



CANADA'S PERIODICAL ON REFUGEES REFUGEE

Vol. 17 • No. 4

October 1998

VIOLENT DISPLACEMENT AND POST-CONFLICT RECONSTRUCTION: AFGHANISTAN, UGANDA, AND RWANDA

Editorial

Ogenga Otunnu

Today there are many Afghanistans, Bosnias, Burundis, Cambodias, Croatias, Democratic Republics of Congo, Rwandas, Somalias, Sudans, and Ugandas, where tens of millions of people are violently displaced. The uprooted, including the societies, are emotionally and culturally traumatized and decimated, physically devastated and economically impoverished and marginalized. More often than not, the faces and plights of the uprooted do not capture the attention of the media.

The causes of violent displacement are complex and related: wars, violence, violations of the right to socioeconomic development, violations of other fundamental human rights, chronic deficit of legitimacy, hotly contested concepts of society, and the quest for hegemony. The roots of the crises are located in past and present history of the societies, and the interplay of domestic, regional and international factors.

Afghanistan, for example, has experienced a ravaging war for nearly two decades. The protracted war has

claimed over a million lives, permanently disabled some 300,000 Afghans, generated over a million internally displaced people and some 6 million refugees.¹ The overwhelming majority of the refugees sought asylum in Pakistan and

Iran. Some of those who repatriated under conflict, especially between 1992 and 1998, have fled again, mostly within the turbulent country.² The physical, psychological and psychosocial consequences of the war, uncer-

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Vol. 17 • No. 4
October 1998

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Refuge is dedicated to the encouragement of assistance to refugees by providing a forum for sharing information and opinion on Canadian and international issues pertaining to refugees. *Refuge* was founded in 1981.

It is published six times a year by the Centre for Refugee Studies, York University, Canada. *Refuge* is a non-profit, independent periodical supported by private donations and by subscriptions. It is a forum for discussion, and the views expressed do not necessarily reflect those of its funders or staff.

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Current subscription rates for one year (six issues) are: Canada Cdn.\$50; all other countries U.S.\$60. (Cheques must be drawn on a Canadian or a U.S. bank.) Current volume single issues are available at \$10 per copy.

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ISSN 0229-5113

tainty and violent displacement are devastatingly dehumanizing and transgenerational.³

The war has also destroyed infrastructure, schools, hospitals, cities, villages, pastures and livestock. In a chronically poor country where the literacy rate stood at below 10 percent before the war, the effects of the prolonged crisis on human development is quite profound.⁴

Some of the causes of the war are related to the strategic location of the mountainous and landlocked country: Afghanistan borders Pakistan in the south and east, Iran in the west, China in the far north-east, and Turkmenistan, Uzbekistan and Tajikistan in the north. The location of Afghanistan—which highlights the country's immediate and direct geopolitical and cultural significance to Central Asia, the Indian sub-continent and the Middle East—has attracted a host of invaders, conquerors and imperialists: the Greeks, Mongols, Turks, Uzbeks, British, Russians, Americans, and Soviets. During the Cold War, for example, the country was turned into a major geopolitical battle field by the competing hegemonic power blocs of the USSR and the United States. The superpowers provided military training to their Afghan allies, and supplied large quantities of ammunition and arms, including anti-personnel mines. Anti-personnel mines, some planted and others dropped by war planes, do not only hinder repatriation and resettlement under violent conflict, they continue to kill and maim many non-combatants:

About 10 million mines are thought to have been laid in Afghanistan ... Often they are washed down by floods on to previously cleared land. In some areas, they are everywhere: in villages; gardens; tracks; fields. In others, they may be only on access roads ... Nobody can be sure how many people have been killed by mines, but a figure of 200,000 may be realistic.⁵

Regional powers, principally Pakistan, Saudi Arabia and Iran, also contributed to the ruthless and protracted war that has devastated the country.

From 1982, Iran, whose ideological and military involvement in Afghanistan was temporarily halted by the need to consolidate the Islamic revolution that crushed the Shah regime, attempted to counter the influence of the pro-American Sunni-based Islamic groups with a Shia influence. Iran's active involvement in the war for ideological dominance and influence was also a part of its larger project of regional sub-imperialism. Pakistan, on the other hand, was actively used by the United States to contain Soviet hegemony in the region. The American-Pakistan alliance allowed Pakistan to obtain enormous military and financial aid from the United States. Pakistan's role as a fairly autonomous and hegemonic satellite also made it quite easy for the United States to channel huge military aid and humanitarian assistance to various *mujahedeen* political factions. To be sure, Pakistan's involvement was also motivated by regional and religious imperatives.⁶

Internal power struggles, personal-ity conflict, violent politics of ethnicity and religion, and profound crisis of legitimacy of the state, its institutions, the incumbents and their challengers have also accounted for the systematic violations of rights, mass displacement and enormous destruction of one of the poorest countries in the world.

The end of the Cold War was expected to facilitate a negotiated settlement and create conditions for post-conflict reconstruction. However, the abdication of leadership by the remaining superpower, among other factors, has diminished the commitment to ending the war. According to a statement made by the U.S. Assistant Secretary of State, Robin Raphel, to the *International Herald Tribune* on 5 November 1996, Afghanistan was a "crucible of U.S. strategic interest" during the Cold War. However, since the demise of the Soviet Union, the United States does not have a plan to end the war:

As long as the rival factions think they can prevail and establish control over Afghanistan—and as long as such outside countries as Pakistan and Iran continue to encourage them to be-

lieve they can win—there is no prospect for a negotiated settlement. We know none of them can win, but they don't know it. Sadly, what needs to happen is a military stalemate that goes on long enough that various factions conclude they can't win.⁷

Raphel's statement was largely intended to deny the U.S. involvement in the on-going war. However, a number of Afghan observers maintain that the U.S.' "backdoor" support for the Taliban does not only make the American policy more incoherent and less credible, it also undermines prospects for a negotiated settlement to the war.⁸ Other western democracies, regional powers and warring factions in Afghanistan have also shown little determination to end the war and embark on post-conflict rehabilitation and reconstruction of the war-torn country.

As the war rages on several fronts between the Taliban regime and armed opposition groups, peaceful settlement to the conflict and prospects for post-conflict reconstruction are further betrayed. The situation is compounded by the Taliban Islamic laws which systematically violates women's rights to education and employment and freedom of movement. Violations of women's rights by the Taliban authorities were extended to women staff working for international humanitarian agencies.⁹ This discriminatory law has been criticized by Iran and some Islamic parties in Pakistan as being consistent with Islamic teachings.¹⁰

The situation is equally desperate in Burundi, the Democratic Republic of Congo (DRC), Rwanda, Sudan, and Uganda. These countries have not only produced large numbers of refugees and internally displaced people, they also host large numbers of refugees from neighbouring countries. For example, there are over 470,000 internally displaced people in Acholi in northern Uganda, some 650,000 IDPs in and around Ruhengeri and Gisenyi in Rwanda, and over 500,000 internally displaced people in Burundi.¹¹

The situation is compounded by the growing internal armed resistance in these countries. Since the outbreak of

the war against the Kabila regime by Congolese-Tutsi—who are dismissed by Presidents Mugabe of Zimbabwe and Kabila of the DRC as a mere front for the construction of Tutsi empire in the region by Burundi, Rwanda and Uganda—Hutu rebels from Burundi and Rwanda and three Ugandan rebel groups from West Nile, Acholi and western Uganda have joined forces with Kabila against the "invading" forces in the DRC. The Sudan People's Liberation Army (SPLA), for its part, has merged its central command with Uganda, Rwanda, Burundi and the Congolese-Tutsi. According to the Kabila regime, the invading forces—which are essentially made up of the very forces that overthrew Mobutu and installed Kabila to power: Burundi, Rwanda and Uganda—are actively supported by Britain, the United States some European and North American mining companies.¹²

A similar claim about the involvement of Britain, the United States and the mining companies is made by many African countries, including Angola, Chad, Namibia, Sudan and Zimbabwe. The proponents of this view highlight the reluctance by Britain and the United States to condemn the violation of the territorial integrity and sovereignty of the DRC (violation of international law) by Burundi, Rwanda and Uganda as an indication of the support the violators continue receive from the two major powers and their domestic economic interests. They also claim that the United States sent a large contingent of military advisors and new weapons to Rwanda and Uganda to aid the war effort. The arrival of some Ugandan military officers for training in the United States in November 1998 is also paraded as another evidence of USA complicity in the war.

It is also suggested that inconsistent western policies towards Africa has contributed to the escalation and persistence of the war. According to the proponents of this view, while one-party rule or the repression of multi-party democracy in some parts of Africa is condemned and punished by the west as violations of universal human rights,

it condoned and rewarded when practiced by some governments. In such an instance, they maintain, the west attaches greater significance to its economic interests and commitment to Structural Adjustment Programs (SAPs) of the International Monetary Fund and World Bank than to the universality of human rights. In fact, in such situations certain rights such as the right to belong to and choose a party of one's interests and freedom of association are defined by the west as situational and relative to societies. Uganda is often mentioned by this group as a leading case of a one-party state which is not only embraced by the West, but is being funded by Great Britain to hold a referendum whose sole objective is to legitimize one-party rule. The complicity of Great Britain is partly supported by a position advanced by the British Head of the Department of International Development for Eastern Africa, D. S. Fish, the Wider Consultation on Uganda (WiCU):

You raise a number of issues concerning democracy, human rights and the legitimacy of the government. As regards the form of democracy in Uganda, it is our view that this is for the Ugandan people to decide. They will have the opportunity to do so in the referendum scheduled for 2000.¹³

Similarly, while violations of human rights by some governments are publicized, condemned and punished, similar violations by others are concealed, rewarded and often blamed on other factors. It is this group of enlightened violators of rights who are often paraded by western governments, institutions and scholars as the new breed of African leaders.¹⁴

In the on-going war, Kabila has surprised many distant observers of African political history by mobilizing almost the entire continent, including the Francophone states of Africa, against Burundi, Rwanda and Uganda. Some of the states, especially Angola, Chad, Namibia, Sudan and Zimbabwe are militarily supporting Kabila in the war. In fact, without the military support of these countries, the regime

would have collapsed faster than that of Mobutu.

Rwanda and Uganda, on the other hand, have explained their presence in the DRC as a security move against the growing cross-border raids into their countries by rebels forces based in the DRC. They also point out that the rebels, including those who committed genocide in Rwanda, have been recruited by the Kabila regime to fight against them. Attempts to avoid another genocide against the Tutsi in the DRC is also offered to justify the presence of the two countries in the DRC.

A number of African countries which are directly involved in the war have also embarked on massive arms race. For example, it was reported that in late November 1998, Uganda received 90 tanks from Russia. The tanks reached Uganda through the Tanzanian port of Dar es Salaam.¹⁵ The DRC, Rwanda, Sudan and Zimbabwe are also actively involved in the arms race. Furthermore the DRC, Rwanda, Sudan and Uganda are heavily recruiting into the army and mobilizing some demobilized soldiers for the war. Yet all these countries are financially bankrupt, heavily indebted and are unable to meet the basic needs of their people. Some of these governments, especially the DRC and Uganda, are also plagued with high level and chronic corruption.

The scramble for Africa, as the war in the DRC is often presented, does not only threaten the existence of many countries in Africa, it also demonstrates the impotence of regional organizations, including the Organization of African Unity. The failure of the OAU to resolve the growing crisis between Ethiopia and Eritrea further highlights the growing insignificance of the OAU in finding "African" solutions to post-Cold War conflicts in Africa.

Lack of a coherent, pro-active, common and cost-effective strategy and political determination to deal with the crises, have convinced some western governments and the institutions they control to try as much as possible to keep the uprooted invisible, voiceless and away from "their backyard."

The international media, for their part, may highlight some of the tragic drama. However, analyses of the drama, which often take only a few minutes in a program or a tiny section of newsprint, are often superficial and misleading. Further, interests in the "play" are only sustained if the theatre is next door and threatens national security and economic interests of the countries where the media are based. At times, unofficial policies pursued by some journalists or media discourage reporting "embarrassing" news about a friendly regime or a friendly anti-regime group. In other instances, lack of resources or more interesting news elsewhere discourage reporting violent displacement and gross violations of rights in some parts of the world.

The unwillingness or reluctance or inability to provide a balanced and objective report about gross and systematic violations of human rights also affects the legitimacy and credibility of some human rights organizations and some organizations assisting refugees and internally displaced persons. Indeed, some of these organizations, while claiming impartiality, objectivity and balance in their activities, deliberately distort or withhold information about violations of human rights or the plight of refugees and internally displaced persons in some countries. Occasionally, some of these organizations provide misleading and distorted information because they lack resources or mandate or competence to verify information they obtain from other sources. Yet, information generated by these organizations and the international media often form an important part of what human rights and refugee scholars and policy-makers rely on. Equally, by providing deliberately distorted information or withholding crucial information, some of these organizations do not only engage in silencing and making the victims of violations of rights invisible, they also violate the rights of those they claim to protect.

Some human rights and refugee scholars also provide misleading and/or distorted accounts of violations of rights and violent displacement. At

times, this problem stems from incompetence, lack of intellectual honesty or the desire to advance a particular interest which is not supported by a critical examination of sources and methodology. The need to become an "expert" without understanding the issue and/or a particular region or the pressure to publish or the desire to obtain research grants on a topical subject may also contribute to silencing and making the uprooted invisible. Also, policies which are informed by such studies compound the crises of violent displacements and violations of rights.

Against these challenges, the need for reconciliation and post-conflict reconstruction remains extremely urgent. Reconciliation means achieving peace; addressing the causes of violent conflicts that led to displacement; healing the wounds caused by violent conflict and injustices; addressing the needs of those uprooted; demilitarization of society; creating institutions that are responsive, fair and democratic; and reconstructing the bereaved society. This issue of *Refuge* focuses on some of the challenges of displacement and reconstruction in Afghanistan, Uganda and Rwanda. Connection between development and displacement emerges by noting that nearly a billion people in the "Third World" live in absolute poverty. Yet this condition has resulted from political decisions of the states and the international economic systems. Questions of definitions, asylum and protection of refugees are also discussed in this issue. ■

Notes

1. See, for example, UNHCR, *Refugees*, no. 108, "Afghanistan: The Unending Crisis" (Geneva: UNHCR, 1997); Nassim Jawad, Minority Rights Group International Report, *Afghanistan: A Nation of Minorities* (London: MRG, 1992), 5; U.S. Committee for Refugees, *Left in the Cold: The Perilous Homecoming of Afghan Refugees* (Washington, DC: USCR, 1992), 2.
2. UNHCR, *Refugees*, no. 108, "Afghanistan: The Unending Crisis," 7.
3. For similar observations from similar tragedies, see A. Zi and A. Uganda, "Towards an Epidemiology of Political Violence in the Third World," *Social Science Medical Journal* 28, no. 7 (1989): 663-42; M. Eisenbruch,

- "From Post-Traumatic Stress Disorder to Cultural Bereavement: Diagnosis of Southeast Asian Refugees," *Social Science Medicine* 33, 6 (1991): 673–80; E. Ehrensaft, "Culture in the Diagnosis and Treatment of Post-Traumatic Stress Disorder," *Transcultural Psychiatric Review*, 4 (1995): 395–406; A. Dawes et al., "Political Violence in South Africa: Some Reflections on Children of the Violent Destruction of their Community," *International Journal of Mental Health* 18, no. 2 (1989): 16–43; I. Martin-Baro, "Political Violence and War as Causes of Psychosocial Trauma in El Salvador," *International Journal of Mental Health* 18, no. 2 (1989): 3–20.
4. See, for example, Nassim Jawad, *Afghanistan: A Nation of Minorities*.
 5. UNHCR Reports, cited in U.S. Committee for Refugees, *Left in the Cold: The Perilous Homecoming of Afghan Refugees* (Washington, DC: USCR, 1992): 12.
 6. Amnesty International, *Afghanistan* (London: AI, November 1995), provides an excellent description of arms supplied to Afghanistan and armed opposition groups between 1979 and 1992.
 7. *International Herald Tribune*, 5 November 1996, cited in Amnesty International, *Afghanistan* (London: AI, 1996).
 8. See, for example, Amnesty International, *Afghanistan* (London: AI, 1996).
 9. Amnesty International, *Afghanistan* (London: AI, 1997).
 10. See, for a start, Amnesty International, *Afghanistan* (London: AI, 1996).
 11. See O. Otunnu, "The Path to Genocide in Northern Uganda," *Refuge* 17, no. 3 (August 1998): 4–13; *IRIN update* 553, 26 November 1998; U.S. Committee for Refugees, *World Refugee Survey 1998* (Washington, DC: USCR, 1998).
 12. See, for example, "London's Warlords Annex East Congo," *EIR*, London, November 1998.
 13. See D. S. Fish, Head of DFID Eastern Africa, *WiCU Conference Resolution*, 19 November 1998. To be sure, U.S. Department of State, *Uganda Country Report on Human Rights Practices for 1997* details some violations of these rights by the Uganda Government.
 14. See, for example, "Ugandan Abuses Bring Shadow of Terror to the Heart of Africa," *The Independent*, London, Thursday, 12 November 1998.
 15. See *IRIN Update* 533, 26 November 1998.

□

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Afghan Refugees: Is International Support Draining Away after Two Decades in Exile?

Rupert Colville

Abstract

Afghanistan holds all the refugee records, both good and bad. However, as the remaining refugees enter their twentieth year in exile, international support for finding a solution to their predicament appears to be dwindling as the Taliban consolidate their hold on Afghanistan while simultaneously alienating much of the outside world. Because of insufficient funding, United Nations High Commissioner for Refugees (UNHCR) has had to curtail voluntary repatriation programs in 1998 and reports a bleak outlook for 1999.

Précis

L'Afghanistan détient tous les records en matière de réfugiés. Les meilleurs et les pires. Or, alors que les derniers réfugiés entament leur vingtième année d'exil, le soutien international de la recherche d'une solution à leur sort semble s'effriter à mesure que les Talibans consolident leur domination sur le pays, tout en se mettant de plus en plus à dos le concert des nations. Pour cause de fonds insuffisants, le Haut Commissariat des Nations Unies pour les réfugiés a dû réduire ses programmes de rapatriement volontaire sur l'Afghanistan en 1998, et prévoit une conjoncture particulièrement morose pour 1999.

Rupert Colville has been UNHCR's Regional Public Information Officer based in Islamabad since October 1996. Before that he spent over four years at UNHCR headquarters in Geneva, starting as editor of the first edition of The State of the World's Refugees, and then as a Public Information Officer and spokesman covering North Africa, the Middle East and South and Central Asia. In all, he has been covering Afghanistan and neighbouring countries for a total of five years.

The opinions expressed in this article do not necessarily reflect the official views of UNHCR.

Small numbers of Afghan refugees began fleeing their country in 1978, when fighting broke out between the Afghan communist government and various rural resistance groups. Within a few months of the 1979 Soviet invasion, the initial trickle turned into a major flood.

By the end of 1980, the Afghans had become the largest single refugee caseload in the world, an unfortunate record that they still hold 18 years later. They have never been deposed, not even for a week or a month, from this tragic Number One spot—not by the Iraqis, the Bosnians, the Somalis, not even by the Rwandans. For much of the late 1980s, the Afghans constituted just under half of the entire world's refugee population. In 1990, the number of Afghan refugees peaked at the astronomical figure of 6.2 million (split almost equally between Pakistan and Iran) (Colville 1997, 4).

The Afghans hold a second, somewhat happier, post-World War II refugee record: by October 1998, the total number of refugees who had gone home to Afghanistan had climbed to just under 4.1 million—the largest repatriation of a single refugee group since UNHCR came into existence, and one of the largest in history (UNHCR 1998d). Of these, 2.7 million Afghan refugees had returned from Pakistan (over 2 million of them with repatriation assistance from UNHCR), and another 1.3 million had returned from Iran (around 570,000 of them assisted) (UNHCR 1998a).

A substantial proportion of the 2.6 million Afghan refugees still living in Pakistan and Iran have been there for almost two decades. In terms of the length of exile it is not a unique situation—but it is unique in modern times for such a vast number of refugees to have remained outside their home country for such a long period of time.

Throughout the 1980s, as the *mujahedeen* groups fought their war of attrition against the Soviet invaders, the

Afghan refugees won the sympathy of most of the rest of the world, as well as a staggering amount of financial and material support. By the late 1990s, however, that sympathy and the attendant funds seem to be wearing very thin. The morale of some elements of the refugee population—in particular the educated urban elite, and the non-Pashtun ethnic groups (for the most part living in Iran)—has sunk to an all time low.

During the 1980s, huge amounts of money, and dozens of aid agencies, poured into Pakistan as tented camps were transformed into more than 350 mud-brick refugee "villages" (some of which ended up more like small cities). UNHCR alone has spent over U.S.\$ 1 billion on Afghan refugees in Pakistan since it first began operations there in October 1979 (UNHCR 1998b). The World Food Program (WFP) has spent a further U.S.\$ 800 million (WFP 1998). Simultaneously, many other actors, including the Pakistan government, other governments and NGOs, were also spending considerable sums on the refugees.

The situation in Iran was somewhat different. Because of the government's fierce independence and its difficult relations with Western donor nations and wealthy Arab nations—all of whom were pumping money into Pakistan—Iran received much less international aid than Pakistan, and bore much of the economic burden of hosting 3 million refugees itself (Colville 1997, 4–6).

In addition to the huge quantities of aid money flowing into Pakistan in the 1980s, even larger amounts of money were flowing through various channels to fund the various *mujahedeen* groups fighting against the Afghan communist and Soviet forces. For ten years or more, some western parts of Pakistan resembled a vast international humanitarian-cum-military bazaar dedicated to the



successful running of the last, and perhaps decisive, battle of the Cold War.

Unfortunately, as a few wise voices counselled at the time—and many more have noted with hindsight—the money was in many ways not always spent wisely. Beneficiaries included Usama Bin Laden, now perhaps the world's most wanted man, and many other "Afghan Arabs" blamed for religious extremism, subversion, instability and assassinations in countries as diverse as Algeria, Egypt, Bosnia and Chechnya. In addition to external beneficiaries such as these, several favoured *mujahedeen* groups were able to salt away money and weapons for the express purpose of winning the inevitable power struggle among themselves that would take place once the Soviet army quit the battlefield and the indigenous communist government collapsed (Maley 1998).

The consequences of this unbridled free-for-all have been calamitous, not just for the refugees but for Afghanistan as a whole. Many of the original refugees have been deterred from going back because of the new internal conflicts that broke out following the fall of the Najibullah government in April 1992. And whole new categories of refugees have appeared since then—Kabulis in general, educated women and professionals in particular, and most recently Shia Hazaras from northern and central Afghanistan. The number of these new refugees in no way compares to the number of predominantly rural refugees who fled in the 1980s, but the chaos and social degradation from which they are escaping may in the end prove even more damaging to Afghanistan's long-term future. Put simply, Afghanistan—perhaps more than any other country—cannot afford the current, almost total, brain drain of its relatively small educated urban elite.

Life in Exile

In terms of survival in exile, the Afghans in Iran and Pakistan have by and large done extremely well. They have shaken off dependency on international aid, and steadily returning home when they feel the time is right for them and their

families to do so—despite a seemingly endless conflict between constantly shifting alliances of warring factions, the total breakdown of institutions, a virtually non-existent economy and shattered infrastructure inside Afghanistan.

A fair proportion of the remaining refugees in both countries run thriving businesses. The great majority are now self-sufficient, if often extremely poor with many depending on daily labour at very low wages to survive (British Agencies Afghanistan Group 1996). Nevertheless, the spectre of eternal reliance on international aid—with all its attendant corrosive effect on the refugees' psychological and social well-being—has been avoided (*ibid.*).

Promoting Self-Reliance in Pakistan

Although the refugees in Pakistan were officially supposed to live in refugee villages, in practice the Government of Pakistan has been lenient. The Afghan refugees enjoyed freedom of movement, and of settlement. They were allowed to establish and run businesses and to have access to employment and services such as free education and free health care when these were available.

