

Voluntary repatriation: a comparative study on the impact of political and legal agreements.

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Afghanistan, Bosnia and Herzegovina, Rwanda, Palestine

Summary: This fact sheet on voluntary repatriation first describes the legal framework and the empirical process for the implementation of a durable solution for refugees: voluntary repatriation. Secondly, it analyses 4 different cases of mass refugee issues, from a legal and political perspective. Finally, the study reveals the divergences between Palestine and the other cases analyzed. It concludes that the Palestinian special status under the UNRWA's patronage and the lack of a binding international framework impede them to find a durable solution to their condition.

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Abbreviations

ANCHOR:

CCA: Common Country Assessment

GFP: General Framework for Peace (Dayton Agreement)

DPA: Dayton Peace Agreement

FAR: Force Armées Rwandaises (Rwandan Army)

FDLR: Democratic Forces for the Liberation of Rwanda

GoP: Government of Pakistan

ICCPR: International Covenant on Civil and Political Rights

IDP: Internally Displaced People

IFOR: Multination Military Implementation force

IPTF: International Police Task Force

MoRR:

NCR: National Council for Refugees

NATO: North Atlantic Treaty Organization

PDPA: People's Democratic Party of Afghanistan

RDC: Democratic Republic of Congo

RPF: Rwandan Patriotic Front

RRTF: Reconstruction and Return Task Force

SFRY: Socialist Federal Republic of Yugoslavia

UK: United Kingdom

UN: United Nations

UNAMA: United Nations Assistance Mission for Afghanistan

UNAMIR: United Nations Assistance Mission for Rwanda

UNHCR: United Nations High Commissioner for Refugees

UNRWA: United Nations Relief and Works Agency

UNSC: United Nations Security Council

UNSCR: United Nations Security Council Resolution

USA: United States of America

YPA: Yugoslav People's Army

Introduction

The end of the cold war marked the end of the conflict between the guiding ideologies, potentiating the development of world governance, universalism, and the emphasis on individual's rights.ⁱ This change enables the United Nations High Commissioner for Refugees (UNHCR) to declare the 1990s the decade of repatriation.ⁱⁱ In fact, it improved the applicability of the 1951 United Nations Convention relating to the Status of Refugees and the 1967 Protocol,ⁱⁱⁱ both ratified by 144 countries,^{iv} increasing the access to previously closed territories.^v Accordingly, the number of refugees taken in charge by the UNHCR reached 10 millions in 2009. The UNHCR primary aims at supporting them in finding a durable solution between 3 alternatives: "local integration, resettlement in a third country and voluntary repatriation."^{vi} It is on this last option that this fact sheet will focus on.

The objective of this comparative study is to understand under what circumstances a voluntary repatriation has been possible for refugees, highlighting the factors which facilitate repatriation. Accordingly, this fact sheet aims at analyzing several recent refugee issues. Those cases are Afghanistan, Bosnia Herzegovina, Rwanda and Palestine. They are relevant because they are in numbers the most significant cases of refugees during the 1990s. I will point out at the international legal framework surrounding the cases, their historical background and their political stability. It should permit to appreciate better the impact of legal and political processes empowered by UN resolutions. Moreover, it should permit to better assess the main discrepancies from the Palestinian refugees' issue, which, besides its similarities with the other cases, did not witness any process of voluntary repatriation.

The material necessary for this comparative study includes primary sources, such as international agreements, international conventions, UN resolutions, UNHCR reports, as well as secondary sources such as specific journals on refugee issues and law issues, reports from renown institutions for the economic or political situation, and relevant books on the different cases studied.

The first part of this fact sheet is dedicated to the definition of voluntary repatriation, focusing especially on its legal assessment and its empirical implementation. The second part is an analysis of the legal, historical and political background surrounding the 4 cases studied Afghanistan, Bosnia Herzegovina, Rwanda and Palestine. The third part brings the deduction of what has been found from the information gathered in the second part and a synthesis of the divergences and convergences between the cases studied. Finally I will conclude that Palestine diverges from the other cases studied because of a lack of international agreement for the return of refugees, a lack of political will from the United Nations Security Council (UNSC) to empower its resolutions for the right of Palestinian refugees to return to their country of origin, a lack of peace agreement between the different political factions to settle the fate of those refugees.

