back to Thailand. These difficulties can be partly attributed to the deficiencies of the peace agreement. Indeed, the agreement failed to spell out the conditions under which return could be deemed safe. The return operation was also subject to the election timetable: it was considered crucial that as many refugees as possible should return by the date of the election in May 1993. Section 6 of Annex 4 provided that “with a view to ensuring that refugees and displaced persons participate in the elections, mass repatriation should commence and be completed as soon as possible, taking into account all the political, humanitarian, logistical, technical and socio-economic factors involved”. As a result, insufficient attention was being paid to protection and reintegration issues. This raises the question as to whether a refugee repatriation operation should ever be linked to the organisation of elections. One of the disadvantages of linking refugee repatriation to the broader peace building agenda is that the timing of refugee return is predetermined by the time frames defined in the peace agreement for the deployment of peacekeeping missions and/or elections. This was also the case for peace agreements negotiated for Namibia and Mozambique. In such cases, the fundamental principles that refugees should return voluntarily and in safety may be sacrificed to the imperatives of the peacekeeping or election timetable.

FINAL RECOMMENDATIONS

52. After examining recent peace agreements, it can be suggested that the following refugee-related provisions can usefully be inserted in future peace agreements. At a minimum, a peace agreement concluded at the end of an armed conflict in which forcible displacement has occurred should contain a statement of principle that all refugees and displaced persons have a right of voluntary return to their former homes or any other location within the country, in safety and dignity. It follows that host states should not force refugees to return prematurely, and countries of origin should not prevent return where refugees want to do so. It is also essential that the parties to the agreement agree to the full respect for the human rights of refugees and displaced persons. It would be useful if the parties could agree to a number of protection principles: the agreement could specify that full respect will be given to the principle of family unity and that specific attention be paid to the vulnerabilities of women, children, the elderly and the handicapped.
53. The agreement could then include specific provisions dealing with:
- the legal safety of returning refugees and displaced persons, e.g. documentation, amnesties, non-discrimination;
 - their physical security, e.g. protection from attacks, mine-free routes;
 - their material security, e.g. measures aimed at facilitating their economic reintegration such as access to land or means of livelihood, access to public services.⁶⁵
54. One should determine whether these more specific provisions should be included in the main texts of peace agreements, or be the subject of a separate agreement dealing with refugees and displaced persons. It may be that the parties to the agreement will be more willing to discuss the details of refugee repatriation in a separate text. Where required, a tripartite agreement with UNHCR may need to be negotiated.

⁶⁵ For other examples of measures, see the UNHCR, *Handbook on Voluntary Repatriation*.

55. The duties of the various parties to the agreement should be spelt out clearly, i.e. who is in charge of dealing with the logistics of repatriation, providing information on the conditions of safety (physical and material) to the refugees so that they can make an informed choice as to whether to return, and so on. Where possible, the provisions should be as detailed as possible and deal with all aspects of the repatriation and reintegration processes. One such aspect which has been crucial in enabling refugees and displaced persons to return to their homes is the issue of property restitution. Any peace agreement should confirm that all refugees and displaced persons have the right to have their property and/or land restored to them, and, where this is not possible, to receive compensation instead. Where required, the peace agreement should identify which institution is responsible for dealing with property claims. A new institution may have to be set up in some cases. New legislation on property may have to be adopted.
56. In order to ensure that the provisions addressing forcible displacement do not remain a dead letter, it may be useful to set up a specific institution which will be responsible for implementing, or monitoring the implementation, of such provisions. Such an institution should be separate from existing or new human rights institutions which have a broader mandate. The Guatemalan experience showed that the more stakeholders are involved in the implementation of the peace agreement, the more likely the repatriation operation will be successful.⁶⁶ This suggests that displaced communities should be involved as much as possible in the negotiation and implementation of provisions on forcible displacement. UNHCR could be called upon to monitor the “fulfilment of the amnesties, guarantees or assurances on the basis of which refugees have returned”.⁶⁷ This should include human rights monitoring: are the returnees enjoying their human rights on the same footing as their fellow citizens?
57. Of course, every refugee situation is unique and so are the measures adopted to address the problems of refugees and displaced persons. The content of refugee-related provisions in peace agreements will very much depend on which actors are involved in the negotiations, what problems will be encountered by the returnees and so on. Nevertheless, the provisions recommended above represents a list of issues which can be usefully included in peace agreements in order to ensure that refugees' rights are identified and respected, and to facilitate their return. The inclusion of appropriate refugee-related provisions in peace agreements will not in itself automatically ensure immediate mass return. International human rights organisations should not place excessive importance on achieving a formal and comprehensive enumeration of measures dealing with forcible displacement in peace agreements, but should also reflect on the linkages between these measures and other aspects of the peace process. Indeed, it has been argued that “actual returns, if they occur, will inevitably be part of a larger political solution.”⁶⁸ The focus should also be on the implementation of the measures included in the peace agreement. One should acknowledge that the ultimate success of the repatriation process depends mainly on the political circumstances, as well as the level and quality of international involvement in the repatriation operation.⁶⁹