This practice continued until 1995. Since then, the relentless civil war in Afghanistan and the scaling down of international assistance for the Afghan refugees have triggered impatience among some sections of Pakistan's general public as well as an internal debate in political circles on the need to promote a solution to the Afghan conflict which would allow the refugees to repatriate. Nowadays, the climate of compassion and sympathy toward the Afghan refugees is cooling.

In the initial planning of assistance activities, international efforts did not consider the potential for the refugee population to become self-reliant. The lack of planning was possibly exacerbated by the way the program for Afghan refugees developed, with abundant financial resources flowing in from different quarters and the variety of approaches and interests of the hundreds of different agencies and par-

ties providing assistance to the refugees.

Against this background, UNHCR and its partners consequently faced numerous problems when they tried to redirect the assistance program after more than a decade of ignoring what Afghan refugees themselves were capable of doing. Not only was there hostility to the idea on the part of the refugee community, who had come to expect an unending round of handouts, but there was also serious resistance from some relief officers who were sceptical about refugees being capable of managing services for themselves.

Direct food assistance for the original refugee caseload, the great majority of whom had become more or less self-sufficient by the early 1990s, was gradually reduced and then finally phased out altogether in September 1995. Vulnerable refugee families and individuals who are unable to support themselves—for example widows, disabled people and several relatively small waves of new arrivals from Afghanistan—have continued to benefit from targeted assistance (Malha 1997, 9–13).

In both water and health sectors, refugees have gradually become more involved in the management of basic facilities. Through water management committees, refugees now manage some of the water supply schemes. They ensure that systems are run properly, access to the water supply is equitable and scarce water resources are conserved. They also share part of the systems' operational and maintenance costs.

Refugees have also formed health committees that, with additional input from agency and government staff, will hopefully expand the reach of primary health care. The delivery of health care now relies greatly on community workers and animators who disseminate information on major health care activities such as immunization and mother and child care available at the health units. The committees also ensure the collection of financial contributions from refugees receiving health treatment. They have the authority to waive the payment of fees for extremely poor refugees. The health committees and

fee-collection scheme have been in place for two years. An initial evaluation showed that refugees are capable of contributing, albeit modestly, to covering part of the cost of the health units. They have also shown willingness to decide how the fees they collect are used. In Baluchistan, the refugees themselves requested that women doctors be hired as they realized that this would encourage women and children to make use of the service.

Life for the Refugees in Iran

To its great credit, and in marked contrast to many other refugee-hosting nations, Iran did not shovel the Afghans into squalid camps. Instead, it allowed them to be absorbed into local communities—a method preferred by UNHCR, but one which few governments are politically or economically willing to undertake.

The Afghans in Iran received heavily subsidized food, health and education packages and many refugees, including women, found local employment. That has had at least one unintended effect: normally cloistered females became exposed to the workplace and education for the first time but, ironically, this may make it much more difficult for them to resettle in traditional Afghan society if and when they eventually return home.

As in Pakistan, the initial welcome given to the Afghans when they fled the might of the Soviet army in the 1980s has also worn thin in Iran. The Iranian government hoped that, under a repatriation agreement signed with UNHCR in 1992, most refugees would have returned within three years. Instead, the rise of the Taliban in Afghanistan appears to have halted repatriation from Iran altogether—at a time when Iran's economy has been suffering a significant downturn.

As a result of these developments, the original freedoms of the Afghans in Iran have been somewhat circumscribed. Movement within the country has become more restricted, and Afghans have been increasingly confined to designated residential areas in cities and towns. The authorities became more strict about identity documents, and

expelled a number of undocumented Afghans whom they do not consider as *bona fide* refugees. Some social benefits have been trimmed or cut altogether (Wilkinson 1997, 15). The refugees generally work in basic jobs such as construction, agriculture and embroidery. For years, refugees helped boost a robust economy, because of their low salaries and willingness to work long hours. But even in these fields, work is more restricted and difficult to find these days—resulting in a backlash from ordinary Iranians, who are themselves suffering increased unemployment. The murder of eight Iranian diplomats and a journalist during the Taliban take-over of Mazar-i-Sharif, and the subsequent military tension between Iran and the Taliban, is likely to increase public hostility towards the refugees.

The Struggle to Educate Females in Pakistan

In the 1980s, aid agencies fought a largely unsuccessful battle to establish female education. One problem was that the female literacy rate in Baluchistan and North-West Frontier Province (NWFP), where the refugees are located, is also extremely low. Another was that by congregating large numbers of rural Afghans—most of whom originated from small villages where everyone was part of the same extended family—in large refugee villages, the practice of purdah was reinforced. Parents were more afraid to let their daughters out of

the high-walled family compound into the company of strangers.

The educational situation across the border in Afghanistan itself is, of course, even worse. Back in 1993, Afghanistan had the world's fourth lowest literacy rate for females in the world (1993 figures cited in UNDP 1996) and the lowest adult female-to-male literacy ratio anywhere (1995 figures cited in UNICEF 1997). As a result of rigid enforcement of Taliban policies prohibiting female education and employment in the recently captured cities of Herat, Jalalabad, Kabul and Mazar-i-Sharif, the situation is unquestionably even more dire now. The loss of a large number of female teachers has also had a seriously detrimental effect on boys' education.

However, the long struggle over refugee girls' education in Pakistan finally started to bear fruit in the late 1990s. In 1996, out of perhaps 300,000 refugee girls under the age of 14, a mere 7,757 were enrolled in primary schools, with an even smaller number in secondary or higher education. Scant return for 16 years of concerted effort by the international community to persuade the largely Pashtun refugee community (from which the Taliban originate) that female education is not the root of all evil. However, a year later the number had doubled to 14,668, and in 1998 around 20,000 Afghan girls enrolled in primary schools in Pakistan—almost a three-fold increase in three years.

Table 1: Education of Refugee Children in Pakistan, 1996–98

	1996		1997		1998*	
	Boys	Girls	Boys	Girls	Boys	Girls
NWFP	56,727	6,190	58,618	12,332	65,700	16,500
Baluchistan	5,484	1,299	5,139	1,948	6,000	3,000
Punjab	1,213	268	1,118	388	1,300	500
Subtotal	63,424	7,757	64,875	14,668	73,000	20,000
Total	71,181		79,543		93,000	

* Estimated final enrolment figure.

Source: "Educating Afghans: Opportunities in Exile." Factsheet produced by UNHCR Islamabad, June 1998.

Over the same period the number of primary schools for girls in refugee villages has increased from 55 to 84, whereas the number of boys' primary schools has dropped slightly from 264 in 1996 to 254 in 1998 (reflecting a reduction in the number of refugee villages through repatriation, rather than a decline in demand) (UNHCR 1998c). In Pakistan, at least, the education gap between boys and girls is narrowing: in 1996, the ratio of girls receiving education compared to boys was 1:8, whereas in 1998 it has increased to almost 1:3.

Besides trying to raise awareness, UNHCR had adopted some concrete measures in an attempt to improve the situation facing female Afghan refugees. In 1995, in collaboration with the World Food Program, UNHCR introduced a scheme that provided edible oil to refugee girls attending primary schools. The number of girls attending schools has doubled each year since then, and a similar incentive scheme has now been introduced for Afghan and Iraqi refugees in Iran. Refugees are also encouraged to form school commit-

tees to support minor maintenance of schools in the hope that eventually they will be more involved in the provision of better quality education.

Recently, refugee women have also been given the chance to take part in non-formal education groups. The groups allow women to share their concerns regarding their own and their families' health and nutrition. While they learn basic literacy and numeracy, the female non-formal education groups gives them a culturally suitable forum to exchange views with other female refugees and female staff from relief agencies.

Repatriation

The relatively greater exposure of Afghan females in Iran to education and employment outside the home is one of several factors explaining why repatriation from Iran virtually stopped dead once the Taliban captured the western Afghan city of Herat in September 1995. By contrast, repatriation from Pakistan to Taliban-held rural areas has continued at a rate of around

100,000 a year since the Taliban completed their conquest of southern and eastern Afghanistan with the capture of the eastern city of Jalalabad in September 1996. The fact that the majority of the refugees in Iran are Dari-speakers and non-Pashtuns, whereas around 80 percent of the refugees in Pakistan are rural Pashtuns is another major factor that explains this phenomenon.

The collective optimism shown by the refugees in 1992—when 1.3 million returned from Pakistan and 300,000 from Iran in the space of six months—soon wore off as the various *mujahedeen* groups set about their deadly business of destroying Kabul (which had been relatively untouched during the Soviet occupation). Nevertheless, only once since 1990 has the annual number of refugees returning from Pakistan dipped lower than 100,000. Even the lowest annual return figure—the “mere” 87,000 who returned in 1997—is a very high number when compared with other refugee repatriations around the world.

Table 2: Afghan Repatriation Statistics

From	Pakistan (assisted)	Pakistan (spontaneous)	Pakistan Subtotal	Iran (assisted)	Iran (spontaneous)	Iran Subtotal	Grand Total
1988/89	—	200,000	200,000	—	—	—	200,000
1990	63,000	87,000	150,000	—	—	—	150,000
1991	174,000	26,000	200,000	—	—	—	200,000
1992	1,274,000	—	1,274,000	7,000	287,000	294,000	1,568,000
1993	133,000	225,000	358,000	337,000	269,000	606,000	964,000
1994	32,000	71,000	103,000	121,000	106,000	227,000	330,000
1995	77,000	76,000	153,000	92,000	103,000	195,000	348,000
1996	101,000	20,000	121,000	8,000	6,000	14,000	135,000
1997	71,000	13,000	84,000	2,000	—	2,000	87,000
1998	80,691*	—	80,691*	1,400 ⁺	—	1,400 ⁺	82,000
Total	2,006,000	718,000	2,724,000	569,000	771,000	1,340,000	4,064,000

* From 1 January 1998 to 31 September 1998. ⁺From 1 January 1998 to 31 August 1998.

Some totals may not add up due to rounding.

Source: “Afghan Refugee Statistics.” Update produced periodically by UNHCR Islamabad, October 1998.

The Effect of Virtual Pariahdom

By October 1998, only a few months after the four millionth Afghan went home, the situation was starting to look distinctly bleak for other refugees wishing to repatriate. With the Taliban and much of the international community locked into an increasingly solidifying *impasse*, and Afghanistan rapidly heading for international pariah status, funding for refugee repatriation had dried up altogether. Despite the fact that Afghans, once again, were the largest returnee group anywhere in the world in 1998—with 80,000 having gone back by the time the United States fired its cruise missiles at the Bin Laden training camps—UNHCR's repatriation program was effectively bankrupt (UNHCR 1998f).

Afghan repatriation had become a very difficult subject to "sell" in distant donor capitals. Wasn't this the country that was hosting the world's most wanted terrorist? Hadn't it just been hit by cruise missiles? Hadn't all international UN staff been evacuated? Wasn't it the largest producer of heroin on the planet? Didn't it have a huge Iranian army looming on its border? Wasn't news of an apparently large-scale ethnic massacre of Hazaras in the northern city of Mazar-i-Sharif starting to arrive via new refugees arriving in Pakistan? Didn't the regime that now controlled about 90 percent of Afghanistan maintain unacceptable discriminatory policies against women? Wasn't virtually every article of the Universal Declaration of Human Rights being violated—and this during the Declaration's 50th Anniversary year? And UNHCR wants money to repatriate people to this place?

The answer is yes. While refugees wish to return—and many of those currently in Pakistan still want to—it is wrong for the international community to say it knows better than they do, and stick unnecessary obstacles in their path. It is no more strange that refugees still wish to go back now than it was when a full-scale war was tearing Kabul apart. That is because those who want to return are not necessarily directly affected by all the concerns upsetting

much of the outside world. The refugees who are trying to go back are from rural parts of southern and eastern Afghanistan, where life has been relatively peaceful and where the Taliban's controversial social policies are far less rigidly enforced than in the cities.

Afghan refugees base their decision on their own knowledge about the situation in their home area. They take the wider political, military, social and economic considerations into account, but it is local conditions, particularly security, that are of the most importance to them. Educated professionals, especially women, are not returning to cities such as Kabul and Herat; people from the north and west are not returning; Hazaras are certainly not returning. For them, conditions are far from attractive at this point.

But many refugees from rural farming communities in the south and the east (who comprise about three-quarters of the 1.2 million refugees still in Pakistan) want to go back (UNHCR 1998e). And some of them want to go back now. After as many as 20 years in exile, they are worried that if they don't go back soon, they may not go back at all. The generation that knew a peaceful existence in Afghanistan prior to the 1979 Soviet invasion is ageing fast. Already there are many young Afghan adults who have never set foot inside their home country and many others who only have very dim childhood memories of life in Afghanistan.

If the repatriation program really grinds to a halt because of a lack of funding, it would be unprecedented in the history of refugees. It would mean that the international community had washed its hands of the largest refugee group in the world. Abandoning the Afghan refugees now will do nothing to improve regional stability and risks further undermining the international refugee protection system which has been under so much pressure elsewhere in recent years. And there's also a question of fundamental fairness to those who actually want to return.

Another factor the donor community may be failing to take into account is that returnees can be an important engine of

social change. Repatriating refugees take not only their personal baggage and roof beams home with them, but also the ideas, skills and habits they have picked up while in exile. In particular, refugees in both Iran and Pakistan have come to value education and health facilities—for both males and females—during their long period in exile. The new assisted group repatriation scheme that UNHCR began implementing in 1997 is targeting particular groups of refugees in Pakistan who express a desire to return home but are prevented from doing so by a number of obstacles. Many groups have been stressing the importance of education and are confident that if international agencies give them the necessary support, they will be able to set up girls' as well as boys' schools, particularly in remote rural areas where the Taliban authorities are less inclined and able to interfere in everyday matters.

Just as it was starting to gather momentum, the group repatriation scheme effectively ground to a halt in August 1998. The basic assistance package given to other returning refugees was also threatened with a complete shut-down. The engine of much-needed social change inside Afghanistan was switched off, firstly by the cruise missiles and then by the lack of funds. In some cases, UNHCR was struggling to complete projects promised to refugee groups that had returned earlier in the year. Another eight groups eager to return in the autumn were informed by UNHCR in late September that they would no longer be able to do so before 1999. The scheme depends very much both on its own momentum and on its credibility with the refugees. Because of the lack of funding, and the other crises affecting Afghanistan, the momentum had stopped in its tracks, and the credibility was inevitably damaged. The funding prognosis for 1999 was not looking at all good either.

The Afghans still represent almost one-fifth of all refugees in the world today. It would be a tremendous admission of failure to abandon the only viable solution to their prolonged Cold-War-induced exile. ■

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Asylum: A Moral Dilemma

By W. Gunther Plaut

Toronto: York Lanes Press, 1995
ISBN 1-55014-239-9; 192 pages, indexed; \$19.90

Every year the refugee landscape changes, but only in that more problems are added, fewer are solved, and all become constantly more urgent. Fuelled by the explosion of the world's population, the quest for asylum is one of the most pressing problems of our age. Refugee-receiving nations—located frequently, but by no means exclusively, in the Western world—have to respond to masses of humanity searching for new livable homes. Human compassion for these refugees can be found everywhere, but so can xenophobia and the desire to preserve one's nation, economic well being, and cultural integrity. The clash between these impulses represents one of the great dilemmas of our time and is the subject of Plaut's study. In exploring it, he provides a far-ranging inquiry into the human condition.

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Asylum—A Moral Dilemma is simultaneously published in the United States by Praeger Publishers, and in Canada by York Lanes Press.

Available from:

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Mine Action in Afghanistan

William Maley

Abstract

Afghanistan is severely contaminated by anti-personnel mines, which pose major physical, social and economic threats to repatriating refugees. Fortunately, mine action—a multidimensional effort to address these problems through survey, detection, clearance, mine awareness, and victim assistance—is well developed in Afghanistan, with the Afghan Mine Action Program a model of good practice. That said, mine action faces ongoing challenges, of which those originating in the realm of politics are the most troubling.

Précis

L'Afghanistan est profondément infesté de mines anti-personnelles, et ces dernières représentent un danger physique, social et économique majeur pour le rapatriement des réfugiés. Fort heureusement, ce que l'on pourrait nommer l'action au déminage (mine action) est très bien développé en Afghanistan. Il s'agit d'un effort multidimensionnel visant à traiter ce problème par le biais de fouilles sur le terrain, détection, élimination, conscientisation des populations face au danger représenté par les mines, et aide aux victimes. Le programme d'action au déminage afghan apparaît comme un modèle du genre. Cependant, l'action au déminage fait face à des remises en question importantes, au nombre desquelles celles se dégageant des arcanes de la politique ne sont pas les moins troublantes.

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On the evening of 27 December 1979, Soviet special forces stormed the Tajbeg Palace in southern Kabul and killed its most prominent occupant, the Afghan President Hafizullah Amin. Almost immediately, they swathed the Palace with minefields. The Soviets, and indeed the Soviet Union, are now gone, but their mines remain. From this gruesome starting point, mines were laid in many other parts of the country so that nearly two decades later, Afghanistan remains one of the countries most severely afflicted by this vicious form of late twentieth century pollution. Remarkable steps have been taken to address the problem. However, for too many Afghans, not least among them those Afghan refugees who remain stranded in Pakistan and Iran, the threat of hideous injury from landmines continues to thwart their hopes of return to their homeland. In the following remarks, I propose to examine five topics: the nature of the landmine menace, ways of addressing the problem, the evolution of "mine action" in Afghanistan, the achievements of the Mine Action Program, and the challenges which continue to face mine action in Afghanistan.

The Problem of Landmines

A mine is a munition placed under, on or near the ground or other surface area which is designed to be exploded by the presence, proximity or contact of a person or vehicle. Mines generally fall into two categories, Anti-Tank Mines (ATMs) and Anti-Personnel Mines (APMs). A neat distinction tends to break down when one encounters ATMs with anti-handling devices, which in practice can have similar effects to APMs. The key feature of mines is that they are victim-activated, and this accounts for the massive concern which has arisen about their effects. In too many conflicts, including the Afghan conflict, the bulk of victims have

been civilian non-combatants. This has prompted widespread debate as to their legitimacy as a weapon (Human Rights Watch 1993; Davies 1994; McGrath 1994; Cahill 1995; Roberts and Williams 1995; ICRC 1996).

The effects of landmines can be widespread and horrific. Even simple movement from one place to another can be fraught with danger: in April 1992, after the collapse of Najibullah's communist regime, the largest and fastest voluntary repatriation of refugees in UNHCR's history was blighted by a sharp upsurge in recorded mine injuries (Coupland 1996). Mines, according to the International Committee of the Red Cross, "have the power to deny, by their very presence, the fundamental right of refugees to return to their native lands" (ICRC 1992, 8). The most immediate consequences of APMs are medical, and vary according to whether the APMs in question are blast or fragmentation mines, with the former causing injury through the expansion of heated gases and the latter through the dispersal of shrapnel (ICRC 1995). An Afghan who treads on a blast mine may well die on the spot, and even if he or she survives, is likely to lose one or both legs. Infection is a serious risk because of the amount of foreign matter that is embedded in the tissues of the victim (Coupland 1992). The need for prostheses, if victims are to recover mobility, points to a further problem: that of coping with a lifelong disability. Afghanistan is not a society well-equipped to meet the needs of the disabled (Miles 1990). As a result, mine victims are likely to suffer a disastrous loss of self-esteem and to lapse into clinical depression, for which the resources to provide treatment are again pitifully inadequate. Thus, landmines have significant social consequences. They also have striking economic consequences, since the presence of APMs can deny the use of land to those who need it for agricultural or pastoral purposes. And



those who feel they have no option but to make use of land are often taking a terrifying risk in doing so, something driven home to this writer when he watched a shepherd lead a flock of sheep through a clearly-marked minefield south of Kabul in June 1997. Finally, mines are an environmental disaster, something which the Society of Afghan Volunteer Environmentalists (SAVE) headed by Abdul Wajid Adil has highlighted.

Calculating the scale of Afghanistan's landmine problem is a complex task. At least 38 different types of mines have been found in Afghanistan. On occasion, estimates of the number of mines to be found have been put forward: for example, in 1993 the UN suggested a total of ten million mines and items of unexploded ordnance (UNOCHA 1993, 2). However, the simple number of mines in a country is a poor measure of the problems they cause, since it tells one nothing about the pattern of their distribution and the resultant human, social and economic effects. It is more useful to map and count minefields, since a minefield will disrupt normal life irrespective of how many mines it contains. Initial data became available in 1993 as a result of the *National Survey of Mines Situation in Afghanistan* (MCPA 1993)—2,353 minefields were identified, occupying 388.75 square kilometres, or 0.06 percent of Afghanistan's area. However, only 46.21 square kilometres were designated as requiring "high priority clearance," since many minefields were located on mountain tops, hillsides and desert—areas to which the Soviet Union wished to deny its opponents access for transit purposes, but which were not central to the lives of many Afghans. Subsequent surveys have identified further minefields to be cleared. In addition, the tasks of mine action have expanded to cover the problem of "battlefield area clearance," as the sedentary population, returning refugees, and internally displaced persons increasingly encounter threats not simply from mines but from unexploded bombs and other ordnance left over from battle. Thus, at the beginning of 1998, it was

concluded that 725 square kilometres of land remained affected by mines, with 324 square kilometres demanding high priority clearance. High priority areas for clearance were found in the provinces of Herat (73.22 sq km), Kandahar (59.28 sq km), Farah (41.05 sq km), Paktia (33.15 sq km), Zabul (19.02 sq km), Kabul (18.81 sq km), Ghazni (18.34 sq km), Paktika (14.48 sq km), and Nimruz (10.73 sq km). More happily, in Jowzjan, Bamian and Uruzgan, no high priority minefields remained. (UNOCHA 1998a, 20). Mine clearance remains a substantial task. Fortunately, it is not significantly complicated by remaining of cleared areas, of which there is evidence only in the Shomali Valley.

Techniques of Mine Action

Some years ago, talk of "mine clearance" or "demining" was commonplace. These terms still are useful as labels for particular types of activity. To describe the totality of steps to address the problem of APMs, the broader term "mine action" is becoming increasingly popular. It captures the interconnectedness of the complex steps that are required to address a complex problem. Afghanistan offers an excellent example of a complex mine action program at work. Mine action incorporates five key elements: survey, detection, clearance, mine awareness training, and victim assistance. Prioritizing different spheres of mine action is a highly contentious issue amongst professionals in the area, and can become a source of significant disputation if not handled with sensitivity.

Surveys of potentially mined areas are vital if scarce resources are to be used efficiently. It is at the survey stage that minefields are initially marked. First, it is necessary to undertake *general* surveys, to identify the areas which locals believe to be mined, and to identify the use to which mined land could be put if cleared. This enables priorities to be attached to the clearance of different areas. These must be followed by *technical* surveys, in which the exact boundaries of minefields are traced (in Afghanistan by Global Positioning System methods) and detailed maps prepared which can

be passed on to deminers. Finally, *completion* surveys bring the demining process to an end.

Detection of landmines is one of the most challenging technical tasks of humanitarian mine action. A very high level of reliability is required, certainly more than in military mine clearance. In the latter the objective is often to breach a path rather than clear an entire area, and a higher level of casualties may be deemed acceptable given the intrinsic risks associated with war. Metal detectors are widely used. However, it can be difficult to use them to detect those APMs, which are made largely of plastic and have low metallic signatures, especially if soil has a high ferrous content. Metal detectors are thus being increasingly augmented by the use of dogs trained to detect with their sensitive noses the explosive charges within mines. A great deal of research on alternative means of detection—for example, ground-penetrating radars, biosensors, and infrared detection techniques—is being conducted, but there is a considerable gulf between what appears promising in the hands of physicists in a well-equipped laboratory and what will prove workable in the potentially harsh terrain of a mine-infested Third World country such as Afghanistan where physicists are in short supply.