Chapter 1: What is voluntary repatriation?

1.1 General introduction to the concept of voluntary repatriation

As stated Ilias Bantekas, “states have, in the past, regularly resorted to expulsion of various minorities in order to consolidate their national unity [...]. This affirmation entails a double danger for population. First, that some people are expelled by their state of origin against their will; second that some states choose to expulse refugees from other countries, which is not, as we will analyze, equated to voluntary repatriation. Repatriation, as a right, emanated as the prerogative of individuals to return to their country.^{vii} The concept of voluntary repatriation was developed from the UN General Assembly resolution of 14 December 1950, in which the statute of UNHCR was adopted and member states were called on to cooperate fully with the activities of UNHCR. Since then, in many General Assembly or Security Council Resolutions, the United Nations affirmed the mandate given to the UNHCR,^{viii} to promote and facilitate the voluntary repatriation of refugees. It has been defined by the council of the European Union as “the assisted or independent departure to the country of return based on the will of the returnee and his/her informed decision to return”[...]“carried out in conformity with obligations deriving from applicable international instruments.”^{ix}

A refugee is a person which corresponds to the criteria established in the 1951 Geneva Convention, Article 1.^x Moreover, Article 33 determines the principle for the prevention of forced return for refugees.^{xi} The UNHCR assesses the overall credibility of the applicant’s claim for a refugee status, establishing a link between the personal history of the applicant and the violations of Human Rights recorded in his country of origin, crosscutting the applicant’s information with testimonies coming from the same family or people from the same area.^{xii} If the applicant can demonstrate that his feeling of persecution is founded on a real danger for his life, then he will be granted a refugee status. For example, in 2001, “932,000 cases were decided, of which 168,000 resulted in refugee status and 445,000 cases were rejected. In total, the refugee recognition rate amounted to 24 per cent.”^{xiii} According to the 2009 Global Trends fact sheet, “There were 43.3 million forcibly displaced people worldwide at the end of 2009, the highest number since the mid-1990s. Of these, 15.2 million were refugees; 10.4 million who fell under UNHCR’s responsibility and 4.8 million

Palestinian refugees under the United Nations Relief and Works Agency (UNRWA)'s mandate.^{xiv}

In fact, there is a separation between Palestinian and the other refugees, as Palestinian refugees do not fulfill the same refugee definition. According to UNRWA, the operational definition of a Palestinian refugee is "any person whose normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948 and who lost both home and means of livelihood as a result of the 1948 conflict, and descendants of such persons, including legally adopted children, through the male line."^{xv} Later, the Palestinian who lost home and means of livelihood as a result of the 1967 conflict will also acquire a refugee status granted by UNRWA. The areas covered by UNRWA's mandate correspond to the West Bank, Gaza, Jordan, Lebanon and Syria, the remaining Palestinian refugees being covered by UNHCR's mandate. According to the CJPMO Institute (Canadiens pour la Paix au Moyen Orient), the Palestinian refugees obtained a unique and separated institutional and legal space in the international framework, because they could not fulfill the condition of the Article 1D from the UNHCR Convention (which consider individuals not under the protection of any UN institution or organism other than UNHCR) and because the UNHCR could not apply to the Palestinian refugees its 3 durable solutions.^{xvi}

Voluntary repatriation imply the re-establishment of the national protection, the acquisition of the capacity to fulfill primary needs and the access to basic services in order to fully integrate displaced people within the communities and the country of origin.^{xvii} Voluntary repatriation is possible when there is a change in the situation of the refugee that has been brought about by himself, namely through *voluntary* re-availment of national protection and *voluntary* re-acquisition of nationality. It then imply the existence of "ceased circumstances," that is to say a substantial change within the fundamental circumstances under which a person has been recognized as a refugee. It implies that international protection is no longer justified on account of changes in the country where persecution was feared, for the nationals of that state. Then, under those conditions and following the Executive's Conclusion 65 (XLII) of 1991, a refugee can no longer continue to refuse to avail himself of the protection of its country. Refugees cannot be forced to return to their country of origin until and unless the criteria for *cessation of refugee status* are fulfilled.^{xviii} That is why Vedsted Hansen considers

a distinction between *voluntary repatriation* and *mandatory return*, establishing different legal implications between the 2 processes.^{xix} However, even when the circumstances in the country of origin have undergone a fundamental change, individual refugees may continue to have a well-founded fear of persecution or compelling reasons not to return arising out of previous persecution and the "ceased circumstances" cessation clauses should thus not apply to them.