⁶⁶ See J. de Rivero, “Reinventing communities: the resettlement of Guatemalan refugees” (2001) 11 *Forced Migration Review* 8.

⁶⁷ See EXCOM Conclusion No.40 (XXXVI) on voluntary repatriation, para(l).

⁶⁸ See E. Rosand. “The Kosovo crisis: implications for the right to return” (2000) 18 *Berkeley Journal of International Law* 229. at 239.

⁶⁹ See P. Weiss Fagen, “Post –conflict reintegration and reconstruction: doing it right takes a while”, in N. Steiner, M. Gibney and G. Loescher (eds.), *Problems of protection: the UNHCR, refugees and human rights* (New York: Routledge, 2003).

BIBLIOGRAPHY

EXCOM Conclusion No. 101 (LV) on legal safety issues in the context of voluntary repatriation of refugees, 8 October 2004.

H. Adelman, "Refugee Repatriation", in S.J. Stedman, D.S. Rothchild and E.M. Cousens (eds.), *Ending Civil Wars: The Implementation of Peace Agreements* (Boulder: Lynne Rienner Publishers, 2002), 273-302.

C. Bell, *Peace agreements and human rights* (Oxford: Oxford University Press, 2000), Chapter 8.

R. Black and K. Koser (eds.), *The end of the refugee cycle? Refugee repatriation and reconstruction* (New York/Oxford: Berghahn Books, 1999).

B.S. Chimni, "Post-conflict peace-building and the return of refugees: concepts, practices, and institutions", in E. Newman and J. van Selm (eds.), *Refugees and forced displacement: international security, human vulnerability, and the State* (Tokyo: United Nations University Press, 2003).

COHRE, *Housing and property restitution for refugees and internally displaced persons: international, regional and national legal resources* (Geneva: COHRE, 2001), available at

<http://www.cohre.org/lbframe.htm>.

H. Das, "Restoring property rights in the aftermath of war" (2004) 53 *International and Comparative Law Quarterly* 429.

J. Quingley, "Mass displacement and the individual right of return" (1997) 68 *British Yearbook of International Law* 65.

S.J. Stedman, *Implementing peace agreements in civil wars: lessons and recommendations for policymakers*, IPA policy paper series on peace implementation, New York, May 2001.

UNHCR. *Handbook on voluntary repatriation* (Geneva: UNHCR, 1996).

UNHCR, *The state of the world's refugees – a humanitarian agenda* (Oxford: Oxford University Press, 1997), chapter 4.

UNHCR, *The state of the world's refugees – fifty years of humanitarian action* (Oxford: Oxford University Press, 2000), chapter 6.

WEBSITES

Office of the UN high Commissioner for Human Rights (UNHCR) <http://www.unhcr.ch/cgi-bin/texis/vtx/home>

Centre on Housing Rights and Evictions (COHRE) <http://www.cohre.org>

Conciliation Resources <http://www.c-r.org/>

International Peace Academy (IPA) <http://www.ipacademy.org>

United States Institute for Peace (USIP) <http://www.usip.org>