Clearance for the most part is carried out in a laboriously manual fashion. If simple metal detectors are being used in the initial sweep of what is known to be a mined area, progress can be agonizingly slow, since shrapnel, bullet casings, and other detritus of battle, as well as scrap metal, may all give positive readings and require investigation. This typically involves a deminer with a prodder clearing away surrounding soil to reveal the precise nature of the object detected. In Afghanistan, standard operating procedures require that mines be blown up *in situ* with plastic explosives, a procedure that allays any suspicion that mines are being lifted for reuse. Mechanical mine clearance vehicles using flails—which beat the earth in or on which mines are to be found—have been developed, but their utility in Afghanistan is limited by the nature of

the terrain. Battlefield clearance requires somewhat different techniques, since some UXOs may need to be moved before they can be safely exploded. An old firing range at Pul-e Charkhi on the eastern outskirts of Kabul is used for such controlled detonations.

Mine awareness is a vital activity, but one of the most troublesome. Poorly executed or culturally-insensitive mine awareness training can waste scarce resources, and—in the worst instances—be counterproductive. Mine awareness training needs to be carefully targeted to groups at greatest risk. It is also important that mine awareness classes not inadvertently become a venue to further degrade the self-esteem and psychosocial wellness of mine victims. At a number of classes in Afghanistan attended by the author over the years, traumatized mine victims were forced to relive the worst experiences of their lives. Particular problems arise in Afghanistan because of the vulnerability of pastoral nomads, whose lifestyle puts them at relatively high risk but also makes them inaccessible to village-based classes (MSF 1997, 24).

Finally, *victim assistance* is vital in a country as contaminated by APMs as Afghanistan. In the short term, this mostly involves surgery to craft from a smashed leg an amputation stump to which a prosthesis can be attached, together with rehabilitation training to allow victims to recover mobility. Other medical treatments may also be required, as mine injuries need not be limited to the limbs. In the longer-run, however, victim assistance involves the provision of work opportunities to foster victim self-sufficiency and most fundamentally of all, efforts to break down the cognitive barriers which define the disabled as being of limited worth. This is a great concern of the Afghan Disabled Society headed by Abdul Rahman Sahak. None of this is easy to deliver.

The Organization of Mine Action in Afghanistan

Mine action in Afghanistan has a venerable history. During the 1980s, the problem of APMs was one with which members of the staffs of non-govern-

mental organizations (NGOs) became distressingly familiar. The International Committee of the Red Cross operated a surgical hospital in Peshawar to which many mine accident victims—the more fortunate ones—were transported from ICRC clinics on the Pakistan-Afghanistan border. However, concerted mine action had to await the signing of the Geneva Accords in April 1988, and more fundamentally, the completion of the withdrawal of Soviet troops from Afghanistan in February 1989. Enormous strides have been made in the decade since then, fundamentally because of the wisdom with which the program was initiated. Since contest for control of the state in Afghanistan persisted (Saikal and Maley 1991; Maley 1997), it was necessary to develop a model for mine action independent of Kabul-based bureaucracies. An initial experiment with camp-based training of villagers proved a failure: tools were sold in local markets, and documentation of both mine incidents and program achievements was poor (Eaton, Horwood, and Niland 1997, 12–13). It was clear that mine action had to be put on a thoroughly professional footing. The model which was then adopted provided for mine action to be substantially undertaken by Afghan NGOs created for the purpose, but under the organizational umbrella of what was to become the United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan (UNOCHA). This framework remains in place, and has been an outstanding success.

The UNOCHA Mine Action Program for Afghanistan (MAPA) thus has a number of discrete elements. Its management heart is the UNOCHA Mine Action Centre for Afghanistan (MACA), based in Islamabad, Pakistan, with regional offices in Kabul, Jalalabad, Kandahar and Herat. MACA's headquarters are under the supervision of a Program Manager. In recent years, the position of Program Manager has been occupied by a succession of retired officers from the Australian Army who had earlier served in the area during the deployment from 1989 to 1993 of an Australian Army contingent that was

attached to the UN program to provide technical advice and training to Afghan staff (Maley 1994). The implementation of the work of MAPA is in the hands of a range of NGOs, the majority of them Afghan; around 3,900 Afghans are employed by the program. Survey work is largely the responsibility of the Mine Clearance Planning Agency (MCPA). The bulk of actual detection and clearance is done by Afghan Technical Consultants (ATC), the Mine Detection Dog Centre (MDC), the Demining Agency for Afghanistan (DAFA), the Organization for Mine Clearance and Afghan Rehabilitation (OMAR), and the HALO Trust, which is a British charity. Awareness training is undertaken by OMAR, together with Handicap International (HI), Save the Children USA, the Afghan Red Crescent Society, and—in one of the most imaginative elements of the program—the BBC Drama Project (AEDP). The project conveys mine awareness messages through the medium of a soap opera, *New Home, New Life*, which is specially designed to convey useful information through dramatic form on short-wave radio. Victim assistance is a major activity of the International Committee of the Red Cross, which provides surgical facilities and runs world-renowned orthopaedic rehabilitation centres (Ignatieff 1998, 153–56).

The program is funded by voluntary donations, with Sweden, the USA, the Netherlands, Germany, Japan, the United Kingdom, and the European Union being notably generous contributors. MAPA—in contrast to some other areas of activity for which the UN has sought funding through its annual Consolidated Appeal—has been relatively well funded. For each of the last six years, over U.S.\$15 million has been subscribed to support MAPA's work, and by mid-1998, U.S.\$16,182,234 had been received or pledged for work during the current year (UNOCHA 1998b, 8). However, this still fell short of the Appeal target of U.S.\$23,985,000.

Achievements

What have been the main achievements of MAPA? They fall, I would argue, into

three categories. The first relates to the concrete work of the program in Afghanistan. The second relates to the unintended consequences of the program in Afghanistan. The third relates to the contribution of the program to the broad river of world opinion which culminated in December 1997 in the signing of the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction*, known as the Ottawa Treaty, which will come into effect in March 1999.

The concrete achievements of the program are considerable. As of November 1997, 184 square kilometres of mined land had been surveyed, mapped, and marked, 130 square kilometres of high priority mined land had been cleared, and 122 square kilometres of former battlefield land had been cleared of UXOs. In the process, 686,813 mines and UXOs had been destroyed. In addition, 3,863,377 Afghans had received mine awareness training. The program is also an efficient one: 1995–96 figures suggested an average clearance cost for manual teams of U.S.\$1 per square metre, which were “the lowest reported from any country” (Eaton, Horwood, and Niland 1997, 39). One of the factors which has contributed to the efficiency of the program has been its exposure to a number of rigorous external evaluations, which have permitted significant gains to be made in both productivity and safety. This experience has highlighted an often-overlooked point of considerable importance—that much can be gained through improvement in management structures and techniques. Mine action is very much a human and social phenomenon, and while technological innovations can improve program efficiency, they are by no means the only way of lifting performance.

In addition to these achievements, MAPA has had a number of valuable unintended consequences. Perhaps most importantly, it has provided a venue in which Afghans of widely differing backgrounds can come together to further a cause which is universally recognized to be a beneficial one.

Deminers are highly esteemed, and they have the opportunity to re-learn a number of sociopolitical skills which years of ferocious war tend to undermine. These include the skills of trusting and cooperating across ethnic lines. As ethnic tensions have sharpened in Afghanistan (Saikal 1998), the importance of mine action as a neutral venue for cooperation has increased. MAPA has also provided an example of what Afghan NGOs are capable of achieving. Apart from the Afghan Red Crescent Society, founded in 1934, NGOs were virtually unknown to Afghanistan until the years following the Soviet invasion. Following the Soviet withdrawal, the relative flood of money for reconstruction programs triggered a high level of rent seeking from Afghans. NGOs of dubious provenance emerged, which often amounted to no more than family networks fronted by polished salesmen operating out of briefcases. While the mine action NGOs have not been entirely free of informal networking—which can pervade almost any formal organization—they have nonetheless performed in a highly professional manner. At some point in the future, they may provide a prototype for further forms of autonomous social organization in Afghanistan. Finally, the mine action NGOs have nurtured some bright talent developed in exile by younger Afghans who make up the technocratic stratum. At some point, the country will need their talent to exploit more widely for purposes of postwar reconstruction.

Mine action in Afghanistan has been brought to the attention of the wider world through the activities of the Afghan Campaign to Ban Landmines (ACBL), which was founded in August 1995. The Afghan Campaign is chaired by Sayed Aqa, who is also the Director of MCPA. The ACBL has been an energetic member of the International Campaign to Ban Landmines (ICBL), which in 1997 was jointly awarded the Nobel Peace Prize. Since its establishment, the ACBL has gathered over 240,000 petitions calling for a total ban on landmines (ACBL 1998, 1). Through its work, ACBL has directly linked Af-

ghanistan to the remarkable process, which resulted in the conclusion of the Ottawa Treaty (see Thakur 1998; English 1998; Price 1998). The Ottawa Treaty is not a magic solution to the landmines problem, but constitutes a powerful statement of moral revulsion against this particular weapon and has undoubtedly fostered a climate in which resources for mine action are more likely to be forthcoming. The United States’s “Demining 2010” initiative may be one positive spin-off from the Ottawa process, since the US, while refusing to sign the treaty itself, has been keen to demonstrate to doubters that it remains committed to the cause of mine action. In the context of the Ottawa process, the ACBL has played a vital role in ensuring that the particular needs of Afghanistan are not drowned out by the clamour of the wider world.

Challenges

Mine action nonetheless faces a number of serious challenges. The times in which we are living are not easy ones for any kind of humanitarian action in Afghanistan, and illustrate how complex is the interplay between politics and humanitarianism. The rise of the Taliban movement (see Maley 1998), while at heart a product of Pakistani military strategy, has created major problems for both the United Nations and Western and Afghan NGOs. The Taliban are unquestionably the world’s least feminist movement. While their persecution of women (PHR 1998) has not impacted directly on mine clearance, since it is a gender neutral activity, it has affected mine awareness training in some areas. More generally, it has poisoned the climate for UN and NGO activity in Afghanistan.

The consequent disruptions in UN activities have struck MAPA as well. At the end of September 1997, the Head of the MAPA office in Kandahar, together with two other officials, was expelled by the Taliban after he “walked out of a meeting in protest after a female colleague was told to address the assembled company from behind a screen” (UNOCHA 1997, 1). On 23 March 1998, the UN ordered the withdrawal of all its

expatriate staff from Kandahar following a physical assault on an expatriate staffer by the Taliban governor (Hussain 1998). This suspension of activities lowered MAPA's rate of clearance for the first half of 1998 (UNOCHA 1998b, 9). In May 1998, a UN delegation visited Kabul to negotiate terms for re-engagement, but the concession it made in Article 13 of its Memorandum of Understanding with the Taliban that "women's access to and participation in health and education will need to be gradual" not only provoked a storm of protest from NGOs, but arguably encouraged the Taliban to make their subsequent demand that Western NGOs shift to the derelict Polytechnic complex. Most NGOs rightly interpreted this demand as a covert expulsion order that prevented any large-scale UN re-engagement from taking place. The departure of the NGOs was accompanied by Taliban theft of equipment, notably vehicles provided to the Sandy Gall Afghanistan Appeal by the Princess Diana Memorial Fund. As *Agence France Presse* reported on 24 July, the "two Diana memorial fund Land Rovers now ferry around turbaned and gun-toting passengers in comfort through the bumpy and potholed streets of Kabul." Finally, the murder in Kabul on 21 August 1998 of Lieutenant Colonel Carmine Calo, an Italian officer attached to the UN Special Mission to Afghanistan, prompted the withdrawal from Kabul of all expatriate UN staff including the Head of the MAPA office. It is likely to be some time before conditions permit the reintroduction of any significant expatriate presence.

There is one further challenge to be met. Afghanistan, despite being seriously afflicted by the scourge of APMs, is yet to sign the Ottawa Treaty. This may become a practical problem for MAPA should donors at some point decide to make it a condition of assistance that the state soliciting aid be a state party to the Convention. However, it is also regrettable from a symbolic point of view. The victims of mines in Afghanistan are overwhelmingly Afghan, and if the country's political leaders cannot come together to renounce a

weapon by which their own people have been so hideously scarred, it speaks poorly of their claims to popular legitimacy. ■

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Education Patterns in the Context of an Emergency

Nancy Hatch Dupree

Abstract

Education in Afghanistan is in crisis. This discussion examines the context that structures the Afghan crisis. Amongst the vast plentitude of challenges confronting Afghanistan today, those in education are the most paradoxical. On the one hand, one is told that education forms the foundation upon which all reconstruction rests. On the other hand, education remains the most severely underfunded sector in humanitarian assistance to Afghanistan.¹

Précis

L'éducation en Afghanistan est en crise. Le présent exposé examine les contextes structurant cette crise afghane. Dans la vaste multitude de défis auxquels l'Afghanistan contemporain fait face, les défis éducationnels sont les plus paradoxaux. D'un côté on entend le message selon lequel l'éducation forme le fondement sur lequel toute reconstruction nationale repose. D'un autre côté, l'éducation demeure le plus sévèrement sous-financé de tous les secteurs d'action humanitaire en Afghanistan.

Today

Since the rise of the Taliban Islamic Movement (now styled the Islamic Emirate of Afghanistan) in 1994,² the crisis in education has been exacerbated by official pronouncements banning girls from attending school and female teachers from teaching. Donors have predictably reacted with their own principle-centred statements.³ Education continues to deteriorate as the impasse hardens.

The seriousness of this deterioration becomes starker when seen against the already abysmal state of education in

Afghanistan before the conflict began after the 1978 coup d'état. Pre-war trends persist and provide useful patterns of comparison. Economic, regional and gender imbalance in literacy rates were abundantly noticeable. The 1975 literacy rate was estimated at 11.4 percent (18.7% males; 2.8% females). In urban settings, 25.9 percent (35.5% males; 14.8% females) of the population six years old and over were literate, but in rural areas only 8.8 percent (15.7% males; 0.6% females, in some provinces 0.1%).⁴ Regionally, 32 percent of the students lived in and around the capital city of Kabul in 1978, compared with only 3.3 percent living in the central mountains.⁵

The absence of reliable data and the unstable political situation render statistics meaningless in 1998. Nevertheless, it does not take much imagination to calculate the enormity of the emergency in light of the war-destroyed infrastructure, the loss of qualified staff, the inattention of national authorities, and donor reluctance. Fifteen NGOs, both Afghan and international, operate in the field. They function in 25 of Afghanistan's 32 provinces, providing services to perhaps some 250,000 individuals, mostly on primary levels. This meets only a fraction of the needs. Moreover, projects are scattered, often intermittent because of funding shortages, and, with notable exceptions, the quality is frequently inconsistent and woefully below minimum standards.

Among refugee populations in Pakistan there are an estimated 230,000 children of primary age in the officially recognized refugee camps and settlements composed largely of families from rural areas. Of these children, some 90,000 receive educational services.⁶ For urban populations living outside the official camps, education is a scandal.

After the Taliban swept into Kabul in September 1996, scores of families left, only to find that assistance to refugees

in Pakistan had been cut to a bare minimum. Schools outside the officially administered camps had all but disappeared. Donors had decreed that schools retarded repatriation and attracted new refugees.

Indeed, it was the rapid decline of education in Kabul that induced many families to leave. There were no schools for girls, services at boys' schools were deplorable because 70 percent of their teachers had been women who were no longer permitted to work, and the conservative orientation of the new authorities threatened to confine the curriculum solely to religion. Even Taliban officials keep their families in Pakistan so that their children could attend schools with wider horizons. Entrance to Pakistani-run schools, however, is difficult and expensive. So while there is a tremendous demand, access to qualified facilities is slight. Opportunists thrive under such conditions and their sign boards beckon anxious parents in almost every Peshawar alleyway. In return for the fees, however, the majority offer precious little in the way of qualified teachers, uniform textbooks, curriculum, or supplies.

Both inside and outside Afghanistan, education had become such a burning issue by mid-1997 that aid providers met in a series of meetings seeking new, common strategies for improving access, quality, and capacities.⁷ Before devising strategies, however, it is well to be aware of the existing education fabric. What patterns existed before the war? What purposes did education serve? Who benefited, in what ways? These questions form the focus of this discussion.

Way Back

Education has always been a treasured ideal in this region where renowned centres of learning flourished during various historical periods. In addition, since seeking knowledge is sanctified

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by the Islamic injunction that all good Muslims, including women, should seek education so as to better provide social justice for the community, all knowledgeable individuals, not only scholars, are accorded measurable respect. Thus one finds that bonds between teachers and pupils are strong, second only to those governing the rights and obligations of families.

In practice, however, the ideal was confined largely to elites flourishing at the Islamic courts of the Samanids in Balkh in the 9th century, the Ghaznavids in Ghazni during the 10th and 11th centuries, the Timurids in Herat in the 15th, and in Kandahar in the 18th century.

By the 19th century, this high tradition of scholarship provided the form for traditional learning, although much of the creativity of earlier times had been lost. It was focused on the transmission of Islamic doctrine through the institutional structure and organization of *madrassas* centered around reputed scholar/tutors with their devoted disciples. These centres of learning were private concerns attached to mosques and supported by communities as well as rich patrons. There was no uniformity in curriculum. Teaching methods relied heavily on recitation and memory.

The lower levels of educational establishments were also found in community-supported mosques in villages, district towns and city neighbourhoods. Here, instruction, again with no uniform curriculum, dwelt almost exclusively on imparting knowledge of the ritual, beliefs, practices and moral teachings of Islam taught by the rote reading of the Koran and other popular literary devices utilizing classical Persian poetry and prose with a goodly admixture of customary tribal beliefs. Two popular texts, Panj Ganj, and, Kulliyat-i-Chahar Kitab, expound on the duties of good Muslims, correct behaviour, and other types of religious knowledge.⁸ Unfortunately, numerous superstitions and prejudices also appear. Attitudes concerning female foibles and male superiority are entrenched at a very early age through these texts.

The local mosque schools were too often taught by *mullahs* with minimal education; sometimes they were barely literate. They relied on recitation, memorization and endless repetition. Comprehension was of little relevance and a favoured teaching aid was a long stick used to jar the inattentive unlucky enough to err.

Although respect for learning continued as the end of the 19th century approached, the bulk of the population remained illiterate. Learning to read the Koran by rote did not necessarily mean learning to write.

Reforms Begin and End: 1880s–1929

Although Amir Sher Ali opened what might be called the first modern schools as early as 1868, the absence of educated subjects irritated the creator of the first centralized nation-state in Afghanistan.

Amir Abdur Rahman (1880–1901) relates that on coming to the throne in 1880, he sought 30 clerks who could read and write, but could only find three. As a result he made education a pillar of his reforms. He opened schools in major towns and had the foresight to order the printing of thousands of books.

Thus education served to strengthen the Amir's administration, but his vision went far beyond this. His ultimate goal was to establish a centralized, integrated autocratic nation-state and to extend his authority over all aspects of society so that Afghanistan might acquire a respected place within the comity of nations. Educated subjects, including women, were imperative, he said. But he also insisted women remain in seclusion, seeing nothing inconsistent in the two:

Owing to the wisdom of our Holy Prophet, who commanded that women under no circumstances should ever leave their houses without the consent and permission of their husbands, women should be allowed to do so for one purpose only, that of being educated.⁹

The Amir also devoted much of his efforts to reorganizing a state-super-

vised religious hierarchy which effectively curtailed their heretofore domination of education. The intent was not to destroy the religious establishment, but to subordinate it to the centre, thereby co-opting high officials at major religious institutions as spokesmen for the legitimacy of the Amir's modernization policies.¹⁰

The dynamics between the traditional and the modern became more apparent during the reign of Amir Abdur Rahman's son and successor, Amir Habibullah (1901–1919), who had neither the ruthlessness nor the political skills of his father. As a consequence the religious establishment regained some of its lost influence, although the Amir diligently furthered several aspects of modernization so as to continue to improve the nation's image while Russia and England played their Great Game.

The first truly modern secular school was Habibiya, opened in 1903. It was modelled after Aligarh College in India. In 1904, a school for the children of notables was established, which became the military college known as Harbiya headed by a Turkish military officer. The primary school system was expanded in 1915 and textbooks as well as instruction were provided free.

King Amanullah (1919–1929) expanded his father's education services. Eight modern, foreign-language schools, five for boys and three for girls, were active by the end of his reign; some were upgraded to high schools, with French, German and English instruction at the boys schools. Turkish, French, German and Indian female teachers taught science and foreign languages at Masturat, the first school for girls which opened in 1921. By 1929, the total enrolment in formal state-sponsored secular schools for girls numbered 700.¹¹

Students, both boys and girls, were mostly, although not entirely, upper elites. Years later, even after education became more widely accessible to the middle class, these early schools remained elitist centres of learning. By 1978, graduates of state-run schools in Kabul dominated top positions in the

bureaucracy; most prominent political leaders during the war years, on both the left and the right, were also graduates of this system.

By 1929, several patterns had been set. First, leaders emerged from state secular schools, not from private *madrassas*. Second, most, if not all, substantive improvements in education were provided by outside assistance. This trend continued particularly as university faculties were later established.¹² Third, this period marks the beginning of the bifurcation of education into two parallel systems: traditional religious and modern secular. From this time onward the influence of one over the other intensified according to political developments, and the divide was often racked with tensions.

King Amanullah's zeal for modernization struck out against many conservative customary practices. Inflamed, the traditionalists revolted. As the tribal momentum escalated, the King was confronted with numerous demands, number one among which was the closure of secular schools, particularly those for girls. A Pushtun tribal army advancing from the east unseated the king and its Tajik leader ruled Kabul for nine months until he too was toppled in October 1929.

Consolidation: 1929–1960s

King Nadir Khan (1929–1933) came to the throne with the support of the tribal forces that helped him conquer Kabul, and the religious leaders gained more influence as a result. Many of Amanullah's reforms were abandoned, but secular education, including schools for girls in separate facilities, expanded both geographically as well as academically under royal patronage.

King Nadir found his throne shaky and his coffers empty. To remedy this, secular education was promoted not only to help secure loyalty towards the monarchy but also to produce the manpower needed to increase productivity. While Islam was evoked at every opportunity so as to strengthen national unity, the gradual, cautious promotion of secular education was employed in order to convince traditionalists that Is-

lam and modernization were compatible.

These policies continued to mould education over the next three decades and the sector grew as an adjunct to development by preparing loyal technocrats and bureaucrats for an expanding government.

Statistics in Afghanistan are always risky, but they do indicate patterns.¹³ The growth of formal government schools appear thus:

1930: 13 institutions and 1,590 students,

1967: 2,567 institutions and 497,911 students.¹⁴

It was during this time of major growth that compulsory primary education was constitutionally enshrined, first in Article 20 of the 1931 Constitution. Article 34 of the 1964 Constitution stated that education is a right of every Afghan and that education shall be provided free by the state, that the state is obliged to provide suitable facilities, and that it is a state duty to guide and supervise. This Article also allowed Afghan nationals to establish technical and literacy schools outside the state system, the curricula of which, however, were still to be determined according to state laws.

The government never had the funds or the capability to realize this constitutional ideal. Nevertheless, the concept of the right of every citizen to enjoy free compulsory education was a matter of pride, which is deeply ingrained in the minds of educated Afghans today. They are loathe to see this right compromised.

The Explosion: 1960s and 1970s

By the time the 1964 Constitution was promulgated, the government, feeling securely backed by a strong military base of power, had already launched an unprecedented surge in development and reforms including support for the voluntary end of *purdah* and removal of the veil. Teaching became an acceptable career for women active in public life. Primary schools and Kabul University became co-educational, while middle and high schools remained in separate facilities. As the industrial sector grew, rural-urban migration increased, giv-

ing many more children access to schooling on all levels. In addition, foreign investors in the new industrial sector sent more and more students, both men and women, overseas for higher training. By 1974, some 1,500 a year were leaving for studies abroad.