According to the UNHCR manual for repatriation, the voluntary repatriation is a **process** which aim is to ensure equality between refugees and the others citizens for the legal rights and duties, and the access to services, goods and possibilities of production. If the state in which refugees return is not stable, the refugees and the communities within the regions of return should benefit, in a fair and equitable way, of an improved access to productive goods and social services. Another important aim is "to preserve gains made in exile when refugees return to more traditional social structures." Between 1991 and 1996, nine million refugees repatriated.^{xx}

The different aspects of reintegration are: **legal** (Access to legal processes; legal support for ownership of property, land and housing;), **political** (Stable government; full participation in political processes; gender equality in all aspects of political life; freedom of thought and expression; protection from persecution;) **Economic** (Access to productive resources (e.g. land, agricultural inputs and livestock); and **Social** (Access to services; security; absence of discrimination; community-level dispute resolution, etc.).

To ensure the return of refugees in good conditions, the UNHCR developed its 4R conceptual program, which means *Repatriation, Reintegration, Rehabilitation and Reconstruction*. *Voluntary Repatriation* refers to the free and voluntary return of refugees to their country of origin in safety and dignity; *Reintegration* means the ability of returning refugees (as well as IDPs and others) to secure the necessary political, economic, legal and social conditions to maintain their life, livelihood and dignity; *Rehabilitation* entails the restoration of social and economic infrastructure (e.g. schools, clinics, water points, public facilities and houses) destroyed during conflict in areas of return to enable communities to pursue sustainable livelihoods.

The cessation of hostilities and signing of peace agreements often trigger preparations for voluntary repatriation and eventual reintegration in the country of origin. Often, however, returnee movements spontaneously start when refugees think that it is safe to return to their country of origin; they may not wait for peace agreements or plans to be prepared.

While the UNHCR evaluates the number of repatriated refugees at 15 million in the last decade, around 70 per cent of the world's refugees return without the assistance of aid agencies.^{xxi} For example in 1992, the UNHCR affirms that “on the 2.4 million refugees who repatriated, 1.7 million did so spontaneously.”^{xxii} There is a frequent phenomenon, which biased statistics on repatriation, called “revolving door”, where “refugees return to their homes only to find themselves made refugees again a short time later”.^{xxiii}

1.2 Repatriation as a right in International law

For Shafer, the international community will continue to act in an ad hoc and many times unorganized fashion in response to situations that produce major refugee movements.^{xxiv} Yet, a strong legal framework structures the return of refugees. Generally, the United Nations Security Council gives the impetus and the legal base on which it is possible for mandatory states or international institutions to intervene to resolving mass refugee issues. For example, in the case of Rwanda, the UNSC determined that the “magnitude of the humanitarian crisis in Rwanda constituted a threat to peace and security in the region.”^{xxv} In Haiti, the UNSC imposed a mandatory oil and arms embargo to deal because of the transnational movement of refugees that has been considered a threat to security.^{xxvi} In line with the UNSC understanding of what could be considered as a “threat to peace”, which entails then also mass refugee issues, theoretically the General Assembly may act in a case where there appears to be a threat to the peace, breach of the peace or act of aggression. The “Uniting for Peace” resolution of November 1950 gave the right to the UN General Assembly to initiate political, economic, humanitarian, social and legal actions issuing non-binding recommendations to States on international issues within its competence.^{xxvii} Accordingly, the UNHCR was created by the UN General Assembly Resolution A/RES/428.^{xxviii} However, as the General Assembly can endorse only non-binding recommendations, it cannot intervene within a State without its consent.

Yet, the individually-held right of return is part of customary law (being then binding on states) and has been codified within 4 separated bodies of international law, which will now be succinctly analyzed: the Law of Nationality, International Humanitarian Law, Human Rights law, and Refugee law.