Of course, traditional mosque schools continued to function in uncounted numbers, with all the shortcomings described still intact. These were still largely supported by their communities, but in keeping with its consistent desire to retain a tight grip on all things educational, the central government introduced regulatory measures toward the end of the 1960s to standardize and coordinate the activities of those *madrassas* established through local initiatives.

By 1978, the number of schools had risen to 3,825 with over a million students taught by almost 40,000 teachers.¹⁵ Another set of statistics indicates that only 12 percent of these schools were for girls, but of course many girls attended co-educational schools. Others still studied at home where their instruction may well have been superior to what they would have received in schools. The percentages of school-age girls enrolled in primary schools (8.6%), middle schools (3%) and Lycee with grades 10–12 (1.4%), although discouraging, were nevertheless twice the number in grades 1–9 and five times the number in grades 10–12 compared to the 1960s.¹⁶

Amir Abdur Rahman would no doubt have been able to find 30 clerks, male or female, to help with his administration by 1978. Nevertheless, in terms of the requirements for truly functional literates, the situation in 1978 was fully as inadequate as it had been in 1880. Indeed, the Amir's search would have been further beset by masses of only marginally employable school graduates. By 1978, an estimated 70 percent of school graduates were unemployed. Graduates were either ill-trained, overly-trained or, as was often the case, capable only of performing routine administrative jobs which were already filled.

The education sector, therefore, was inadequate even before the onset of war in 1978.

What Happened?

For one hundred years many schools representing very large expenditures of money and effort had come into being, yet Afghanistan's education achievements remained the lowest in Asia.¹⁷ Where did the problems lie?

On the upper administrative levels, the Ministry of Education had all the departments requisite for a good delivery system, but there was a sad absence of dynamic policy-making leadership. This should not have been, for the ministers and high officials were chosen from among the most capable, forward-looking Afghans available; many held advanced degrees in education from respected foreign academic institutions. But it was difficult to maintain any consistency. Ministers, being political appointees each with their own agendas, were removed with great rapidity before they could affect any lasting impact. Between 1964 and 1973, five different governments came and went.

Worse, ministers often succumbed to a general malaise because they could not persuade the King to issue the necessary authorizations that would enable them to initiate new approaches. The King was dilatory in this regard because of the influence of overly cautious family advisors. They feared that changes toward a more effective, broad-based education system would ultimately undermine the autocratic position of the royal elite. Subsequent events proved they were right.

In the meantime, the system plodded along with many difficulties, many of which are mirrored in today's inadequacies. Rural-urban, geographic, elite-commoner and gender gaps persisted. Quantity did not mean quality. Despite the existence of several teacher-training institutions, lectures on good techniques did not guarantee good teaching. Rote memorization continued. Classrooms were teacher-centered, not child-centered. Teachers expounded, students listened, rarely posing

ing questions, and seldom interacting in discussions. Remembering, not thinking, was important. Lessons were monotonous and boring, students passive and inattentive. Many dropped out.

Dependable textbooks were limited. Lessons were focused on facts, not ideas. Supplementary teaching aids and reading materials providing more entertaining lessons were all but non-existent. And, even when they were available, few cared to take advantage of them. Students preferred to follow prescribed texts tenaciously, objecting to the intrusion of other materials. Also, it is questionable whether supplementary readings would have been very inspiring since all published material was subject to state-censorship throughout the twentieth century.

Good teachers seldom wished to serve outside the cities; those who did serve in the provinces seldom attempted to identify with the communities in which they were posted. Certainly the concept that teachers can perform leadership roles was seldom realized. Trained teachers most often stood apart. The communities preferred it that way for they regarded teachers as outsiders, as government agents, to be held warily at arms length. Of course there were notable exceptions.

Already noted is the fact that foreigners of all sorts and languages were conspicuous on the education scene from the time secular education was introduced, both physically as teachers and advisors and as funders. This presence of foreigners in the sensitive arena of moulding the minds of youth disturbed the traditionalists and conservatives, many of whom found secular education repugnant. This exacerbated tensions.

Failings within the bureaucracy were responsible for much of the sterility and stagnation that characterized the entire system by 1978. Today exactly the same mind-sets affect officials, many of whom are hold-overs from pre-war days. They stubbornly resist innovations; change is anathema to them. Having survived the King, Daud, Taraki, Najibullah, Rabbani, and now the Taliban, they know that continued sur-

vival depends on keeping the system functioning without rocking any boats. As in the past, these officials are perpetuators, not innovators. This is a big stumbling block.

This is particularly evident in regard to curriculum. In the past apathetic attitudes toward school attendance, the high drop out rates and the graduation of semi-functional literates to whom critical and analytical thinking was alien, were due largely to the rigidity of old curricula.

In the rural areas, the question was: Why waste time going to school when what I learned there is not relevant to my daily life? Even the highly touted revised textbooks from the 1960s and 1970s were oriented toward upper and middle class urban populations.

In addition, there was little understanding that education should enhance interacting economic and social expectations. In urban settings, students were led toward social behaviour that was not gradually adjusted to traditional mores nor attuned to the social and economic needs they required to cope with the complexities of rapid change.¹⁸ The secular education system did not provide a bridge between the new and the old, and therefore it was unsuccessful in producing agents for gradual progressive change compatible with societal ideals. Furthermore, the traditional religious schools also failed to provide fresh interpretations combining change with continuity. They too had no bridge between the past and the present.

Instead, while opening new frontiers of knowledge, the growth of education intensified rivalries in economic competition, widened political and religious disagreements, and sharpened appetites for a bigger share in the affairs of government.¹⁹ Voluble political activity resulted.²⁰

Despite these negatives, increasingly favourable attitudes toward modern schools did evolve during the 1960s as the communication infrastructure improved and rural-urban migration increased. Sadly, this patiently constructed positive trend changed almost

overnight after the Soviet invasion. Education in general, and modern education in particular, became anathema as the Russians heavily sovietized the system.²¹

Due to broadening experiences during exile, this hostility has again been replaced with open demands for schooling from many directions, including groups which once found secular education repugnant. There is now an opportunity to forge a modern system better adapted to Afghan traditions and society.

Where Are We Now?

First, it is clear that much of what we are witnessing today is not new but an exaggerated continuation of historical social processes which must be understood.

Second, recognizing that during the entire period under discussion stringent state regulation was a dominating feature, now is a time of relative freedom. Advantage should be taken of in this hiatus to develop model systems, methods and materials that can serve to convince whatever leadership emerges that modern education can provide an acceptable bridge between the old and the new. That education will lead to individual and national prosperity without impinging on valued cultural ideals.

Third, since positive renewed demands for education are emerging among new segments of the society virtually untouched by the former system, one must ask what has created this new desire. What aspirations are being sought? Are they economic, or something deeper? Are individuals perhaps seeking to assuage the indignities of conflict and exile by acquiring that respect traditionally accorded to the educated?

Fourth, events have brought to the fore a new dominant leadership that is not prominently from the graduates of the former elite education system. These individuals are, nevertheless, graduates of non-Afghan institutions where they have imbibed ideas, which are in many ways equally as objectionable to many Afghans as the ideas pro-

pounded when secular schools were first introduced. The conviction that the former Western-oriented system corrupted the entire educational system, and with it many aspects of society, drive many in the new leadership. Believing also that education powerfully influences the minds of the young, they feel it imperative to carefully monitor this sensitive realm. Fear of outside intervention is abidingly strong.

Fifth, the ages-old respect for learning is still present; none of the new leaders have repudiated the right of all to seek education. Education need not, therefore, automatically return to the Dark Ages. Tensions between traditional and modern systems will continue, but inconsistencies abound. Individual officials change with regularity. What is allowed today may be disallowed tomorrow; equally, what is disallowed today may be allowed tomorrow. Out of these types of confusions future possibilities will arise. ■

Notes

1. For example, in the 1997 UN Consolidated Appeal for Assistance requesting U.S.\$133 million, only 5 percent was requested for education, and of that only 0.163 percent had been pledged by mid-term. See United Nations, *Afghanistan: 1997 Consolidated Appeal for Assistance Mid-Term Review* (Islamabad: United Nations Development Program/Afghanistan, 1997), 18 and Annex I.
2. William Maley, ed., *Fundamentalism Reborn?: Afghanistan and the Taliban* (London: Hurst & Company, 1998).
3. Nancy Hatch Dupree, "Afghan Women under the Taliban," in Maley, *op.cit.*, 145-66.
4. *Afghan Demographic Studies* (Buffalo: State University of New York at Buffalo, 1975).
5. United Nations Development Program, Kabul, Afghanistan, *Afghanistan Rehabilitation Strategy: Action Plan for Immediate Rehabilitation* (Islamabad: UNDP/Afghanistan, 1993), vol. VII, *Social Services*, 98.
6. Andrea B. Rugh, "Education for Afghans: A Strategy Paper" (Islamabad: Save the Children US/UNICEF, 1998), 1.
7. *Ibid.*
8. Nazif M. Shahrani, "Local Knowledge of Islam and Social Discourse in Afghanistan and Turkistan in the Modern Period," in *Turko-Persia in Historical Perspective*, edited by Robert L. Canfield (Cambridge: Cambridge University Press, 1991), 161-88.
9. Amir Abdur Rahman Khan (Sultan Mahomed Khan, ed.), *The Life of Abdur Rahman, Amir of Afghanistan* (London: John Murray, 1900), ii, 198.
10. Ashraf Ghani, "Islam and State-Building in a Tribal Society: Afghanistan 1880-1901," *Modern Asian Studies* 12, no. 2 (1978): 269-84.
11. Fahima Rahimi, *Women in Afghanistan* (Liestal, Switzerland: Stiftung Bibliotheca Afghanica, 1986), 44.
12. Louis Dupree, *Afghanistan* (Princeton: Princeton University Press, 1980), 598.
13. The UNDP *Human Development Report 1997* (New York: UNDP, 1997) did not include education and numbers of other figures for Afghanistan because no reliable data were available.
14. Ashraf Ghani, "Future of the Past," *WUFA* 5, no. 4, (1990), "Special Issue: International Seminar on Social and Cultural Prospects for Afghanistan in Tribute to the Memory of Louis Dupree" (Peshawar, Pakistan: Writers Union of Free Afghanistan, 1990), 159.
15. University of Nebraska at Omaha (UNO), *The Status of Education in Afghanistan* (Peshawar, Pakistan: UNO Education Sector Support Project, 1994), i, 13.
16. Ministry of Education, *Educational Statistics 1974* (Kabul: Ministry of Education, Department of Planning, 1974), in Pamela A. Hunte, *Women and the Development Process in Afghanistan* (Washington, DC: AID/NE-C-1487 Afghanistan, Project 298-035: Regional Training for Women, 1978), 27.
17. Out of 174 countries in the development index, Afghanistan ranked 169 in education with only five African nations below it. United Nations Development Program, *Human Development Report 1996* (New York: UNDP, 1996), 165.
18. Erica Knabe, *Commoners, Climbers and Notables* (Leiden: E.J. Brill, 1997).
19. Ralph H. Magnus and Eden Naby, *Afghanistan: Mullah, Marx, and Mujahid* (New Delhi: HarperCollins Publishers India, 1998).
20. Louis Dupree, "The 1969 Student Demonstrations in Kabul," *AUFS Reports, South Asia Series* xiv, no. 5 (Hanover, NH: American Universities Field Staff, 1970).
21. Bahaouddin S. Majrooh and S. M. Y. Elmi, "Education in Afghanistan: Past and Present. A Problem for the Future," in *The Sovietization of Afghanistan* (Peshawar: Afghan Jihad Works Translation Centre, 1986), 126-41. □

Insecurity in Northern Uganda: Are People Being Given the Protection They Deserve?

Cathy Majtenyi

Abstract

The civil war between the Uganda Peoples' Defence Forces (UPDF) and the Lord's Resistance Army (LRA) rages on in Northern Uganda, leaving behind a trail of kidnappings, death and destruction despite measures to protect civilians. Ultimate security for the Acholi and others who live in the North will only come about with an end to the 12-year-old conflict, which would be accomplished by negotiations between the two sides. Unfortunately, misinformation—and a noticeable lack of information, especially from the LRA—are major impediments to determining the war's root causes and who is responsible for the instability. This paper argues that, for a successful end to the war, the government must cease its propaganda war, which is mainly being played out in an uncritical and biased media, and the LRA must be clear about its message. Honest discussion and analytical reporting will greatly facilitate the negotiation process.

Précis

La guerre civile entre les Forces de Défense des Peuples Ougandais (Uganda Peoples' Defence Forces—UPDF) et l'Armée de Résistance des Seigneurs (Lord's Resistance Army—LRA) fait en ce moment rage au nord de l'Ouganda. Elle laisse dans son sillage une suite de rapt, de tueries, et de destructions, en dépit des mesures déployées pour protéger les populations civiles. La sécurité intégrale pour les peuples Acholi et les autres peuples qui vivent dans le Nord ne pourra prendre forme que par une conclusion de ce conflit, vieux de douze ans, qui serait le résultat de négociations entre les deux parties. Malheureusement, une

combinaison de désinformation et de non-information, particulièrement de la part du LRA, sont des obstacles majeurs à une compréhension claire des causes originelles de la guerre et de l'identité de la partie responsable de l'instabilité. Le présent article développe une argumentation selon laquelle une fin victorieuse de la guerre passe par l'interruption de la propagande gouvernementale de guerre diffusées massivement par des médias biaisés et dénués de tout sens critique. Le LRA doit opter pour un message clair. La discussion honnête et une analyse effective de la situation faciliteront grandement le processus de négociation.

For the past twelve years, Northern Uganda has been embroiled in civil war. The conflict is said to be between the Uganda Peoples' Defence Forces (UPDF) government army¹ and the rebel Lord's Resistance Army (LRA) led by Joseph Kony.² This conflict has wrecked havoc on the population, which is primarily Acholi. Acute poverty, little or no education, the looting and destruction of property, fear, loss of life,³ hopelessness, despondence, cultural erosion, starvation, AIDS and an increased infant mortality rate⁴ are some of the effects of the conflict. The war has displaced approximately 400,000 people in Gulu and Kitgum Districts.⁵ Up to 80 per cent of Gulu District's population is displaced.⁶ No one knows exactly how many children have been abducted by the warring forces. A joint UNICEF/World Vision estimates that between 3,000 to 6,000 children aged 10 to 20 years have been abducted over the past two years.⁷ The security situation has deteriorated, especially after a recent spate of rebel attacks.⁸

To protect civilians, formal and informal security measures have been set up over the past few years. Many of the displaced are herded into UPDF-run "protected villages." Others seek refuge in

hospitals, church missions and similar institutions. For instance, to cope with an increasing number of people seeking protection, St. Mary's Hospital (Lacor Hospital) in Gulu purchased a plot of land and incorporated it within its walled compound. Hospital administration then drilled boreholes, constructed latrines, put up tents on 2,000 square metres of land, organized teaching for 160 children and distributed food and blankets to about 2,000 people who have settled there permanently. At the peak of conflict—October, 1996, April–May 1997, and October 1997—up to 8,000 people sought refuge at Lacor Hospital.⁹ UPDF soldiers are assigned to guard Lacor Hospital and other institutions, protected villages, major roads and towns. Army and local defence unit quarters dot the landscape. To avoid rebel attacks, people sleep in the bush, emerging in the daylight hours. Those with shortwave radios keep abreast of rebel movements and attacks.

Are these security measures adequate? Based on the information cited above, and interviews I conducted while on a recent one-month journalism assignment in Uganda,¹⁰ the answer is clearly no. Insecurity is a constant threat to the people of Kitgum, Gulu and Lira districts, even for those who live in protected villages. The sheer randomness and brutality of LRA and UPDF attacks lurk in peoples' minds and dictate every facet of life: when and where people can travel; how free they are to gather together day or night; when people can tend their fields. For instance, a woman Imet in Kalongo who is trying to start up a women's pig-rearing project recently wrote of her obstacles:

For the security, the Karamojong [a nearby ethnic group] don't need pigs. They are after the cattle and goats. The rebels don't want [pigs] but they can kill the owners or burn their

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houses. They can do that in the village where there are no soldiers."¹¹

While I travelling around in the month of May, the LRA had hijacked several vehicles, robbing and killing travellers. Seven people were abducted just outside the gate surrounding Lacor Hospital in Gulu during the first night of my stay at the hospital. The UPDF has acted in equally destructive ways. For instance, Ogenga Otunnu writes that in August 1995, a UPDF helicopter gunship killed 210 unarmed civilians and destroyed 100 homes near Kitgum to allegedly stop "a column of LRA."¹² A report by consultant R. Gersony entitled *The Anguish of Northern Uganda* points out instances where UPDF soldiers beat, raped looted and killed local residents.¹³

No place is safe and schools are especially vulnerable. St. Mary's College in Aboke, Lira district, is a horrific and well-known example. In the early morning hours of Oct. 10, 1996, the LRA rebels smashed their way into the dormitory of the all-girls school, tying up and marching out 139 teenagers. The rebels released most of the girls after headmistress Sr. Rachele Fassera and teacher John Bosco Ocen negotiated with the rebels. Some escaped after being held in captivity for a time. Twenty girls are still missing and presumed dead or held captive in Sudan. I interviewed two girls who managed to escape. They gave harrowing accounts of having to kill and torture other children. One spoke of how rebel leaders would stomp on her chest so badly that, to the present, she still has severe chest pains. Another described her duties as a "wife" to a rebel leader who treated her cruelly.

Among the missing is the daughter of Angelina Acheng Atyam, vice-chair of the Association of Parents Concerned for Children. The 1,311-member group, started by St. Mary's College parents immediately after the abduction, advocates on behalf of all abducted children, both for their release and their reintegration into their former communities. Many of the kidnapped children are rejected by their families and villages once they have escaped because the

children may have been forced to kill their neighbours or burn their houses down. Atyam, who was recently honoured by Human Rights Watch, wearily told me that she still washes her missing daughter's clothes from time to time. So many other schoolchildren all across the North have met similar fates. Several weeks after my return, a woman who befriended me in Kalongo wrote to tell me her daughter was among 38 girls kidnapped from St. Charles Lwanga Secondary School on June 20. "I'm in a very deep sorrow," she wrote to me.

The Uganda government's major security measure—posting UPDF soldiers near institutions, towns, protected villages and along highway routes—has had only limited success. UPDF soldiers tend to disappear before rebel attacks and resurface long after attacks.¹⁴ On the night of the LRA attack on St. Mary's College, for instance, the school was without army protection despite the assurances and promises of three armed units nearby. Fr. Carlos Rodriguez, secretary of the Justice and Peace Commission of Kitgum Diocese, explains it this way, "In recent past occasions people who have been sending reports to military units have sometimes been laughed at or even bullied."¹⁵ The failure of UPDF soldiers to respond to LRA attacks and the UPDF's seeming indifference to the local population could mean one of two things: they are afraid or ill-equipped to deal with attacks; or there is some form of more direct complicity with the LRA. In any case, the UPDF has failed to protect the local population, causing most Acholi to feel deeply insecure.

This insecurity extends even into protected villages. Allegedly to guard people against rebel incursions, the government rounded up and forced the local population to relocate in these camps. In the process, peoples' property was looted.¹⁶ Lack of basic health care, physical safety and adequate hygiene characterize these crowded camps.¹⁷ I visited Awer camp on the outskirts of Gulu town. Mud huts with grass roofs were built closely together and housed a high concentration of people. Crop yields were at an all-time

low because of the insecurity and an impending drought. Small children were beginning to exhibit the distended bellies characteristic of malnutrition. People were frightened, apprehensive and anxious about their crops. Most shockingly, I was not offered food or drink, something that is automatically done in Acholi culture. Not to have been served with at least a snack was indicative of extremely hard times. Life at other camps is even harsher. Fr. Rodriguez reports that many people have been abducted and killed at some camps. "You may not have heard a lot about these cases because we are aware that when such incidence happen they are normally not reported in the press or in the radio," he wrote.¹⁸

The reduced crop yields I observed at Awer camp is a situation echoed in villages and towns all across the North. The war is adding to the reality of impending starvation in Kalongo due to dramatic rainfall fluctuations that have played havoc with the area's planting seasons.¹⁹ USAID has predicted that rainfall throughout the last six months of 1998 will be "poorly distributed" and that reduced crop yields in 1997 will reduce Uganda's economic growth by three per cent.²⁰ It is almost impossible for the average person to make ends meet. One person I interviewed in Kalongo said a family meal consisting of *sorghum*, *sim sim*, green vegetables and fish costs around SH2,3000 (approximately 700 Uganda shillings is equal to one Canadian dollar). Yet, as a result of the poor harvests and lack of economic opportunity, the monthly income of an average villager is about SH10,000. Many people turn to alcohol trade and consumption to cope with the war and make ends meet, which has resulted in an increase in alcohol and domestic violence-related admissions to the hospital.²¹ Government and NGO assistance to the area has been hampered or made non-existent by insecurity, drought and other factors.²²

These very difficult economic times, a minimum of assistance, and the fact that the war has continued for so long have led many to believe that the government of Yoweri Museveni is against, or indif-

ferent to, the plight of Northerners. For instance, in its report to a parliamentary committee that is looking to end the Northern war, the Acholi Parliamentary Group has said there is a "lack of political will on the part of government to solve the northern problem."²³ This perception is in part borne out by observation. The road from Kampala to the Nile River, which divides North and South, is smooth and paved, and lined with milestones, businesses, industries and houses with tin roofs. On the other side of the Nile, the road turns into a sea of potholes, thatched roofs replace tin, there are few businesses and poverty is more visible. The UN's Human Development Report of 1995/96 ranks the North as having the highest infant mortality rate and the lowest per capita income, primary school enrolment, access to water and sanitation, and life expectancy rates in Uganda; Central Uganda's per capita income, for instance, is more than double that in the North.²⁴ The government "solution" of protected villages has also been roundly criticized. In an interview with the monthly Christian news magazine *Leadership*, Margaret Ssekaggya, chairperson of the Uganda Human Rights Commission, criticized the protected villages, saying that the use of force to control people rather than bringing them into the peace process stalls reconciliation efforts.²⁵

Many believe it is this North-South hostility or indifference that is at the root of the current UPDF-LRA conflict, a dynamic that stretches back long before Museveni came to power in 1986. It is beyond the scope of this paper to explore the historical dimensions of the current conflict. It is suffice to say that identifying the nature of the UPDF-LRA conflict and the individuals or parties responsible for that conflict is crucial for clarifying what protection and assistance measures should be taken and ultimately, the solution to ending this confusing and destructive war. As Ssekaggya said in her *Leadership* interview, the solution to the war lies in determining its' root cause. "In the North I think Government has even failed to identify the root cause."²⁶

An historical analysis of the Northern war, unfortunately, does little to shed light on the nature of the contemporary UPDF-LRA conflict and the individuals or parties responsible for that conflict. This is primarily due to the fact that misinformation—and a noticeable lack of information, especially from the LRA—are major impediments to determining why the war continues and who is responsible for the instability. Knowing what the LRA wants and why the fighting has continued for so long is a difficult, if not impossible, task for two reasons: the largely-biased media fails to probe deeply into the conflict; and virtually all information about the rebels and the war comes from government sources. The majority of people I interviewed said they did not know what the LRA wanted, why the government was unable to stop the fighting, or even why the fighting was continuing up until the present.

Most international and Ugandan media reports take as their starting point the view that the conflict is a clear-cut case of a bizarre group wanting to rule Uganda by the Ten Commandments or some other directive and is aiming to do so by terrorizing its own people. It is virtually a given that the Uganda government is doing everything in its power to stop the rebels.²⁷ Omara-Otunnu notes that, in reporting on the 1986–87 Holy Spirit Movement led by Alice Lakwena, journalists tended to focus on her personal characteristics at the expense of an analysis of how her movement fit into the politics of Northern Uganda.²⁸ The same thing is happening today. An inordinate amount of space is devoted to describing Kony's bizarre behaviour and providing sensationalist details such as how the rebels cut off ears, lips and other atrocities.²⁹ While not diminishing the importance of reporting these atrocities, a deeper analysis of why the rebels are attacking—or if, indeed, it is the rebels who are committing these atrocities—and a fuller discussion of the government's responsibilities and performance are sorely needed. Perhaps the fact that virtually every media report has relied on second-hand information

about the LRA and its aims impedes this analysis.

One also cannot rely on Ugandan media. While journalists are relatively free to report critically, the government clamps down occasionally on press freedom.³⁰ Statistics of the numbers of rebels and people killed come exclusively from the government—there is no independent verification of rebel numbers and deaths. Even the definition of "rebel" is derived from the government. A tragic example from Kitgum illustrates these constraints.³¹ On March 1, 1998, a UPDF mobile unit opened fire on a group of rebels collecting water near the village of Ogole. The March 10 *The New Vision* reported that 19 rebels had been killed on the spot, while the local Luo newspaper, *Rupiny*, whose reporter was on the scene immediately after, said that 30 rebels had been killed. A week later, *The New Vision* of Mar. 18 quoted the Fourth Division commander saying that there were no children killed. Officials from the Justice and Peace Commission of Kitgum Diocese decided to investigate by interviewing local residents and, on March 28, visiting the spot where the killing took place. They found eight bodies—"their small skulls suggesting they were all children"—tied together with ropes. The "rebels" who were killed turned out to be 30 children who had been captured by the LRA two days before. They were among 80 children tied together with ropes—in full view of the UPDF, which were 10 metres away—sent to collect water for the rebels.³²

Who, exactly, are the rebels? Several people have told me, in hushed voices, that they cannot tell the difference between LRA rebels and UPDF soldiers. The line between "kidnapped child" and "rebel" is very fine indeed. Each side has employed their specific rhetoric to describe the other. Ugandan President Yoweri Museveni has called those who kidnap children "agents of Sudan government," or "Ugandan bandits linked to the defunct governments of Amin and Obote."³³ One common belief is that the rebels consist of disaffected Acholi afraid of revenge for atrocities committed in earlier regimes. Another

belief is that the war is an Acholi uprising to overthrow the government. For its part, the LRA has denounced the "many years of lies and vilification that have been peddled in the media about us by Museveni and his supporters" and have "made it abundantly clear that we shall co-operate in any process that is meaningful and can contribute to ending the war that Museveni and the NRA started and have continued to wage against us for the last 10 years."³⁴ Who is to be believed?

The government is most often believed, perhaps because of Museveni's reputation as an economic and social "liberator." A frequent observation about Museveni is that he is so much better than Amin or any of those before him. Under Museveni's leadership, Uganda has been touted as "a success story in a continent where such achievements are rare."³⁵ Museveni is portrayed as a model of good governance for other African countries,³⁶ a "new breed" of African leaders and a "beacon of hope" for Africa.³⁷ Uganda itself is rated as one of the "economic miracles" in Africa³⁸ by financial institutions such as the World Bank, which have seen the country's gross national product growth rate soar from 0.7 percent between 1965 and 1973 to 5.7 percent between 1987 and 1995 and the inflation rate plummet from 240 percent in 1986–87 to -0.6 percent by June 1993.³⁹ Since then, Uganda has registered between six and 10 percent annual economic growth over the past five years.⁴⁰ A commitment to democracy has been said to guide Uganda's political and economic reforms since Museveni took power in 1986.⁴¹ Since his guerrilla days, Museveni himself has been a strong advocate of "parliamentary democracy, popular democracy and a decent level of living for every Ugandan" and promised that his government would be an interim one whose main goal would be to restore peace and order.⁴²

However, there is a flip side to the glow. Besides the horrors of the war as outlined previously, Ugandans suffer other types of repression and economic hardships. Twelve years after Museveni

took over, the same government is in power, never having held free-and-fair multiparty elections. The government has increasingly clamped down on press freedoms and freedom of expression.⁴³ Amnesty International reports that, in the past year, torture, rape and ill-treatment by police, soldiers, government militia and others were "common." Police and soldiers were responsible for at least 20 extrajudicial executions and armed opposition groups such as the LRA carried out massive, gross human rights violations.⁴⁴ Uganda's general social and health conditions are dismal. Life expectancy is around 40 years, one of the worst in the world. Two-hundred-and-three out of 1,000 children die before their fifth birthday, and the maternal mortality rate is one of the highest in Africa.⁴⁵ The government spends U.S.\$3 per Ugandan per year on health care. Uganda is U.S.\$3.65 billion in debt.⁴⁶

As already suggested, little effort has been directed in serious analysis. The horror of "rebel" atrocities—killing, maiming, kidnapping, child slavery, sexual abuse of children, etc.⁴⁷—has obscured the fundamental issue of how the government responds to this terror and why the war between the UPDF with all its military might and a rag-tag group of mostly children has been dragging on for 12 years. The government spends 60 per cent of its budget on general government, security and defence combined (as compared to 12.6 per cent of its budget on social services),⁴⁸ so it stands to reason that it has the resources to end the war.

Tough questions must be posed to, and answered by, both the government and LRA rebels. An identification of the UPDF-LRA war's root cause will only happen if the LRA and the Uganda government come to the table and talk honestly and in good faith. It is absolutely essential that the LRA be given the opportunity, at the table and in the media, to articulate what it wants and why it is fighting. It is also essential that government propaganda and biased media reporting—especially with respect to the LRA's motives—be more critically examined.⁴⁹ Museveni and his govern-

ment tend to use inflammatory language to discredit opponents and left-leaning rhetoric to portray their activities as being progressive.⁵⁰ As Omara-Otunnu notes:

One of the outstanding successes of the NRA has been the resourceful control of information to cover up political weakness and to attack opponents. Revolutionary rhetoric has been employed to gain legitimacy, groups not enthusiastic about the regime have been characterized as "backward," while critics have been vilified to justified (sic) their elimination or purge.⁵¹

Stopping the propaganda war is the first step to reconciliation between the LRA and the UPDF, which will ensure the safety of Northern peoples. Protected villages, UPDF patrols, local defence units, hospital compounds and other security measures can only go so far to protect people; most of these efforts have failed. Economic development initiatives are useless in a climate of fear and insecurity. A commitment, achieved through honest discussion, from the LRA and the UPDF to end the terrible atrocities is the ultimate protection that Northerners deserve and have not received up until today. ■

Notes

1. In 1995, the Uganda government's National Resistance Army (NRA) had been renamed the Uganda Peoples' Defence Forces (UPDF). I will use UPDF to refer to the contemporary army and NRA to describe the army as it was during the first few years of Museveni's rule.
2. I have chosen to focus on the LRA rebel group. There are several rebel groups operating in Uganda, the most notable ones being the West Nile Bank Front (WNBF) and the Allied Democratic Front (ADF).
3. Fr. V. Okot, "Testimony Presented about the War in the North to the Parliamentary Sessional Committee on Defence and Internal Affairs on the 23rd October, 1996," 3.
4. Acholi Parliamentary Group, "Submission to the Parliamentary Committee on Defence and Internal Affairs in Investigating the Northern Rebellion with a View to Bringing It to a Speedy End," 1996, 6–8.
5. USAID, *FEWS Uganda Monthly Report*, March 1998, 1.
6. USAID, *FEWS Uganda Vulnerability Update*, February 1998, 1.

7. UNICEF/World Vision, *Shattered Innocence: Testimonies of Children Abducted in Northern Uganda* (Kampala: UNICEF Uganda Country Office, 1996), 2.
8. USAID, *FEWS Uganda Monthly Report*, 1.
9. *St. Mary's Newsletter*, January 1998, 1.
10. The Comboni Missionaries had hired me for one month to produce several videos highlighting its work across Uganda. I spent two weeks in the North (Lira, Gulu and Kalongo) and two weeks in the South (Kampala and Kasaala). I also wrote a four-part series on life in Uganda for *The Catholic Register* in Toronto.
11. Personal communication, August 7, 1998.
12. O. Otunnu, "The Path to Genocide in Northern Uganda," *Refuge* 17, no. 3 (August 1998): 7.
13. *Ibid.*, 8.
14. Acholi Parliamentary Group, "Submission to the Parliamentary Committee on Defence and Internal Affairs," 6; Fr. C. Rodriguez, "Prize Report" (Letter to the Editor), *Leadership*, no. 371 (May 1998): 3.
15. Fr. C. Rodriguez, "Memorandum of the Catholic Justice and Peace Committee of Kitgum on the Occasion of the Visit of the Pro-Nuncio, The Cardinal, the President of the Uganda Episcopal Conference and the Bishop of Gulu Diocese," May 3, 1998 (posted on AcholiNet on the Internet, May 19, 1998).
16. *Ibid.*
17. J. Oloka-Onyango, "Uganda's 'Benevolent' Dictatorship," *Current History* (May 1997): 215.
18. Rodriguez, "Memorandum of the Catholic Justice and Peace Committee of Kitgum."
19. USAID, *FEWS Uganda Vulnerability Update*, 1.
20. *Ibid.*, 1.
21. C. Majtenyi, "Weather-induced Famine Adds to Uganda's struggle Against Poverty," *The Catholic Register*, 6 July 1998, 9.
22. J. J. Lule, "Poverty Eradication Initiatives in the North," *Leadership*, no. 366 (October 1997): 4-5.
23. Acholi Parliamentary Group, "Submission to the Parliamentary Committee on Defence and Internal Affairs," 6.
24. Lule, "Poverty Eradication Initiatives in the North," 4-5.
25. Interview with Margaret Ssekaggya, *Leadership*, no. 366 (October 1997): 6-8.
26. *Ibid.*, 7.
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Issues of Power and Empowerment in Refugee Studies: Rwandan Women's Adaptive Behaviour at Benaco Refugee Camp

Judy A. Benjamin

Abstract

This paper addresses human rights violations in the context of gender power relationships and calls attention to the need to examine the standards for human rights assessments in the context of refugee situations. This research is based on fieldwork carried out with Rwandan Hutu refugees during an 18-month assignment as Project Director for CARE International in Ngara, Tanzania. Participant observations, interviews, surveys, and focus group discussions yielded a wealth of data concerning the coping strategies of men and women. Women's coping strategies made them vulnerable: women without partners were the least protected and took the greatest risks in their efforts to survive and feed their children. Their adaptive behaviour increased their risks of rape, sexual abuse, and exposure to HIV and other sexually transmitted diseases. These serious problems were overshadowed by the chaotic business of running a refugee camp. In the rush to accommodate the influx of hundreds of thousands of refugees, the non-governmental organizations and UN agencies established a relief infrastructure that—perversely—gave the perpetrators of crimes, positions of power within the camp, which enabled the gender violations to persist.

Précis

Le présent article aborde la question de la violation des droits humains dans le contexte des relations de pouvoir dans le sexe et attire l'attention sur la nécessité d'un examen des critères d'évaluation des droits humains dans un contexte où la question des réfugiés est impliquée. Cette recherche est basée sur un travail de ter-

rain mené auprès de réfugiés Outous rwandais lors d'une affectation de 18 mois comme Directeur de Projet pour CARE International à Ngara en Tanzanie. L'observation de participants, les entrevues, les enquêtes, les discussions des groupes de travail ont fourni une masse de données sur les stratégies de survie émotive des hommes et des femmes. Les stratégies de survie émotive des femmes les rendent particulièrement vulnérables. Ainsi les femmes sans conjoints sont les plus vulnérables et prennent les plus grands risques dans leur effort pour assurer leur survie et nourrir leurs enfants. Leur pratiques d'adaptation les exposent à un risque accru de viols, d'abus sexuels, et d'expositions au HIV et autres virus transmis sexuellement. Ces problèmes graves sont totalement éclipsés par l'activité chaotique de gestion d'un camp de réfugié, par l'urgence de rencontrer les besoins de l'afflux de centaines de milliers de réfugiés. Dans ce contexte, les organisations non-gouvernementales et les agences des Nations Unies ont établi une infrastructure d'assistance qui, de façon fort perverse, a donné aux auteurs de ces crimes accès à des positions de pouvoir dans les camps de réfugiés qui ont permis aux exactions à caractère sexuel de se perpétuer.

The tattered curtain covering the entrance to my *blinde* does not stop them. They come in the night, have their way with me and leave. I am afraid but there is no one to help me. (Bernadette, unmarried mother, age 19).

My children eat cooked food every other day—there isn't enough firewood, the maize grain takes so many hours to cook. My husband is dead. I am alone. I am afraid to go out alone to collect wood. (Zameda, mother of 5, age 30)

My parents arranged my marriage to Charles against my will. He is old and drinks too much. (Charlotte, age 14, one of 10 children)

I heard the child screaming in the night. We learned in the morning that she had been raped in the latrine by a boy of 20—he had been drinking. (Neighbour of Felicitee, age 6)

I am forced to give half of my food rations to a neighbour—he is protecting me. (Natalie, widow, mother of 4)

Introduction

The voices of Natalie, Charlotte, Zameda, and Bernadette echo those of many other refugees who endured abuses in Benaco refugee camp, Tanzania, because they were women. Being a refugee in Benaco meant braving daily hardships and indignities, and women suffered even more than men did. This article aims to provide a theoretical framework for studying the relationship between violence against women refugees and human rights violations that occur when communities are displaced. In particular, the results of women's survival strategies and the level of risk involved in their coping behaviour are examined.

Theoretical Basis of the Study

This work draws from theories on social change, refugee studies and gender violence. The Rwandan genocide provides a tentative theoretical framework for examining violence in refugee camps, including rapes and sexual violence against women and girls. The idea is put forth that human rights violations, particularly rape, can best be identified through the use of small focus group discussions. The notion of categorizing

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women refugees as "vulnerables" is contested in this paper. Women are not passive victims but are put into vulnerable situations especially during periods of conflict and social upheaval, including internal displacement and refugee mobility.

The Rwandan Conflict and the Flight to Tanzania

On April 6, 1994, the plane carrying the presidents of Rwanda and Burundi mysteriously crashed. Murderous rampages by Hutu extremists driven to carry out the carefully-planned elimination of Rwandan Tutsis began immediately. (For a comprehensive history of the genocide see Prunier 1995.) The genocidal slaughtering continued for more than two months until the rebel Tutsi army (Rwandan Patriotic Front) succeeded in gaining control of the country. Within a few days, and in the largest single movement of people in so short a time, more than half a million Hutus fled Rwanda to neighbouring countries, fearing retribution from Tutsi soldiers for the killings. Entire communities of Hutus left Rwanda. The genocide leaders convinced Hutus who had not been involved in the slaughter to leave by telling them that the Tutsis would kill all Hutus. The degree of control that the militant factions had over other Hutus proved to be a crucial element in the Rwandan refugee story, although relief workers were not aware of the degree of control until late in the situation (Prunier 1995).

The Benaco refugee camp, located just 18 kilometres from the Rwandan border, became the second largest "town" in Tanzania. The United Nations, along with nearly 20 international non-governmental organizations (NGOs), quickly set up relief operations.

In December 1996, the refugees abandoned Benaco and returned to Rwanda.

Refugee Camp Organization

Human rights violations at Benaco must be viewed within the context of the genocide that occurred in Rwanda. Credible observers noted numerous human rights violations against

women, although the enormity and scope of the mass murders appeared to eclipse this issue. Most rights violations against women and girls failed to draw any response from the NGOs and relief agencies. Beset by a myriad of problems—outbreaks of cholera, measles, meningitis, and ongoing security incidents—many relief workers minimized the importance of women's complaints or completely ignored them.

Refugee literature has often depicted women as powerless victims (Stein 1981). Portraying refugee women in passive dependent roles does not accurately describe the majority of refugee women (Daley 1991). In the camps, women were mainly responsible for continuing the social activities of the household, which included caring for the sick, children, and elderly family members. Along with endless daily chores—securing firewood, water, and food preparation—they also bore the physical responsibilities of pregnancy and lactation. Life in the camps entailed far more pain and suffering for women than for men. Rather than pointing to weakness, dependency, and vulnerability, the adaptability of refugee women to adverse circumstances shows their strength to do what was necessary to survive their ordeal.

The situational context of the Hutu refugees, cast in the shadow of genocide, often caused people to behave in uncharacteristic and unpredictable manners. This article focuses on the risk-taking behaviours that are the coping mechanisms of survival for refugee women. I argue that women—especially single women—are in greater danger than men because of gender power relationships that arise or are reinforced when communities are displaced. It is their tenacity and will to survive—not their vulnerability—that cause them to adopt behaviours that jeopardize their human rights, health, and social status. In Benaco, the most common rights violations encountered in this Faustian bargain to survive included rape, coercive sex (exchanging sex for food, water, firewood or protection), discrimination, social ostracizing, and financial exploitation. Coping

strategies which included trading sex for needed goods or services often increased the risk of exposure to HIV and other sexually transmitted diseases (STDs), especially given the high prevalence of these diseases in the Rwandan population (van der Straten et al. 1995).

Women and Girls at Risk

Life for refugee women and girls is harsh. Many women on both sides of the conflict were beaten and raped during their exodus. For Rwandan women, social status and identity are closely linked to marriage and family. One of the biggest threats to the physical safety of women and girl refugees is the lack of employment for men. This leads to boredom, depression and an increase in alcohol consumption—which in turn lead to increased domestic violence and rape. Unfortunately, few rapes were ever reported to the authorities, partly because Tanzanian law makes prosecution for rape nearly impossible.

Women without male protectors (husbands, fathers, uncles) were particularly vulnerable in the camps. Many women who were raped during the conflict gave birth to babies. These so-called "unmarried mothers" were easy targets, with no one to stand up for them. They reported that men walked into their huts at will, raped them and left. Because they occupied such a low rung on the social ladder, they received little sympathy from the community. The AIDS prevention project helped start support groups for these women, who found strength by uniting with others suffering the same fate. They also benefited from special income-generation efforts, such as produce-growing cooperatives set up by other NGOs within the camps.

When the camps were new, large communal latrines were built some distance from the dwellings. These structures, sheltered by large sheets of plastic, became the site of many sexual assaults on women and girls. The situation improved after small four-family latrines were built nearer homes, replacing most of the communal ones. Women and children seeking firewood outside camp boundaries were also victims of assault.

In response to the number of assaults, a crisis intervention team was formed made up of refugee social workers, counsellors and other volunteers who provided counselling, medical and legal assistance, and social support for victims of sexual assault.

Even women who were not victims of violence and sexual assault were often powerless to insist on safer sex practices. Because condom use is often associated with promiscuity, women were afraid to suggest condoms to their partners.

Coping Strategies and Risk

The conditions of refugee life greatly increase the risk of exposure to HIV and other STDs. The destruction of families, deterioration of social structures and unravelling of social mores, loss of homes and income, overburdened health care resources, crowding, and commercial sex trade within refugee camps are just some of the factors that lead to increased risk-taking behaviour and susceptibility. Women and adolescent refugees, vulnerable to violence, rape and coercive sex, are at especially high risk.

Lack of social support networks for many refugees may mean facing all problems alone without any support. Responses on a survey carried out in the camp regarding attitudes on social support indicated that women without partners felt socially isolated, with no one to turn to for advice on personal matters. Many women at Benaco were either widowed or had been separated from their families. Several of the women interviewed attributed their tendencies to attach themselves to men they hardly knew to their fear and loneliness.

Social network analyses suggested the formation of new social relations based on need fulfilment. Groups of young men set up shared households to maximize resources. Many of these "bachelor *blindes*" were where young girls were raped. Parents complained bitterly that they no longer had control over their older children. The most frequent expression of this was the case of adolescent girls. The absence of schools beyond primary level meant boredom

and idleness for large numbers of refugee teenagers. Boys were able to establish some small income-generating activities such as collecting and selling firewood, taxiing people on the backs of bicycles, etc. No such outlets existed for adolescent girls. Adolescent girls who participated in focus groups revealed their feelings of anxiety and fear. They expressed feelings of hopelessness and distress over not having access to money and not having activities, and especially missed being in school. Many young girls formed relationships with older men who gave them money or gifts. Some of these fast-formed relationships resulted in the girls being physically abused.

Knowledge, Attitude, Beliefs and Behaviour (KABB) baseline and follow-up surveys showed that the percentage of women who had multiple sexual partners rose from 14 percent to 38 percent during the first 12 months. These data suggest that one of the coping strategies of women included an increase in the number of sexual partners, although one should be careful not to infer too much from this finding. The rise in the percentage of women with multiple sexual partners could be attributed to increased willingness to answer personal questions.

Findings and Analyses

In addition to the AIDS/STD prevention intervention activities, the project focused on how the coping strategies of refugees often resulted in behaviour likely to increase the transmission risks of HIV and other sexually transmitted diseases. Short-term coping strategies employed by women often entailed long-term negative consequences. Women may choose to live with a man in exchange for protection or food rations. They increase their health risks when they are forced to trade sex for food, water, money or protection, increasing their chances of exposure to STDs, including HIV. According to the UN Special Rapporteur on the Commission on Human Rights in Rwanda, "100 cases of rape gave rise to one pregnancy" (Human Rights Watch 1996, 24). The number of pregnancies result-

ing from rapes in Rwanda following the genocide was estimated to be between 2,000 and 5,000. Shame often prevented women from seeking treatment when symptoms of STDs appeared. Untreated cases resulted in painful pelvic infections that could result in permanent sterility. Shame also kept rape victims from reporting the crime. Refugee women and girls experience more abuses and human rights violations because of their coping strategies, whereas men's ways of adapting to life in the camps did not expose them to such risks.

Abusive behaviour was at times excused as "cultural practices" with the rationalization that such behaviour is part of the culture. Westerners are reluctant to interfere when the word "cultural" is bantered about. Cultural taboos against women speaking out, fear of not being believed, and shame prevented many women and girls from reporting human rights abuses.

Discovering Human Rights Abuses in the Course of a Refugee AIDS Prevention Program

Rwanda has been hit hard by the AIDS epidemic. In some sectors of the population infection rates have been among the highest in Africa. In 1992, for example, testing of pregnant women attending antenatal clinics in Kigali, Rwanda's capital, revealed that more than 30 percent were HIV seropositive (Allen 1992). One could reasonably expect that infection rates among refugees were at least as high as they had been in Rwanda, although HIV testing was not widely available in the camps. The need for an AIDS education and prevention program for Rwandan refugees was well supported.

The task of implementing an AIDS prevention program for positive behaviour change proved daunting in a climate of resistance and contested power relationships. The research efforts of the project sought to provide relevant and reliable data with which to design targeted approaches for implementing the AIDS prevention program. Furthermore, the research tried to find underlying explanations for certain behaviours.

Because AIDS research delves into the sexual lives of individuals, AIDS research and research on human rights violations share the very sensitive common ground of examining subjects' intimate behaviours. Unlike other research that lends itself to quantitative methods, research on sexual behaviour normally is constrained to relying on information gathered in qualitative (and more circumspect) ways. In the course of examining women's personal lives we inadvertently found ourselves examining sexual and human rights abuses, which emerged as an inseparable issue. The project provided an invaluable service by establishing safe havens and a climate in which women felt comfortable talking about their problems. Many of the abuses we learned about would never have been discovered had it not been for the project's sensitively reaching out to women and providing a safe place where these topics could be discussed. In particular, the method of small focus group discussions gave women the courage and opportunity to share traumatic experiences that they had never discussed openly. In the baseline Knowledge, Attitude, Beliefs and Behaviours survey (KABB 1994), nearly 70 percent of women surveyed felt they had no one they could turn to for personal advice. One year later, only 38 percent felt such social isolation.

Lessons Learned

This pilot AIDS project was the first of its kind in a large refugee population. We learned that forming small, non-threatening groups and knowing what questions to ask was the way to get women to feel more comfortable talking about rape, coercive sex, and other abusive behaviour. The technique of probing with questions (e.g., do you know any women who have been raped?), rather than asking outright what had happened to them personally, allowed women to respond anonymously. The small groups of six to eight women facilitated discussions of taboo subjects without endangering the participants. Often, spontaneous personal revelations would follow once women felt safe

enough to tell their own painful experiences.