The Law of Nationality

As stipulates the 1930 Hague Convention on Certain questions relating to Conflict of Nationality Laws, “It is for each State to determine under its own law who are its nationals. This law shall be recognized by other States in so far as it is consistent with international conventions, international customs, and the principles of law generally recognized with regard to nationality”. In the *Nottebohm Case*, the International Court of Justice also reaffirmed this principle.^{xxix}

In the case of state succession, the UN General Assembly, following the work of the International Law Commission (ILC),^{xxx} has adopted a set of legal principles. It establishes that, when territory undergoes a change of sovereignty, “habitual residents”^{xxxi} of the geographical territory coming under new sovereignty are granted nationality by the new state, even if they are not physically present within the territory on the actual date of the change. Moreover, Article 14 of the ILC on Nationality of Natural Persons in Relation to a Succession of States stipulates that “a State concerned shall take all necessary measures to allow persons concerned who, because of events connected with the succession of States, were forced to leave their habitual residence on its territory to return thereto.”^{xxxii} Article 15 prohibits governments from practicing discrimination in the conferral of national status and Article 16 requires that adequate due process safeguards be provided in the determination of nationality status. Furthermore, as stated Guy Goodwin-Gill, “[A] State [of origin] owes to other States at large (and to particular States after entry [of nationals from the state of origin]), the duty to re-admit its nationals.”^{xxxiii}

International Humanitarian Law

Humanitarian Law is a body of law which regulates the state behavior during armed conflicts. The 1899 Second Hague Regulations with respect to the Laws and Customs of War on Land,^{xxxiv} grants a right of return for the prisoners of war (Article 20). The 1907 Hague Convention^{xxxv}, without explicitly granting a right to repatriation, obliges the military occupant to respect the legal and social **status quo** in an occupied territory (in particular Article 43 and 46(1)).^{xxxvi} The Article 49 of the 4th Geneva Convention clearly establishes that “Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased.”^{xxxvii} Article 45 stipulates that in the case of deported persons to another country, “if that Power fails to carry out the provisions of the present Convention in any important respect, the Power by which the protected persons were transferred shall, upon being so notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the protected persons.”^{xxxviii} Finally, Article 134 provides a right of repatriation for internees.^{xxxix}

Human Rights Law

The Universal Declaration of Human Rights covers the right to return (Article 13).^{xi} In addition, its article 7 protects individuals against discrimination by guarantees of equal protection before the law.^{xii} Similarly, The International Covenant on Civil and Political Rights (ICCPR) acknowledge a right of return: “No one shall be *arbitrarily* deprived of the right to enter his own country”^{xiii}, in which *arbitrarily* refers to a reasonable penal sentence in particular circumstances, but does not preclude the application of ICCPR’s provisions to all States actions.^{xiii} Under its Article 5, The International Convention on the Elimination of All Forms of Racial Discrimination “prohibit[s] and eliminate[s] racial discrimination in all its forms,” and grants a right to return one’s country.^{xiv} In addition, the 3 regional human right treaties, the American Convention on Human Rights,^{xv} the Protocol 4 of the European Convention for the Protection of Human Rights and Fundamental Freedoms,^{xvi} and the African Charter on Human and Peoples’ Rights,^{xvii} include disposition for the defense of the right of return. Furthermore, in Africa, the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa through its Article 5, is the only

binding treaty which explicitly covers the conditions, the implementation and the rights related to voluntary repatriation.^{xlviii} Article 1 of the 1992 Declaration on the Protection of Refugees and Displaced Persons in the Arab World also include a right of return.^{xlix}

The reference to return “home” has often been clearly defined as a return and repossession of the actual property lost during the conflict.^l Article 17 of the convention of Human Rights affirms that “No one shall be arbitrarily deprived of his property”.^{li} Some forms of property rights are also included in regional agreements: the European Convention for the Protection of Human Rights and Fundamental Freedoms,^{lii} the American Convention on Human rights^{liii}, the African Charter on Human and People’s Rights and the Arab Charter on Human Rights.^{liv}