The first step towards getting the community to confront the problem of sexual violence was to acknowledge that a problem existed in the first place. At the onset of the project, it appeared that refugees accepted the sexual violence as an inevitable part of life within the camps. Focus groups with men in various sectors of the community were held to learn their views. When the issue was personalized in these groups, relating the abuses to "your wife, daughter, etc.," the community admitted that sexual violence was indeed a real problem and could be handled by the community itself. Such an admission proved to be the first step in community "ownership" of the problem of sexual violence, and practical solutions such as setting up group wood collections, neighbourhood watches, safe areas, etc. began to be discussed. Most importantly, the community unveiled the shroud of secrecy around rape and violence and began to discuss solutions.

Many researchers believe that qualitative data do not command the respect of hard quantitative data. However, as this study shows, qualitative data were likely to yield the richer and more reliable account. Moreover, in sensitive situations such as those surrounding rights violations within the camps, qualitative methods revealed information that would not be found in a standardized questionnaire or survey method. This advantage came not from any inherent advantage of qualitative methods but rather because the situation within the Benaco camp made quantitative methods so susceptible to manipulation that they actively hid certain truths and blatantly distorted others.

Difficulties of Undertaking Research in Refugee Camps

Authors have addressed problems experienced by researchers working with populations of refugees who have suffered unspeakable hardships (Allen 1996; Omidian 1994). Less attention has been paid to the difficulties faced by anthropologists working with refugees

accused of violent crimes. Conducting research among a population harbouring known murderers proved incredibly difficult and stressful. Relief workers often lacked conviction helping people who had participated in genocide, and the aid recipients were often suspicious of the efforts made to help them. Such considerations forced researchers and relief workers to make unexpected and uncommon revisions to their field methods (Krulfeld 1994).

The subjects of trust and honesty between those studied and the researcher need to be examined when conducting anthropological research among refugees. Voutira and Harrell-Bond (1995, 209) explore the "locus of trust" in refugee situations. In the Rwandan situation, suspicion of the others' underlying motives characterized many of the encounters between relief workers, refugees and researchers. After a while, some researchers began to question the validity of their own data, gathered as they were from encounters rife with mistrust, manipulation, and, sometimes, outright deceit. However, small focus group discussions circumvented this persistent aura of falsehood and constructed responses and gave many valuable and truthful insights about the daily coping strategies of refugees.

The researcher's motivation and honesty may be called into question. Researchers may exploit refugees by subjecting them to endless questionnaires, surveys, and interviews. In most cases, refugees never have the opportunity to learn the results of research or are often not told why the research is being done. This behaviour is abusive and violates the rights of refugees. A participatory research approach engaged the refugees by first obtaining consensus for the need for information, and secondly, enabling refugees to participate in research design, select the method, carry out the research, and analyze the findings.

Recommendations

Anthropologists working in refugee settings must be ready to expand existing data collection approaches and analytical methods, and explore new ones.

Fieldwork that combines advocacy with research, recording processes of change while trying to influence positive behaviour changes, casts the researcher as an agent of change. This project showed the possibilities of engaging refugees in activities to promote health-seeking behaviour in spite of the many forces working against adopting such positive behaviour styles. What was underestimated was the effect of the militant extremists' political control and flagrant manipulations in the camps and the brutal consequences on the lives of all refugees—especially women and girls.

Against the backdrop of the genocide and the illicit military buildup and training activities inside the camps, human rights abuses were largely ignored. This research shows that many coping strategies are gender-specific, and suggests the need to examine why men and women responded and adapted differently to life in camps. Relief agencies may use this knowledge to design more effective programs to specifically address the needs of women refugees.

Agencies can enable women to use their skills by providing the type of assistance that will encourage positive behaviour. By being aware of detrimental coping methods and structural design of camps, relief agencies can provide safer refuge for women. At the earliest possible time, women need to be consulted in camp layout design and in the provisioning of community social and health services. Agencies can also set up commodity distributions (food and non-food items) so as to make women the direct beneficiaries. Early monitoring of household livelihood security, along with nutritional surveys that include adolescents, adult women and the under-five population, will provide baselines that can show whether or not women are actually eating the distributed food. Moreover, in order to assure that women refugees have equal access to commodities, women need to be put in decision-making roles in refugee camp management.

In refugee settings where numerous NGOs implement program services, collaboration and partnering will in-

crease their contributions to the relief efforts. Information, survey and questionnaire results and training can be pooled and shared to maximize the impact and maintain cultural appropriateness.

The special physical and health needs of women must be taken into account from the beginning of an emergency. These needs include reproductive health services as delineated in the United Nations High Commissioner for Refugees (UNHCR) manual *Reproductive Health in Refugee Situations* (1995). Providing HIV/STD prevention and family planning commodities is also essential, especially among populations with high HIV seroprevalence and groups accustomed to birth spacing options. Rape crisis intervention is needed from the start of an emergency situation, and health agencies experienced in trauma counselling and treating rape cases are urgently needed. Above all, refugee services must be accessible; e.g., condoms and child spacing information need to be easily available and visible at food distribution sites.

To help women prepare unfamiliar food, cooking instructions should be provided at food distribution locations. During the first few weeks of setting up a refugee camp, firewood or fuel should be provided until such time as relief agencies can ascertain the safest and least environmentally destructive methods for obtaining cooking fuel. Men need to be organized into wood-cutting teams to reduce the risks for individual women and girls going far from the camps in search of wood. The Community Services sector should facilitate the formation of support networks for women who are not accustomed to being alone in such conditions. Support networks would be empowering for women and, at the same time, reduce the chances that women who live alone will have to resort to coping behaviour which puts their health and human rights at risk.

Conclusion

The relief operation in Tanzania was in response to violence. By not censoring

violent behaviour it was perpetuated in many realms in the camps. That the perpetrators of genocide were allowed to set up shop (including arms storage and military training exercises) just across the border from Rwanda, points to the need for the international community (the United Nations, donor governments, and NGO relief agencies) to take a united stance against supporting criminal behaviour. John Shattuck (1996, 171) wrote:

... it is increasingly clear that humanitarian efforts are doomed to fail unless they are accompanied by political efforts aimed at keeping the peace, establishing accountability, and deterring conflict in the long term. One of the greatest tasks facing the international community today is to create institutional mechanisms to respond to this combined and growing pressure of humanitarian and political human rights crises.

It should not have been a surprise that violent behaviour continued inside the refugee camps, especially by those wielding the power over the unprotected, i.e. unaccompanied women and young girls. People who go unpunished for serious violent crimes perceive no constraints against further violent behaviour.

Ultimately, if the relief structure purports to care about human rights, it must place human rights as a priority at the onset of the program, not later. The Rwandan crisis defined the now popular term "complex humanitarian emergency." The enormous and swift influx of refugees into Tanzania and Zaire stunned the unprepared relief community. Relief efforts were concerned with alleviating suffering and providing basic needs—water, food, shelter, and medicine. The logistical problems were extraordinary. A quarter of a million people needed to be fed and housed and it seemed prudent at the time to engage the leadership to organize the distribution of rations. The practice of allowing veritable genocide criminals positions of power in the camps, however, as commune leaders, section heads, food monitors, security guards, sets the stage for the continuation of violence on another level.

To be fair, relief agencies had little or no history dealing with genocide: their mandates are simply to relieve suffering and save lives. Whereas the agencies should not be reproached for their performance in such unfamiliar circumstances, fingers should point instead at governments that would not even use the word "genocide" lest they be forced to fulfil their obligation under international law to intervene.

Situations in camps often prevent women from being able to protect themselves. Women are not inherently weak and vulnerable. Rather, situations arise in which women are unable to act in their own best interests. It is the responsibility of the relief agencies to ensure that they do not inadvertently place women into such situations. These refugee women are relying on the agencies as a source of sustenance in the life-and-death circumstances of the camps.

Knowing where to place the blame should not be the lesson learned from Rwanda. Instead, international organizations and states must urgently seek effective strategies and means to avert conditions provoking the wholesale

violence witnessed there. And when relief efforts prove necessary, relief organizations must guard against accidentally providing the climate for violence to continue. In the spirit of humanitarian aid, refugee camps should be places of healing. ■

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Legitimate and Illegitimate Discrimination: New Issues in Migration

Edited by Howard Adelman

Toronto: York Lanes Press, 1995; ISBN 1-55014-238-0; 287 pages, indexed; \$22.95

Freedom of movement: If the members of a state are forced to flee, the legitimacy of that government is questionable. On the other hand, if members cannot or must leave, again the government is not democratically legitimate.

Immigration control: While limiting access and determining who may or may not become members of a sovereign state remains a legitimate prerogative of the state, the criteria, rules and processes for doing so must be compatible with its character as a democratic state.

Legitimate and Illegitimate Discrimination: New Issues in Migration, edited by Professor Howard Adelman, deals with the question of legitimacy with cases studies from the Developing World, Europe, Australia, the United States, and Canada.

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The Relief-Reconstruction-Development Dynamic: A New Approach to the Concept of Linking Relief, Reconstruction, and Development

Paul Spiegel

Abstract

After a critical analysis of the relief-development continuum, a new conceptual model is proposed for areas with chronic instability in complex humanitarian emergencies—the Relief-Reconstruction-Development Dynamic (R2D2). This model incorporates the dynamic interactions of the relief, reconstruction and development phases over time and geography. Using the chronic instability of Liberia between 1990 and 1997 as an example, the author applies the R2D2 model. Liberia is divided into “maximal geographic units” and a conflict scale is applied. The resulting graph shows varying degrees of conflict between different regions which varied independently over time. Situations of chronic instability do not follow a linear pattern but instead, form a complex interactive dynamic of phases which varies over time and geography. Donor agencies and non-governmental organizations should recognize this dynamic process and consequently fund and design programs which more appropriately address the different needs of areas within a situation of chronic instability over time.

Précis

Après une analyse critique du continuum de développement de l'assistance aux réfugiés, un nouveau modèle conceptuel est proposé pour les urgences humanitaires complexes en zones à instabilité chronique: la Dynamique Assistance-Reconstruction-Développement (Relief-Reconstruction-Development Dynamic—R2D2). Ce modèle incorpore les interactions dynamiques entre l'assistance et les phases de reconstruction et de développement dans le temps et

la géographie. L'auteur applique le modèle R2D2 à l'exemple de l'instabilité chronique du Liberia entre 1990 et 1997. Le Liberia est subdivisé en «unités géographiques maximales», et une échelle conflictuelle est appliquée. Le modèle résultant montre des degrés variables de conflits entre différentes régions, ayant varié de façon indépendante au cours du temps. Les situations d'instabilité chronique ne suivent pas un modèle linéaire mais plutôt forment une dynamique complexe de phases en interaction variant selon le temps et la géographie. Les organismes donateurs et les organisations non gouvernementales devraient reconnaître ce processus dynamique et conséquemment financer des programmes qui prennent plus adéquatement en compte les besoins variables des zones impliquées dans une situation d'instabilité chronique se déployant dans le temps.

Introduction

For decades, relief and development have been considered as separate entities. Expertise has developed in both fields, but it is uncommon to find organizations which concentrate upon both disciplines. Even when organizations claim to be specialists in both disasters and development, they are often thwarted by funding agencies, which will fund projects for relief, or projects for development, but rarely at the same time and in the same situation. Relief, reconstruction and development have been considered a linear spectrum, one phase inexorably leading to the next over time. During the past decade, many people and organizations have called for development programs to be implemented as soon as possible after an emergency occurs, a so-called “developmental relief.”¹ Numerous examples of implementation of some parts of developmental programs have been cited,² but an overall model has not yet been suggested. In this paper, definitions

will be discussed together with their limitations, old models will be critically analyzed and a new model will be proposed, using data from a case study of Liberia.

Definitions

Relief

Relief is defined as the action taken to reduce suffering and save lives.³ This action is aimed at saving the greatest number of victims in a limited time by reducing life-threatening conditions and helping only those affected by the emergency.

This definition ignores the concept of sustainability and different magnitudes of emergencies (at one point in time as well as geographically).

Reconstruction

Reconstruction is the action taken to recover and reconstruct a system or infrastructure which existed prior to an emergency.

The definition is usually used as a term in between the linear spectrum of relief and development. Reconstruction should be seen as an opportunity for change. It should not be interpreted literally (i.e., to “reconstruct” the previous system), but used as an opportunity to construct a system or infrastructure using the positive aspects of the previous system while attempting to correct its past deficiencies. Thus the reconstruction phase should be interpreted as a reconstruction and construction phase or a “(re)construction plus” phase.

Development

Development is the process of bringing about sustainable improvement in socioeconomic and health conditions.⁴

Development is usually assumed to be the final phase in a linear model and is considered to occur over many years after relief and reconstruction. In fact,

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development should be incorporated into all stages: before, during and after an emergency, in different degrees and with different emphases.

The Relief-Development Continuum Model

When a disaster occurs, attention is immediately focused on relief efforts to help the country and people recover from the crisis. Usually, whatever development activities which were occurring at the time are suspended, and the development workers either leave the country or allow the relief workers to take over. A crisis attracts media attention which, in turn, attracts donors and money. However, the funds are generally restricted to relief efforts. As the crisis ameliorates, reconstruction begins. Money is once again usually earmarked for reconstruction. Finally, development begins after reconstruction phase.

The development experts return to the country and attempt to take over from where they left off. There is overlap between these three phases, but in general, one phase predominates throughout the whole country at one time or (see figure 1).⁵

Problems with Relief-Development Continuum (RDC)

The RDC is a linear concept which assumes that the phases occur in order with little interaction. Created for a natural disaster scenario, the RDC assumes that the pre-disaster situation was stable and that development was taking place. This linear model is not appropriate for situations of chronic instability (i.e., Liberia, Somalia, Angola, etc.).⁶ Instead, such situations require a more dynamic model where phases can change from one to either of the other two as well as occur simulta-

neously within same geographic area or between areas.

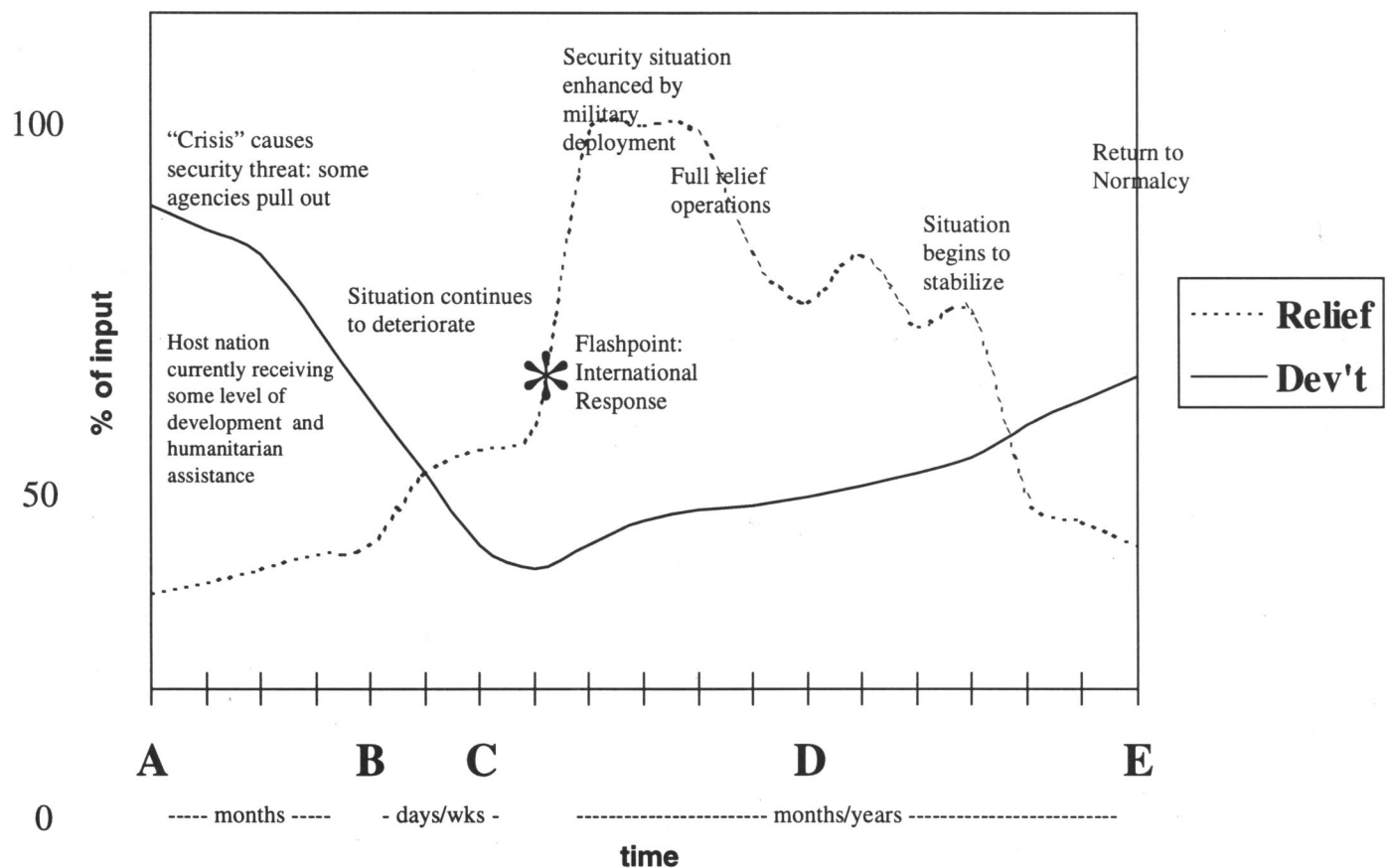
Dynamic between Relief, Reconstruction, and Development

Relief, reconstruction, and development are not mutually exclusive phases nor should they be thought of in a linear fashion. They exist within a spectrum, in which they can shift or change from one to either of the other two as well as occur simultaneously within same geographic area or between areas (see figure 2).

Relief-Reconstruction-Development-Dynamic (R2D2) Model

The R2D2 model should be thought of as interactive and dynamic with respect to both time and geography, rather than a linear continuum.

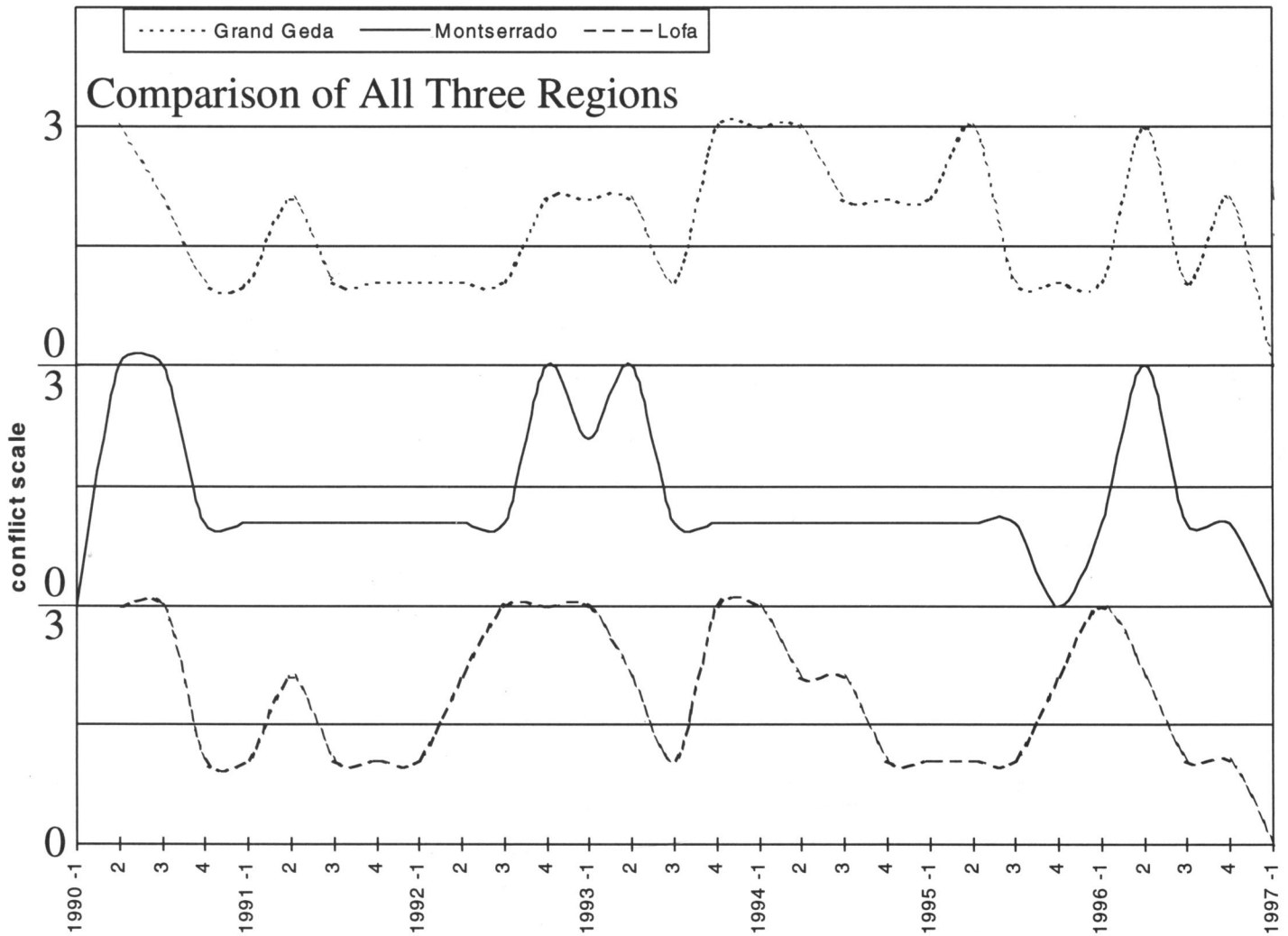
Figure 1: The Relief-Development Continuum (RDC)



**Figure 2: Interactions between Relief, Reconstruction, and Development:
Dynamic versus Linear**



Figure 3: R2D2 Model as Applied to Liberia between 1990 and 1997



Conflict Scale

- 3 – open and widespread warfare, evacuation of expatriate personnel from NGOs, UN, Embassy staff, local population fleeing the area.**
- 2 – heightened insecurity amongst the local population (ie increased number of soldiers and people with guns in the streets, local food staples increase in price, people begin to hoard food).**
- 1 – limited security (ie stable population, repatriation occurring, limited economic activity).**
- 0 – ceasefire -normal activity begins to return to the community.**

The x-axis will generally be used for time, while the y-axis can be used for numerous categories, some of which include:

- i. malnutrition rates,
- ii. disease-specific morbidity rates,
- iii. economic indicators (i.e., GDP),
- iv. water/sanitation indicators (i.e., x liters/person/day),
- v. mortality rates,
- vi. population shifts, and
- vii. conflict scale.

The graphs can be plotted in numerous different fashions depending upon the axes and the concept one is attempting to describe. The following types of graphs could be used:

- i. linearly over time (see figure 3),
- ii. point prevalence (i.e., Department of Humanitarian Assistance's joint risk mapping),⁷
- iii. overlay 1 or more categories on top of each other, and
- iv. 3-dimensional graphs using 2 categories which were shown to be statistically unrelated.

Applying the R2D2 Model

The area of chronic instability (i.e., a country) should be divided into sections, using the largest geographical area possible (i.e., city, county, district, province, etc.). This designated "maximal geographic unit" should have relatively similar conditions and should be labelled with the most appropriate phase (relief, reconstruction, development). Then, specific interventions should be planned and implemented accordingly. The situation needs to be re-evaluated periodically, with respect to the geographic divisions as well as the applicable phase, and changes made according to the past and present situation.