Refugee Law

While the 1951 Convention relating to the Status of Refugees and its 1967 Protocol do not deal directly with voluntary repatriation (it refers to it only in Article 33 through the entitlement “non refoulement”, which is a right to enter, not a right to return), the cessation clauses of the Convention have some relevance to voluntary repatriation, albeit indirectly.^{lv} The 1951 Convention relating to the Status of Refugees and the 1967 Protocol explicitly defines the various situations in which the cessation of refugee status is warranted, through Article 1 C (Paragraph 1, 3 and 4). Moreover, the many legal agreements which permitted the voluntary repatriation of refugees, such as the 1994 Bosnia Agreement, the Dayton Agreement, or the tripartite agreements between UNHCR and several countries (see below), have also enable the emergence of an *opinion juris* for the right of voluntary repatriation. Furthermore, through its many resolutions, the UNSC has also developed “the customary law aspects of international refugee protection.”^{lvi}

1.3 Repatriation as a durable solution: the conditions of Repatriation

According to the UNHCR handbook, “UNHCR's responsibilities in major repatriation situations have been spelled out in specific terms by instructions from the Secretary-General.”^{lvii} Specifically, paragraph 8(c) of the UNHCR Statute speaks of '[a]ssisting governmental and private efforts to promote *voluntary* repatriation, “ while paragraph 9 authorizes UNHCR to engage in “such additional activities, including repatriation [...] as the General Assembly may determine, within the limits of the resources placed at his disposal.”^{lviii} In other words, the Agency is allowed to assist governments with repatriation “only if it is 'voluntary,' or if the repatriation is sanctioned by the General Assembly”.^{lix}

The UNHCR assess the human rights conditions in the country of origin and determines if the conditions are safe for the return of refugees. The UNHCR establishes a Country of Origin Information database, called COI, which analyzes the social, political, economical, humanitarian background as well as human rights conditions in the country of origin. Annex II provides a list of institutions and organizations which collaborate with UNHCR to providing information on the conditions of the country of origin.

Often, “the country’s institutions are ill-equipped to meet the needs of repatriating families, overcome obstacles to resettlement, and tackle the continued refugee presence in neighboring countries.”^{lx} UNHCR will then try to collaborate with the country of origin to improve the empirical situation for the return of refugee, and will increase regional collaboration, trying to implement bilateral agreement between countries, such as Memories of Understanding.

The UNHCR, through the conclusions of its executive Committee, affirms the fundamental principles and international standards which govern voluntary repatriation.^{lxi} While the application of these international standards is enacted by the UNHCR, the latter highly depends on states for several basics. First of all, UNHCR financial needs depends on states, as less than 3% of UNHCR's funding comes from the UN's general budget, the rest being provided by a small group of states. Secondly, its executive Committee is composed of 56 States which governed the organization. Thirdly, its possibilities of access to refugees

depend on the will of states. Consequently, UNHCR faces state's pressure, especially concerning the transparency on the violations of the 1951 Convention for the protection of refugees.^{lxii} Moreover, the supervision of state performance for the protection of refugees entails a very political vision, while the UNHCR is a nonpolitical protection agency.

As stated G. S. Goodwin-Gill, the UNHCR faces several dilemmas in its conduct. At first, it is a challenge for UNHCR to "finding the proper balance between international responsibilities towards refugees and legitimate state interests."^{lxiii} The interpretation of the 1951 Convention is often contrasted by states which consider their obligations as too expensive or being a danger for their political economies, cultural heritage, or in some cases even their national security. The militarization of refugee camps and the implementation of "safe areas" within military zones question the extent to which UNHCR should attempt to provide physical security in conflict areas, especially when essential minimum standards of law and protection are not in place. The exclusion of non-civilians, war criminals and human rights violators are more difficult through temporary protection system instituted to facilitate the obtaining of the refugee status, such as in Rwanda. Finally, he argues that voluntary repatriation is often an option chosen by the refugees because the conditions of refuge in asylum states become intolerable and no alternatives exist, as exemplified the return of Rwandans from then Eastern Zaire. It is then difficult to determine the "cessation clause" (see below), that is to say the basic conditions for a "safe" return, as well as the "voluntariness" of the repatriation.^{lxiv}