Background to the Liberian Conflict

Liberia's seven-year civil war started in December 1989. Shortly after it began, the uprising spread quickly to most parts of the country. The subsequent factionalization of the conflict (10 warring factions) contributed significantly to the war's prolongation, causing a

serious and chronic humanitarian crisis.⁸

The protracted civil war disrupted of economic and commercial activities, which resulted in the loss of livelihood for whole communities. Wide spread destruction or decay of public and private property and physical and social infrastructure also occurred. There were massive population movements and tremendous human suffering. One half of Liberia's 2.5 million pre-war population was internally or externally displaced and more than 150,000 people were killed.⁹

The factionalization of the conflict made it very difficult to secure peace. Numerous peace accords were broken (a total of 6 peace accords were signed between 1990 and 1997).¹⁰ As can be seen in figure 3, the amount of conflict varied at different times throughout the war and was geographically dependent. The three largest battles occurred at the beginning of the war (December 1989), during Operation Octopus (late 1992/early 1993), and during the April 1996 crisis.

Figure 3, shows the R2D2 model applied to Liberia between 1990 to 1997.¹¹ The x-axis represents time in years, while the y-axis represents conflict occurring in specific regions of Liberia (conflict scale is zero to three). Originally the maximal geographical unit chosen was the county. Each county within each of the three regions of Liberia were similar to each other, thus the maximal geographic unit was enlarged to regions. Grand Geda county represents the South-East region of Liberia, Montserrado county (which includes the capital Monrovia) the Central, and Lofa county the North-West.

Application of the R2D2 Model to Liberia between 1990 and 1997

Figure 3 shows regions with varying levels of conflict over time. The levels of conflict are often different between the three regions. For example, during the second quarter of 1991, Montserrado region was relatively calm while Grand Geda and Lofa regions had heightened security problems. A similar situation occurred in the fourth quarter of 1993.

One can observe many other differences between the regions as well as over time.

Regardless of the level of conflict occurring in each of the regions, the implementing non-governmental organizations (NGOs) considered all of Liberia to be in a state of emergency between 1990 and 1997. These NGOs were not only restricted in their program implementation due to their own methods of analyzing the situation but also because donors often restricted the way the money they granted could be spent. Many of the funding agencies insisted that the funds be spent only on emergency programs. Figure 3 portrays the dynamism between the three phases and shows the possibility of conducting different programs spanning all three phases in certain regions at certain times.

Conclusion

Donor agencies and NGOs should not view emergencies as being uniform throughout a country and having a linear progression over time. Recognition of the dynamic processes of chronically unstable situations in complex humanitarian emergencies is necessary if NGOs are to respond appropriately. By employing the R2D2 model in an area of chronic instability, NGOs may apply appropriate interventions to the corresponding maximal geographic units. Thus developmental programs may be appropriate in one province at a particular time, while emergency activities may be reasonable in another. These dynamic phases should be re-evaluated continuously throughout the period of instability to allow for modification of programs according to the evolving situation. ■

Notes

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3. World Health Organization (WHO), "Health in Relief and Development: A Strategic Framework for Emergency and Post-crisis Needs," World Health Organization, Division of Emergency and Humanitarian Action, draft 10, June 29 1998.
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From Being Uprooted to Surviving: Resettlement of Vietnamese-Chinese "Boat People" in Montreal, 1980–1990

By Lawrence Lam

Toronto: York Lanes Press; ISBN 1-55014-296-8, 200 pages, indexed;
\$18.95

The saga of the "boat people" is a dramatic story, a story of one of the largest refugee movements in recent years. Canada played a significant role in the resettlement of these refugees in bringing them to Canada where they could start anew. *From Being Uprooted to Surviving* by Professor Lam, is based on ethnographic data of a sample of Vietnamese-Chinese accepted for resettlement in Montreal in 1979 and 1980, who were interviewed again in 1984–85 and in 1990–91, this book provides a longitudinal account of their experience of resettlement in Canada. This experience has been marked by successive stages of their struggle to overcome structural barriers and to negotiate a meaningful niche in Canada.

Contents: Preface, The Boat People Phenomenon, Resettlement—Issues and Perspectives, The Vietnamese-Chinese Refugees, Exodus and Transition, Resettlement Process—The First Three Years, Resettlement—Beyond the First Three Years, Conclusion.

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Breaking Ground: The 1956 Hungarian Immigration to Canada

Edited by Robert H. Keyserlingk

Toronto: York Lanes Press, 1993; ISBN 1-55014-232-1; 117 pages, \$6.99

This book is a collection of personal and archival-based memories on the selection, transport and settlement of about 40,000 Hungarian refugees in Canada in one year. It is a source of primary record as well as scholarly reflection on one of the most significant refugee movements to Canada after World War II—the 1956 Hungarian refugee movement.

Based on papers that were presented at a 1990 conference, the authors touch on the unique political, administrative and settlement features of this movement. The resulting work, edited by Professor Keyserlingk, is a unique mix of personal reminiscences and academic scholarship.

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International Refugee Law: Misconceiving Reconceptions

Jim Rice

Abstract

This paper addresses the implications and adequacy of the "Hathaway model" for grounding refugee immigration policy. The Hathaway model envisions and may be suitable for cases of mass migration such as the recent tragedy in the Great Lakes region of Central Africa or the response to the "ethnic cleansing," which took place in the former Yugoslavia, large-scale crisis situations calling for immediate solutions. The author argues that for other more individualized types of refugee situations, there is a need to distinguish between the categories of "asylum seeker" and "refugee" when implementing policy in order to make a better effort to screen and adequately protect those individuals who make asylum claims.

Précis

Cet article traite des implications et de la pertinence du «modèle Hathaway» pour asseoir une politique d'immigration de réfugiés. Le modèle Hathaway appréhende (et se révèle possiblement pertinent pour) des cas d'immigration de masse du type de celle ayant eu lieu lors de la récente tragédie des Grands Lacs du Centre de l'Afrique, ou dans le cas de la réponse apportée aux «purifications ethniques» qui ont eu lieu en ex-Yougoslavie. On parle donc de crises à grande échelle nécessitant des solutions immédiates. L'auteur développe une argumentation selon laquelle dans les cas où on a affaire à des types plus individualisées de situations impliquant des réfugiés, la nécessité se fait jour d'établir une distinction entre «rechercheur d'asile» et «réfugié», au moment de la mise en place des politi-

ques, de façon à déployer un effort plus efficace pour sélectionner et protéger plus adéquatement ces individus demandant asile.

Introduction: The Notion of Temporary Asylum

In the recent article, "Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection,"¹ written jointly by James C. Hathaway and R. Alexander Neve, and the book edited by James Hathaway, *Reconceiving International Refugee Law*² (1997), the contributors set out a possible model for the future development of refugee law and policy. As the title suggests, the proponents of the "Hathaway model" (as it will be called in this paper) argue that because of a variety of factors, including an increasing unwillingness by states to accept new arrivals of people from other countries (due in part to what is referred to as the demise of "interest convergence"), as well as the failure of the policy promoted by some Western governments of encouraging people at risk to stay in their countries of origin (described as the "right to remain"), current practices related to refugees should be fundamentally reexamined. Part of this reevaluation indicates, according to Hathaway, that refugees should be offered temporary protection until such time as they are able to safely return to their own countries.

The model as proposed by Hathaway and others is an attempt to offer humanitarian protection to refugees during the time that they are in actual danger in their countries of origin and to encourage (and if necessary) compel them to return home as soon as it is safe for them to do so. The idea does have a superficial appeal. With the perceived increase in mass migration from poor nations in the less developed world to more wealthy ones and the backlash against immigration that has come with this, social and

political pressure has been brought to bear on previously accepted policies of accepting refugees in developed nations. The idea of offering temporary protection as a way of "de-linking" the refugee issue from that of immigration can at once be seen as a potentially attractive immigration policy for receiving states. After all, repressive regimes which have caused the flight of thousands of refugees may be overthrown, civil wars may come to an end, "ethnic cleansing" may cease and the situations which have made it clear that people fleeing from their countries were in fact refugees, may dramatically change.

Although this idea appears to be an attractive one, given the dramatic rise in the number of refugees and displaced peoples over the past 25 years, such a proposal fails to offer a credible alternative to existing refugee law primarily because it does not offer adequate protection to them, nor does it properly distinguish between the different kinds of refugee scenarios, or different types of people seeking refuge.

The Recent Experience of Refugees in Hong Kong

This article seeks in part to view this idea of temporary protection from the experience of asylum seekers in Hong Kong during recent years. The reality in Hong Kong is somewhat different from the Hathaway notion of temporary asylum in that the asylum seeker is only allowed to remain in the Hong Kong Special Administrative Region (SAR) pending ultimate resettlement in a third country. Hong Kong does generally not allow for permanent resettlement by refugees.

The mass exodus from Vietnam, Laos and Cambodia in the years after the fall of Saigon in 1975 has had a major impact on Hong Kong as well as other places of "first country asylum" in Southeast Asia. Subsequent influxes of refugees arrived after the Vietnamese

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invasion of Cambodia in 1979 and the brief border conflict between Vietnam and China in 1978–79. Between 1975 and 1997 some 200,000 asylum seekers from Vietnam alone arrived in Hong Kong. Although the authorities allowed a small number of these individuals to stay in Hong Kong, the vast majority of those people who were found to be refugees were given temporary asylum in Hong Kong and then eventually resettled in third countries including the United States, Canada, Australia, Japan, United Kingdom, or other European countries.

By the late 1980s, the total number of people who had left their countries of origin in Indo-China was estimated by the UNHCR at over two million. The mass migration of displaced people from Vietnam, Laos and Cambodia and their landfall in small boats on the shores of Malaysia, Indonesia, Philippines and Thailand ultimately led to shrill opposition from some Southeast Asian leaders and a call by the Association of Southeast Asian Nations (ASEAN) for the United Nations General Assembly to address the issue with a view to bring the exodus to a conclusion.

In December 1988, the United Nations General Assembly voted to set up a conference on the refugee problem in Southeast Asia. In March 1989, countries of origin, states involved in offering first asylum to refugees, resettlement countries and the UNHCR met in Kuala Lumpur and agreed on a Draft Declaration and a Comprehensive Plan of Action (CPA) which was intended to find a "comprehensive and durable solution" to the Indo-Chinese refugee problem.

One of the decisions made in the CPA was that any new arrivals of asylum seekers would be held in "temporary asylum centres" (detention camps) and screened in order to determine whether they were refugees and thereby eligible for permanent resettlement in a third country or "economic migrants" and subject to repatriation.

The experience of screening the Vietnamese refugees in the closed camps of Hong Kong was not on the whole, an

edifying one. Although there is insufficient space here to do justice fully to the story of the Indo-Chinese refugees, there seemed to be a fundamental and systemic problem with the way in which the screening process was done. The system of screening asylum seekers as conceived may have seemed to be acceptable. The actual implementation of it, however, was not.

With regard to individual applicants, there was normally a two-stage screening process conducted first by an officer from the Hong Kong Immigration Department. In the case where an asylum seeker was determined not to be a refugee (or "screened out") she had the opportunity of making an appeal to the Refugee Status Review Board (RSRB), a body who had been appointed by the Governor of Hong Kong and made up of a retired individual from the judiciary, the executive branch, the UNHCR and other "prominent members of the community." Following a rejection from the RSRB, the asylum seeker was given the option of applying to the UNHCR for the exercise of its mandate or applying for voluntary repatriation ("vol rep"). If she refused to apply for voluntary repatriation, she would be slated ultimately for mandatory repatriation to Vietnam. This process for tens of thousands of people took six years or more years.

The implementation of the process of screening was basically flawed. It was instituted because over time, third country resettlement became more difficult, and the Hong Kong Government favoured rejection of refugee submission claims. In addition, the process was unduly slow and cumbersome. Thousands of Vietnamese asylum seekers spent up to ten years in detention camps. Children grew up in the camps with no knowledge of life outside. The human loss in terms of wasted years in detention is truly appalling and stands as a disgrace to the Hong Kong government as well as the international community. From the early 1990s as the Hong Kong Government and the UNHCR sought to empty the camps and bring the refugee "problem" to a close. In an effort to encourage voluntary repatriation, humanitarian services were

systematically withdrawn from the camps. Schools were closed and children were denied education. Medical services were reduced or terminated. Sanitation was left to deteriorate and even food rations for camp inmates were cut back.

In an unprecedented independent report on Hong Kong prisons made in 1997, the conditions inside the Vietnamese refugee camps were described as being "unacceptable" and "strikingly different" from other penal/detention centres in Hong Kong, in the sense that its living and sanitary facilities were "much worse", and the food provided was inferior to that of Hong Kong's prisons.³ The same report referring to the High Island Camp also included the following observations:

The detainees made a number of complaints about conditions in the camp and about their treatment. They stated that the huts had become unbearably hot in the summer, and that the huts leak when it rains; that not enough food is provided; that the male guards watch the female detainees shower from the guard towers; that the CSD (Correctional Services Department) is extremely slow to repair things, such as fans. Lights, faucets, etc.; and that there is no hot water in the winter.

The Human Rights Watch/Hong Kong Human Rights Monitor delegation noted significant deficiencies in camp conditions. Most notably, the sanitary facilities were barely functioning and were filthy, smelly, dark and bug infested. Worse, because many detainees quite reasonably avoided using these facilities, the showers had become a de facto second toilet. In the showers, which were in small shipping containers some distance away from the huts, most of the spigots were broken, so that some 900 people in one section were forced to share seven spigots ...⁴

By 1998, the Hong Kong government formally ended the policy of first asylum in Hong Kong, meaning that persons would no longer be eligible to seek asylum in the Special Administrative Region. The broad lesson that this whole episode teaches is that while all of the

Vietnamese asylum seekers may not have been refugees under the meaning of the Convention, there was a policy which militated against recognizing them as such. And as time went on, and these individuals spent year after year in detention, Vietnam began to move from the policies which had persecuted many of these people in the 1970s and 1980s to ones which relied less on seeking revenge on those who were perceived to have opposed the state.

The Hathaway model as it is presented, plays into the hands of the policies founded on cynicism and expedience such as the ones which were applied to the Vietnamese detained in Hong Kong during the 1990's. However, Hathaway would clearly want to assert that the case of the Vietnamese in Southeast Asia only serves to support his own model of temporary asylum. He might claim that although many of the Vietnamese may have had a reasonable fear of persecution when they fled, by the time that the policies of *doi moi* (economic reform) were established in Vietnam in 1990, and in the years after that, such fears were in fact unfounded, and a regime that he proposes such as the International Supervisory Agency (ISA) would have been better able to avoid (or at least minimize) the human tragedy of years lost in Hong Kong detention camps on the part of thousands of men, women and children.

However, to have treated all of the Vietnamese asylum seekers as "temporary refugees" subject to return upon a determination by an ISA would have made the situation in Hong Kong even worse because it would have failed to properly differentiate between those who may have had a reasonable fear when they fled, and those who faced persecution upon return regardless of any reform policies back in Vietnam. The correct answer, depends upon how a refugee is to be perceived by a screening agency or the receiving state.

In the years that followed the Communist victory in Vietnam, there were in fact, large scale human rights violations in that country. Families were "relocated" from their homes and farms to "new economic zones" which were

usually located in isolated areas of the country with no irrigation, or other facilities which make farming viable. Individuals were detained, tortured and even executed for having supported the previous regime or for having a family member who had done so.

It was primarily these serious human rights abuses that prompted hundreds of thousands of people to flee Vietnam. It is also true that in the 1990s things did begin to change in Vietnam. The forced migrations as well as the arbitrary detentions no longer drew public condemnation in the light of the economic reforms. However, despite these changes, there is yet to be any democratic reform or the establishment of the rule of law in Vietnam. An asylum seeker, languishing in the camps in Hong Kong during those years was most likely traumatized by the kinds of events described above. And even though the UNHCR and the Hong Kong government was providing information about changes in Vietnam, there was no guarantee for such a person that there would be no return to the human rights abuses experienced during the 1970s and 1980s. If a formerly repressive government were to revert back to its former policies, there would be nothing that either the UNHCR or the proposed ISA could do to protect any returnees who might be at risk.

One issue here is whether, in order to be a refugee under the 1951 Convention, one needs only to have a reasonable fear of persecution, or, one needs to have a reasonable fear and in addition, a real objective threat of ongoing persecution should one return to one's country of origin. If it should be the latter, and in order to be a refugee and someone entitled to protection, one needs to show not only a reasonable fear of persecution but also the objective fact of being threatened in one's own country for now and into the foreseeable future, then Hathaway may be better understood in his interpretation of the Convention. However, if it should be the former, and all that is needed in order to be recognized as a refugee is a reasonable fear of persecution, then clearly Hathaway is mistaken in his argument in favour of

temporary asylum. At the very least, he should be calling for an amendment of the Convention on the part of the signatory states to change the way the UNHCR and states view refugees.

The *Handbook on Procedures and Criteria for Determining Refugee Status* (The Handbook) used by the UNHCR in the determination of refugee matters sets out both subjective and objective criteria for determining refugee status. The Handbook indicates that the person applying for refuge will be deemed to have a well founded fear of persecution if

[h]e can establish, to a reasonable degree, that his continued stay in his country of origin has become intolerable to him for the reasons stated in the definition, or would for the same reasons be intolerable if he returned there.⁵

The Handbook goes on to state that the applicant need not show that (his) fears are based on his own personal experience, and that the experiences of those in his social group may also be relevant in determining refugee status.⁶ This indicates that although there is a test based in part on an objective threat, any subjective fear is not to be discounted out of hand.

The saga of the Vietnamese asylum seekers dominated the news relating to refugee issues in Hong Kong since 1975. However, increasingly, there have also been individuals from other parts of the world such as the Middle East, Africa and South Asia who have sought asylum in Hong Kong during this period of time. Because the 1951 Convention was not extended to Hong Kong, individuals who have a claim to asylum must apply to the UNHCR, which bases its own decision on whether that person has a well founded fear of persecution in her own country.

The Handbook, as mentioned above, provides the guidelines for the determination of refugee status and indicates that the UNHCR is competent to recognize an asylum seeker as a refugees "regardless of whether or not he is in a country that is a party to the 1951 Convention of the 1967 Protocol or whether or not he has been recognized by his

host country as a refugee under either of these instruments."⁷ Individuals are recognized as being refugees by the UNHCR, under the mandate granted to the High Commissioner by the Convention.

Hong Kong Today as a Place of First Asylum

In cases where the asylum seeker who is not Vietnamese is recognized in Hong Kong as a refugee by the UNHCR, she is normally allowed to stay at liberty in the Hong Kong SAR pending permanent resettlement in a third country. During this time, the refugee is given temporary permission by the Hong Kong government to remain in Hong Kong. However, she is not permitted to work or even to study in the territory. Furthermore, no social services such as public housing, public assistance or access to public education are extended to the asylum seeker or her children during this (very often considerable) period of time. In these cases in which a decision to extend recognition has been granted by the Hong Kong office of the UNHCR, a monthly stipend of about U.S.\$720 per month is made available to the asylum seeker with additional money available to dependent children. Very often, the refugee has arrived in Hong Kong bearing false travel documents which were obtained during her flight to freedom. In these cases, the asylum seeker/ refugee is detained for several months or even over a year until she is recognized as being a refugee. Following release from detention on recognizance, she will be required to report regularly to the police during her stay in the territory.

One problem with the notion of temporary protection in a place like Hong Kong is that the refugee who has been recognized in the SAR has already had an enormous burden placed upon her regarding the period of time spent between her initial flight to freedom and ultimately being resettled in a third country.

Very often, in these cases, the period of time from the flight to freedom from a refugee's own country to initial refuge in Hong Kong may take up to a year. Then there is normally a period of from

three to six months for the asylum seeker to be screened by the UNHCR in Hong Kong. Following the decision to recognize an individual as a refugee, the time for the UNHCR to find a "durable solution" may take up to another two years. During this time, the refugee generally experiences the trauma of the past as well as a great state of uncertainty about the future. Should the notion of temporary asylum be implemented by states which traditionally accept refugees, such individuals may have their lives in a complete state of uncertainty for up to a decade. This is clearly not what the signatories from member states had in mind when they agreed to the 1951 Geneva Convention on Refugees.

The Conceptual Difficulties with Reconceiving Refugee Law

In the preface to *Reconceiving International Refugee Law*, Professor Hathaway explains the rationale for the notion of a "new paradigm of refugee protection":

While not itself a source of solutions, refugee protection needs to be reoriented in a way that takes full advantage of opportunities for solutions. Because governments today are unlikely to support refugee protection if they see it as a subversion of their immigration policies, it makes sense to facilitate repatriation when and if conditions in the country of origin are genuinely secure. If governments perceive repatriation to be unworkable, yet the interest-convergence that supported the grant of more than temporary protection in the past has disappeared, the obvious answer for governments is to intensify their efforts to prevent the arrival of refugees in the first place. Failure to promote dignified and rights-regarding repatriation undercuts the logic of refugee status as a situation-specific trump on immigration control. If the fundamental right of refugees is to be guaranteed access to meaningful protection until and unless it is safe to go home, it cannot legitimately be asserted that they should routinely be entitled to stay in the host state once the harm in their own country has been brought to an end.⁸

One of the problems for the view expressed above, is that it fails to take account of Article 34 of the Convention which mandates the naturalization of refugees. This is a major failure of this model as Hathaway does not seem to argue for an amendment to the Convention. Instead, the model put forward by Hathaway is an attempt to pray in aid of a misreading of Article 34 based on the obligation of receiving states not to send a refugee back to an ongoing risk of persecution (*refoulement*) found in Article 33.

Article 34 of the 1951 Convention Relating to the Status of Refugees states:

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular, make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

Hathaway states in the *Harvard Human Rights Journal* article:

The challenge is to re-assert both the essence of refugee protection as a human rights remedy, and the logic of a shattered commitment by governments to provide and fund that remedy.⁹

Indeed, the issue of human rights is in fact the biggest problem with the Hathaway model. It is doubtful that any institution/s can provide a workable system which tends to uphold human rights, when perhaps the most fundamental right that one can enjoy, the right to reside quietly in a place is denied or severely limited. Indeed, that a refugee ought to enjoy a kind of "trump card" over immigration control, is vital for the 1951 Convention to be viable as a human rights document.

In the *Harvard Human Rights Journal* article, Hathaway and Neve argue that the Convention requires that states provide only temporary protection for refugees. However, a statement issued by the UNHCR to this effect does not provide sufficient evidence for this far reaching proposition.¹⁰ Clearly, the United Nations High Commission for Refugees is not entitled to rewrite or reinterpret an international convention.

Practical Difficulties With Temporary Asylum

Hathaway tries to get around the problem of uncertainty on the part of the refugee by stating that there would be a time limit of five years, beyond which the asylum seeker would be qualified for permanent residence in her country of temporary asylum.¹¹

However, this five year cut off point only serves to further call attention to the flaw in the Hathaway model, that an asylum seeker would effectively be denied her fundamental rights as a refugee under such a scheme. First of all, such a provision would clearly offer a strong incentive for immigration officials to repatriate a refugee before the five year period of stay allowed her the right of permanent residence in the resettlement country. If, as Hathaway says, temporary asylum is an attempt to "de-link" refugee issues from immigration ones, then as the time for granting permanent residence grew near, there would be that same association in the minds of immigration officials.

The real difficulty is that the Hathaway model has made the initial assumption that the refugee is basically an undesirable; someone who is to be tolerated in her country of asylum only as long as it is unsafe for her to return. After that point, the individual is promptly declassified as a refugee and presumably put under the category of illegal migrant and repatriated as soon as possible. Second, the Hathaway model offers no satisfactory method for accurately verifying whether it would really be safe for the refugee to be repatriated. What are the criteria for the immigration official of the country of asylum for determining whether it would be safe to return?

In *Reconceiving International Refugee Law*, chapter one, "Temporary Protection," Manuel Angel Castillo and James Hathaway address the issue of how a regime of temporary protection should be structured. As part of this, they envision the establishment of an International Supervisory Agency (ISA) as a means of determining the fate of the refugee. According to this view, the ISA

would act in consultation with the country of first asylum and any resettlement state over refugee issues.

The difficulty with this proposal is partly that refugees/asylum seekers and immigration officials who in many cases determine their fate, stand in an adversarial position to each other. Although immigration officials in receiving states may have some knowledge of the 1951 Convention and 1967 Protocol, their job is more closely related to implementing the policies of their own governments on immigration and naturalization. The job of immigration officials is to follow the policy of their own governments.

Under the existing regime, the United Nations High Commission for Refugees exists to some extent as a broker, set between the refugee and the immigration department of the country of asylum. In practice, however, the protection officer, whose job it is to determine whether the asylum seeker is indeed a refugee, (on whom the Convention affords protection) is under intense pressure from officials in the country offering protection to interpret the Convention conservatively. The Hathaway model would have the effect of shifting this role of broker away from the UNHCR and place more power on the immigration official from the country of asylum. Hathaway and Castillo propose a body to monitor and administer refugee matters, referred to by them as an International Supervisory Agency (ISA).¹² The problem with this proposal is that it is unclear just how this future agency is to be set up, whether it would be a part of the UNHCR or a separate body, what its duties and powers would be, and of course, how it would be funded. Neither does the Hathaway book discuss whether there be overlapping functions or jurisdiction between the proposed ISA and the UNHCR.

One of the problems which already exists with the UNHCR and its present role of screening asylum seekers/refugees and determining their fate is that there are not adequate checks and balances found in many jurisdictions where similar administrative decisions are made. If for example, an administra-

tive decision is made in the United States, Canada or the United Kingdom which is adverse to the interests of the asylum seeker, she may appeal against this decision to a Board of Immigration Appeals, and if the original decision is upheld, a further appeal is subject to judicial review. This process of appeals is designed as a check on abuses of administrative power and an opportunity to provide the right of due process to the asylum seeker.

As it is, however, the UNHCR has no similar system of checks and balances. The United Nations High Commission for Refugees enjoys diplomatic immunity in the countries which it operates in. This means that its final determinations may not be challenged by the asylum seeker. With regard to similar adverse decisions made by the High Commissioner, a refugee/asylum seeker may lodge an appeal to the same office in which the original decision was lodged. The UNHCR is not required to provide reasons for either the initial decision or the decision on appeal. In fact, many refugees have been turned away with a one word decision; "rejected." The prospect of a future ISA seems to present itself with yet another layer of unchecked bureaucracy and with it, more costs, more delay and still more uncertainty for the refugee.

One other practical difficulty with providing temporary protection for refugees is that if as Hathaway suggests, a refugee is given such a limited status in a country of asylum, she will clearly be aware of its limited nature, in terms of the rights and remedies that she is being offered in the country of temporary resettlement. She will also be aware of the outside period for a refugee enjoying temporary protection to be repatriated.

In a case where a person has been granted temporary protection in a given resettlement country, there would be strong pressure for that person to go underground and remain illegally, or to marry out of convenience in order to obtain permanent residence or resort to some other illegal means of staying in the country. Clearly, this is the kind of problem that Hathaway is attempting to

avoid. The fact remains though, that an individual or a family who resides in a country of asylum for up to five years is not easily to be uprooted and sent back to where they came from. Furthermore, the Hathaway model seems unwilling to address the basic issues of rights to work and receive public education on the part of refugees. Without the rights to employment and education, a refugee will more likely be thrust into the world of exploitation and poverty which is commonly faced by illegal immigrants.

Castillo and Hathaway are at pains to stress that every effort should be made to avoid the prospect of "mandated" (forced) repatriation. However such a power would still be an invaluable tool of immigration authorities in an accepting state under a regime of temporary protection.¹³ The authors claim that wherever possible, voluntary repatriation is to be preferred. Such a claim is meaningless. Clearly, a person residing overseas whether she is a refugee or not, is normally free to return any time to her country of origin anyway. If that person has a well founded fear of persecution, such a trip would not be advised but the freedom to do so is there anyway.

Many refugees have, elected to return to their countries of origin after social or political changes have made such a return possible. For many, it seems the natural thing to do, as one is again able to enjoy the language and culture of one's birth. So despite their reluctance to mention it, forced repatriation would inevitably be used as the definitive tool to enforce the concept of temporary protection. In fact, the option of states to enforce mandated repatriation is the only significant thing about the concept of temporary asylum. Because of the strong incentive on the part of the refugee under a regime of temporary asylum to go underground as her period of asylum draws to an end, it would inevitably become policy under such a regime for receiving states to establish a "closed camp" system as was the case in Hong Kong following the CPA. Clearly, the Hong Kong experience of the Vietnamese refugees is not one that anyone should wish to repeat.

Misrepresenting the "Problem" of Refugees

The other serious problem with the Hathaway model, at least as expressed in the article, the "Temporary Protection of Refugees," is that it is founded on a premise containing certain racial implications. Simply because, as Hathaway claims, the Cold War is over and the economies of the northern industrial states have slowed and there is no longer a demand for unskilled migrant labour, does not mean that it is in keeping with either principle, or a "rights-based approach" to accommodate anti-foreign sentiment and buy in to the sentiment of politicians who would seek to exclude "non-white foreigners."¹⁴

In Hong Kong, as in other places in the world, there has been an increasing demand for cheap migrant labour from the period of the 1970s through the 1990s. These migrant workers have come from places such as mainland China, the Philippines, Thailand, Indonesia and elsewhere. The reason for this influx of migrant workers has been a rapidly growing economy, large scale infra-structure projects, and chronic shortage of workers as well as a demand for cheap child care services and construction workers, domestic helpers and other low paid jobs. At the same time, large numbers of workers were entering Hong Kong illegally from neighbouring mainland China. In his book, *The New Untouchables*, Nigel Harris makes the following observation about Hong Kong:

The Hong Kong story illustrates the curious conjecture of painful labour shortages with the expulsion of workers. In the case of those seeking asylum, or entering illegally, deportation was justified by the government in terms of reducing the burden of support by the public exchequer. Yet this is only a burden if the people concerned are interned; if they are allowed to work—and the Hong Kong market clearly needed workers—there is no burden. **Thus did the state invent the very pretext that it requires to justify exclusion** (my own emphasis). The economics and

the politics of immigration control appear to part company.¹⁵

The implication here is that the Hong Kong government as well as other governments have been deeply disingenuous in their commitment to maintaining "economic stability" by excluding foreign migrant workers or refugees from their shores.

The events which occurred in Malaysia in March and April of 1998 serve to reinforce this same point. Along with nearly ten years of robust economic growth which produced chronic shortages of workers, the Malaysian government in the 1980s and 1990s embarked on a large scale importation of foreign labourers, mainly from neighbouring Indonesia but also from the Philippines and South Asia. Following the economic downturn in 1997 and 1998, the Malaysian government treated these same workers as scapegoats, claiming that they were the ones who were taking jobs from locals. Contracts were terminated, and any illegal workers found were detained and expelled *en masse*. Political refugees who had fled to Malaysia from persecution in Ache province in Indonesia were also caught up in the Malaysian government's claim that migrants and refugees alike were now a threat to the economic and social stability of the nation and must be expelled. The UNHCR Chief of Mission was denied access to the detention centres where the asylum seekers were being held by Malaysian authorities.¹⁶ Those in Malaysia that harboured them were detained under the draconian Internal Security Act which allows detention without trial for up to two years.¹⁷ In this way was the myth of the refugee as both economic and security threat perpetuated by the Malaysian authorities.

Clearly there are those with racist views in countries all over the world who in recent years loudly expressed their opposition to people from less developed countries who have come to these places for a whole variety of reasons. The re-emergence of politics which appeals to racism and xenophobia is clearly a worrying development and is to be deplored anywhere in the

world that it is found. However, the momentary rise in racist sentiments does not provide a good reason to truncate international conventions and the law which up until now has offered protection to refugees.

Two issues need to be addressed. First, there may be political or other reasons for countries to control immigration and the pressure from those who don't like to see foreign faces in their societies may even be one of them. States are normally not under a blanket obligation to admit non-nationals, and immigration laws and policies are a matter for individual states themselves to decide. This political pressure to control immigration, however, must be kept separate from international refugee law. Although it is a stated goal of the Hathaway model to de-link these issues, it in fact confuses them by accepting the notion that they must be linked together in the first place.

Hathaway is at pains to point out and condemn what he refers to as the "politics of *non-entree*." By this he means the trend on the part of states in developed nations to require valid visas for entry as well as imposing "carrier sanctions" for those individuals who attempt to reach ports of entry without such visas and even the interdiction of displaced people on the high seas. Hathaway sees such policies as an attempt on the part of developed nations to limit the number of displaced peoples finding their way to their shores and into their ports of entry.

Despite the disapproval which Hathaway displays for *non-entree* policies, they have been formulated by states in order to curtail illegal immigration which has become both a serious problem and a sensitive political issue over the past 25 years in many countries around the world. Clearly, as Hathaway would admit, it is for individual states to regulate their own immigration policies and to allow or limit immigration to suit their own social and economic needs. Hathaway claims that it is partly due to the fact that refugee issues have become inter-linked with immigration issues, that states are reluctant to accept refugees. However, it is not at all clear

that the idea of temporary asylum would address this problem.

The Wide Diversity of Asylum Seekers and Refugees

One of the things that is striking to anyone who has worked as an advocate for refugees is that no two cases are the same. This seemingly obvious observation seems to be lost on Professor Hathaway who seems to be looking at the worldwide problem of refugees as a whole rather than from the point of view of individual cases. No doubt, the world's headlines have been dominated in recent years by the cataclysmic problems associated with forced migration on a wide scale in places like Afghanistan, Cambodia, the Great Lakes region of Central Africa, Southern Africa, as well as the former Yugoslavia. Those individuals clearly place a heavy burden on the receiving states that they arrive in as well as on international agencies such as the UNHCR. In these scenarios of mass migration, there may be some merit in Professor Hathaway's model of offering temporary asylum. It would seem likely that in these situations, most of those affected would want to return to their homes eventually with or without temporary asylum. To fail to distinguish these cases of mass migration, however, from individuals who flee from their countries because of a genuine fear of persecution, is to retreat from the very principles that established humanitarian law in the first place.

The Hathaway model wrongly assumes that refugees, are to be classified along with unwanted migrants from overseas who are for the most part a drain on society. In fact, it has long been argued that refugees have made significant contributions to the countries that offered them refuge. Persecuted waves of Jewish migrants fleeing from Russia and Eastern Europe who found refuge in Great Britain have made significant contributions to British culture, among them Carl Popper, Isaiah Berlin, and Hersh Lauterpacht, to name a few. The United States, a country which has been made up of immigrants, has constantly been reinvigorated by the diversity

those individuals and groups who have settled there from other countries. Many of these were refugees, including among many others, Madaline Albright, Henry Kissinger, Fritz Lang, Billy Wilder, Albert Einstein, Mikeil Barishnikov, Harry Wu and Marline Dietrich.

In 1948, the Universal Declaration of Human Rights was adopted by the same states who had earlier been signatories of the United Nations Charter. Article 14(1) of the Universal Declaration states, "Everyone has the right to seek and to enjoy in other countries asylum from persecution."

The 1951 Convention and the 1967 Protocol were part of an effort by the community of nations to implement these noble objectives and to provide for workable remedies in order for individuals to be able to find asylum. These multilateral conventions were not merely entered into as a matter of "converging interests" as has been suggested, nor were they adopted only as a means to score points during the cold war. The adoption of international humanitarian instruments such as the 1951 Convention and the 1967 Protocol were done as a matter of moral claim on the part of the signatory states and remain today as a vital part of human rights law. Just as it was a moral imperative to provide asylum for refugees in the years after the holocaust, it remains a matter of morality today. As the Universal Declaration reaches its fiftieth anniversary the international community is faced with a multitude of challenges, just as in 1948. However, this is no a reason to embark on diluting the instruments of humanitarian law which were conceived along the way. Instead, it ought to be the task of both academics and statesmen and those who defend human rights to expand and develop them further. ■

Notes

1. James C. Hathaway and R. Alexander Neve, "Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection," *Harvard Human Rights Journal* 10, (1997): 115.

2. James C. Hathaway, *Reconceiving International Refugee Law* (The Hague; Boston: Martinus Nijhoff Publishers, 1997).
3. Joanne Mariner, *Hong Kong Prison Conditions in 1997* (Human Rights Watch Asia/Hong Kong Human Rights Monitor, 1997), 20.
4. *Ibid.*, 21.
5. *Handbook on Procedures and Criteria for Determining Refugee Status Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees* (Geneva: Office of the United Nations High Commission for Refugees, 1979), para. 42.
6. *Ibid.*, para. 43.
7. *Ibid.*, para. 16.
8. Hathaway, *Reconceiving International Refugee Law*, xxii-xxiii.
9. Hathaway and Neve, "Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection," 117.
10. Hathaway and Neve, "Making International Refugee Law Relevant Again," 157. The article refers to the following UNHCR statement:
The purpose of international protection is not ... that a refugee remain a refugee forever, but to insure the individual's renewed membership of a community and the restoration of national protection, either in the homeland or through integration elsewhere ... [T]he Convention makes clear that refugee status is a transitory condition which will cease once a refugee resumes or establishes meaningful national protection. (UNHCR, *Voluntary Repatriation: International Protection* vol. 8, 1996).
11. Hathaway, *Reconceiving International Refugee Law*, 17.
12. *Ibid.*, 7.
13. *Ibid.*, 19.
14. James C. Hathaway, "The Temporary Protection of Refugees: A Solution-Oriented and Rights-Regarding Approach," (Discussion paper, Refugee Law Research Unit, York University, Toronto, 1996), 9.
15. Nigel Harris, *The New Untouchables: Immigration and the New World Worker* (London: Penguin, 1995), 73.
16. Sheila McNulty, "Asia's New Boat People Adrift in the Storms," *Financial Times*, 28 March 1998.
17. "ISA, Whipping to Stop Illegals," *Business News Review* (Cambodia), 9 March 1998; "Malaysian Cops Net Three People for Sheltering Indonesian Illegals," *Agence France-Presse*, 10 March 1998. □

Refugee Rights: Report on a Comparative Survey

By James C. Hathaway and John A. Dent

Toronto: York Lanes Press, 1995; ISBN 1-55014-266-6; 82 pages; \$11.95

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The Evolution of Refugee Determination in Gender-Related Claims: The Canadian Experience

Krista Daley

Abstract

In this paper, the author presents an overview of the evolution of gender-related issues in the determination of refugees in Canada. The question of whether a state can adequately protect a woman from gender-related persecution emerges from her analysis and places feasibility study at the apogee of directions for research.

Précis

Dans cet article, l'auteur présente un aperçu de l'évolution des questions relatives au sexage dans la détermination des détenteurs de statut de réfugié au Canada. La question de savoir si un état peut protéger adéquatement une femme des persécutions fondées sur le sexage émerge de l'analyse et place les études de faisabilité au faite des directions de recherche à envisager.

Since the mid-1980s, refugee determination for women refugee claimants who fear gender-related persecution has been evolving and progressing in the international arena. The issues surrounding gender-related persecution have been discussed, modified, enhanced and more clearly articulated such that today there is a far greater understanding of the issues and a better appreciation of the legal analysis which is required for these types of refugee claims. At the Immigration and Refugee Board of Canada (IRB), there has been a similar evolution and progression in the issues to be resolved.

A female refugee claimant must satisfy the definition of the Convention refugee¹ which provides as follows:

"Convention refugee" means any person who by reason of a well-founded fear of persecution for reasons of race, religion, nationality,

membership in a particular social group or political opinion is outside the country of the person's nationality, or country of former habitual residence, and is unable or, by reason of that fear, is unwilling to avail himself of the protection of that country.

A workable analytical framework which can be used to make an assessment of whether a woman refugee claimant satisfies this definition is as follows:

1. Is the harm which she fears "persecution", that is, a serious violation of a fundamental human right?
2. If the harm is persecution, then is the persecution going to occur by reason of her race, religion, nationality, membership in a particular social group or political opinion?
3. If yes, then is the fear of persecution well founded and, in particular, is there state protection available to her?

Since the IRB started in 1989, there has been a systematic progression of the issues surrounding claims of women. At the outset, some claims of gender-related persecution would not make it past the first part of the analytical framework outlined above whereas today many claims seem to be resolved at the third and final stage of the framework.

Initially, there was some doubt as to whether gender-specific forms of persecution would fit within the concept of persecution in the Convention refugee definition. As stated in the Canadian Guidelines on *Women Refugee Claimants Fearing Gender-Related Persecution*

The circumstances, which give rise to women's fear of persecution are often unique to women. The existing bank of jurisprudence on the meaning of persecution is based on, for the most part, the experiences of male claimants. Aside from a few cases of rape, the definition has not been widely applied to female-specific experiences, such as infanticide, genital

mutilation, bride-burning, forced marriage, domestic violence, forced abortion, or compulsory sterilization.

Generally, gender-specific forms of human rights violations have been found by the Immigration and Refugee Board² and by the Federal Court of Canada³ to amount to persecution. Thus, the first part of the analytical framework should no longer be considered a contentious legal issue in the Canadian context.

The second part of the framework has also evolved in the last few years. As can be seen from the Convention refugee definition itself, persecution by reason of "gender" is not explicitly mentioned. However, following the Supreme Court of Canada decision in *Ward*,⁴ the ground of "membership in a particular social group" proved to be broad enough to cover "women". Thus, a woman who fears gender-related persecution can argue that this is by reason of her gender. Since the *Ward* decision, there has been some debate as to whether the group should be broadly defined as "women"⁵ or whether a more particular group, such as "women subject to domestic abuse,"⁶ is more appropriate. The positive progression is that, rather than challenging the existence of a group, the challenge has been to properly articulate the group.

As a result of a resolution of the second part of the analytical framework, the final part of the analysis is being reached more often in gender-related claims and many claims of gender-related persecution seem to come down to an assessment of whether there is state protection available. The analysis involves an assessment of four questions:

- 1) What has the state done, or not done, for the woman in the past?
- 2) What has the state done, or not done, for similarly situated women in the past?

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- 3) What is the state willing or able to do about the persecution if the woman refugee claimant were to return to her country?
- 4) Is this adequate protection from the harm feared?

From these questions arises a legal question for resolution: what level of state protection is required to say that state protection is available and the fear of persecution is not well-founded. In the Canadian context, this seems to have been resolved by the Federal Court to be adequate but not perfect protection.⁷

In conclusion, it is always instructive to review the evolution of the law and to see how areas of legal contention are resolved. In the case of gender-related persecution, the analysis in Canada seems to have now evolved to the point where the central issue is—can a state adequately protect a woman from gender-related persecution? ■

Notes

1. Section 2(1) of the *Immigration Act*, as enacted by R.S.C. 1985(4th Supp.), c. 28, s.1. The full definition is:
"Convention refugee" means any person who:

(a) by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,

(i) is outside the country of the person's nationality and is unable or, by reason of that fear, is unwilling to avail himself of the protection of that country, or

(ii) not having a country of nationality, is outside the country of the person's former habitual residence and is unable or, by reason of that fear, is unwilling to return to that country, and

(b) has not ceased to be a Convention refugee by virtue of subsection (2),

but does not include any person to whom the Convention does not apply pursuant to section E or F of Article 1 thereof, which sections are set out in the schedule to this Act.

2. For female genital mutilation, see M95-13161, Didier, Prévost, March 13, 1997 (reasons signed March 20, 1997), and T93-12198, Ramirez, McCaffrey, May 10, 1994. For forced sterilization, see V94-01287, Sachedina, Daggett, February 20, 1997. For forced marriage, see A96-00154, Showler, Gaboury (dissenting), June 11, 1997.

3. For female genital mutilation, see *Annan v. Canada (Minister of Citizenship and Immigration)*, [1995] 3 F.C. 25 (T.D.). For forced sterilization, see *Cheung v. Canada (Minister*

of Employment and Immigration), [1993] 2 F.C. 314 (C.A.). For forced marriage, see *Vidhani v. Canada (Minister of Citizenship and Immigration)*, [1995] 3 F.C. 60 (T.D.). For domestic violence, see *Narvaez v. Canada (Minister of Citizenship and Immigration)*, [1995] 2 F.C. 55 (T.D.).

4. *Canada (Attorney-General) v. Ward*, [1993] 2 S.C.R. 689

5. For examples of women being found to be the particular social group, see U93-09915, Silcoff, Naqvi, August 9, 1994, V94-01548 Whitehead, Kalvin, May 15, 1995 (reasons signed March 24, 1997 and March 26, 1997), and T93-12198, Ramirez, McCaffrey, May 10, 1994.

6. For examples of narrower group articulation, see T93-04176 et al., Desai, Koulouras (dissenting), December 7, 1993, U95-04292, Allmen, Daya, October 2, 1996, and V94-01287, Sachedina, Daggett, February 20, 1997. In the Federal Court of Canada, *Narvaez v. Canada (Minister of Citizenship and Immigration)*, [1995] 2 F.C. 55 (T.D.), *Diluna v. Canada (Minister of Employment and Immigration)* (1995), 29 Imm. L.R. (2d) 156 (F.C.T.D.), *Litvinov, Svetlana v. S.S.C. (F.C.T.D., no. IMM-7488-93)*, Gibson, June 30, 1994.

7. *Zalzali v. Canada (Minister of Employment and Immigration)*, [1991] 3 F.C. 605 (F.C.A.); (1991), 14 Imm. L.R. (2d) 81 and *Canada (Minister of Employment and Immigration) v. Villafranca* (1992), 18 Imm. L.R. (2d) 130 (F.C.A.). □

PATHS TO EQUITY:

Cultural, Linguistic, and Racial Diversity in Canadian Early Childhood Education

By Judith K. Bernhard, Marie Louise Lefebvre, Gyda Chud, and Rika Lange

Toronto: York Lanes Press ISBN 1-55014-277-1; 112 pages, size 8.5x11; \$18.95

Paths to Equity is based on an extensive nationwide study of 77 childcare centres in Montreal, Toronto, and Vancouver on the cultural, linguistic, and racial diversity in Canadian Early Childhood Education (ECE). The report presents the results this study on how the ECE system is responding to the increasing diversity of contemporary Canadian society.

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Paths to Equity will be of interest to ECE faculty, policymakers, centre supervisors and staff and others interested in the inclusion of diversity content in professional education programs.

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Toronto, June 6–13, 1999

Course Director: Sharryn Aiken

The Centre for Refugee Studies' Summer Course offers postgraduate training in refugee issues for up to fifty practitioners inside and outside government who work on some aspect of refugee protection or assistance. The course includes panel discussions, case studies, a simulation exercise and lectures from international experts. A York University / Centre for Refugee Studies Certificate is awarded upon successful completion of the seven day program.

Module 1: Comprehensive Overview

(Five days—Monday to Friday)

World Refugee Movements: Root Causes and Consequences • Role of the UNHCR and Non-Governmental Organizations • Law and Refugee Status • Exclusion and Interdiction • International Humanitarian Law • Refugee Women and Children • Human Rights Documentation on the Internet • Impunity and the International Criminal Court • Current Issues in Refugee Policy: Northern and Southern Perspectives

Module 2: Special Topics

(Two days—Saturday and Sunday)

Managing Refugee Camps • Anthropology and the Trauma of Exile • Remedies for Refused Refugee Claimants: International and Regional Human Rights Petition Systems

Fees for Full Course:	\$700;	Late registration after March 31, 1999:	\$800
Fees for Module 1:	\$500;	Late registration after March 31, 1999:	\$550
Fees for Module 2:	\$250;	Late registration after March 31, 1999:	\$300

Fees are in Canadian dollars and include materials. Food and accommodation are extra. Reasonably priced accommodation and food are available on campus. Partial subsidies are available for low-income participants. Limited number of internships, including full course subsidy, are available for York University students. Deadline for subsidy and internship applications is March 1, 1999.

For further information and registration, please contact:

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