The UNHCR disposes of several means to increase the cooperation of recalcitrant states which ratified the 1951 Convention but do not apply it correctly. To achieve the signing of international agreements for the protection of refugees, the UNHCR can use the naming and shaming technique. While most of facts finding reports are maintained confidential, the selective publication of state failures to protect can boost state cooperation.^{lxv} In other cases, such as the Afghan case studied below, refugees migrate to a country which did not ratified the 1951 Convention, such as, for instance, Pakistan. It does not preclude UNHCR's intervention but render its action more difficult. Sometimes, the physical and armed presence of UNHCR military officers on a national border can be used to prevent

“refoulement” from a state, as explains G. Goodwin.^{lxvi} For Dennis Mc Namara, States are keen to face their responsibilities if a domestic pressure is exercised on them by the civil society. NGOs and nationally based agencies bring domestic support to the UN and international agencies, as well as local understanding, backing and advocacy of UN policies. It also limits risks for UN agents on the ground and favors their action.^{lxvii} Yet, in some countries UNHCR was refused accessed and could not verify the treatment of refugees.^{lxviii}

The International Covenant on Civil and Political Rights obliges parties to adopt legislative or other measures to ensure protection of the rights elaborated in the ICCPR, in particular providing for, and implementation of, effective remedies.^{lxix} Specific organizations will then assess the relations of power, the institutions and the political evolution of the country in order to understand the reasons of the persecutions. A recent and impartial appreciation of the national law and the legal system will also be performed, in order to appreciate the respect of the Human Rights and to know if the authorities are able to protect people from violation of Human Rights. A report on the cultural, religious, social, historical, geographical and ethnic background will also be performed.

The Factors which determine how UNHCR and partners assist reintegration include:

The character of the state and the context of the breakdown in national protection (**reasons for displacement and whether the state can be characterized as weak, contested or repressive**);

The nature of the conflict (**the extent of the damage to property and infrastructure, the duration and intensity of the conflict and the level of militarization**);

The cohesion of the communities in areas of return

The length and nature of exile (**extended periods in exile can make reintegration more challenging**);

Existing planning scenarios

The dynamics of displacement (**both internal and external, including the characteristics of the displaced**) and the dynamics of return (mass or slow return)

Agreements and legal frameworks (**e.g. tripartite agreements**) governing return and

reintegration and the provisions of the peace agreement (the extent to which agreements address underlying grievances that led to the conflict)

The repatriation process **(may either facilitate or endanger the reconciliation process and undermine peace building)**.^{lxx}

“Voluntary repatriation and reintegration take place not in a vacuum, but rather in a specific political, diplomatic and socio-economic context,”^{lxxi} which corresponds to a period of transition.

Key questions to understand the dynamics of return

- What were the original reasons for leaving (security, political, economic, etc.)?
- What were the nature, context and duration of the period of exile?
- What were the motivations for return (push/pull factors)?
- What is the nature of return (individual/family/split family, permanent or temporary)?
- What are the key vulnerabilities and issues (conflict/insecurity, economic shocks, access to assets and livelihoods, climate, location, etc.)?
- What are the social structures and dynamics of gender relations?

To specify the needs corresponding to a transition situation in a country, the UN developed what is called the Common Country Assessment (CCA), analyzing the root causes of development challenges. This CCA have an impact on the UN Agenda to help refugees.

A good strategy could entail a study on the existing situation in areas of return, the population of concern, the overall macro-economic and political situation. Annex I shows the organizational and functional structure of the UNHCR, which exemplified the management of the different tasks that have to be performed in order to achieve voluntary repatriation.

The UNHCR must ensure the respect of several conditions for a voluntary repatriation:

- The respect of the principle of “voluntariness,” in reference to the conditions in the country of origin and in the country of asylum.
- a return in Safety, that is to say legal safety (such as amnesties or public assurances of personal safety, integrity, non-discrimination and freedom from fear of persecution or punishment upon return), physical security (prevention from violence and intimidation; absence of explosive material; re-establishment of police and legal institutions) and material security (access to land or means of livelihood; access to available public services and promotion of self-sufficiency) .
- A return with Dignity, that is to say the respect and full acceptance by their national authorities, including the full restoration of their rights, the non-arbitrary separation from family members.

Chapter 2: The analytical study of voluntary repatriation

2.1: The historical, legal and political background of Afghanistan

The Afghan historical background

Year	Events
1978	People’s Democratic Party of Afghanistan (PDPA) deposes Prime Minister Muhamad Daoud. First flows of refugees into Pakistan, increasing after Afghan’s leader of Islamist political movement declared Jihad against PDPA.
1979	Invasion of Afghanistan by USSR. 4 million Afghan people will flee the country and find refuge in Pakistan.
1986	Babrak Karmal is replaced by Dr. Najibullah as leader of the Mujahideen.
1989	Withdrawal of Soviet troops; peace accord signed in Geneva. Najibullah is protected by the UN. Failed attempt by the Mujahideen to form an effective government.
April 1992	The Mujahideen take Kabul and instaure an Islamic State, headed by the Islamic Jihad Council. Professor Burhannudin Rabbani is elected President. The fighting with Iranian and Pakistani forces increase.
1996	Taken of Kabul by the Talibans after a 18 months siege. Najibullah is executed.
2001	Beginning of the US-Afghanistan war. UNHCR increases its Afghan budget: \$271 million for a 15 month period from October 2001 to December 2002. Pakistan closes its border with Afghanistan. Campaign of arrest and deportation of Afghan refugees (“push back” policy). Then UNHCR increases its budget also for Pakistan, especially for “voluntary” repatriation: 2 million Afghan refugees return to Afghanistan.
December 2004	Presidential election in Afghanistan. Ahmid Karzai is elected.
May 2005	Worst riot in Jalalabat since the fall of the Taliban, the UN and international NGO premises, including UNHCR’s, were systematically attacked and damaged.Kidnappings.
September 2005	Parliamentary elections. 1.35 million eligible voters in Pakistan and an estimated 60,000 in Iran have been denied the right to vote In fact, the Afghan

	government declared that since the provincial and council elections were constituency based, refugees outside the country would have to go to their provinces in order to exercise their right (which was difficult for them). Consequently the newly elected leadership is not representative of refugees.
2009	Presidential elections in Afghanistan. Massive fraud at the first round. The opponent, Abdullah Abdullah choose to dismiss himself before the second round of the elections; Ahmid Karzai is then re-elected President.

The international legal framework for Afghanistan

Year	Events
1998	UNSCR S/RES/1193 ^{lxxii}
October 1999	UN Security Council Resolution 1267 is adopted; sanctions against the Taliban on grounds that they offered sanctuary to Osama Ben Laden.
December 2000	UN Security Council Resolution 1333 is adopted; additional sanctions against the Taliban for their continuing support of terrorism and cultivation of narcotics.
2001	UNSCR S/RES/1378 ^{lxxiii}
December 2001	signing of the Bonn Agreement, which is the “Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions”, witnessed by the UN Special Representative on 5 December 2001. The signatories were Anti-Taliban allies and Afghan regional leaders, divided into 4 groups: the North Alliance, the Peshawar group (representing Afghan refugees in Pakistan), the Roma delegation, and the Cyprus group representing the Afghan refugees in Iran. They decided the formation an interim government; Hamid Karzai is chosen as Chairman. While the return of the refugees is not directly addressed in the Bonn Agreement, the participation of refugees in the transitional process is being addressed. The agreement stipulated the Special Independent Commission for the Convening

	of the Emergency Loya Jirga (Afghan Assembly), to establish the criteria “for allocation of seats to the Afghan refugees living in Iran, Pakistan and elsewhere, and Afghans from the diaspora”. Altogether, 100 seats were reserved for refugees, of which 40 were for refugees in Pakistan, 30 of Iran and 30 for Afghans in other countries.
2nd of August 2000	Memorandum of Understanding between UNHCR and the Government of Pakistan (GoP), for the registering of the new 200 000 refugees arrived in Pakistan since the beginning of 2000. The document was a starting point “for negotiations between the GoP, UNHCR, and the Afghan government for a refugee status determination process for the more than 1 million Afghan refugees who remained in Pakistan at the end of 2002 following the creation of a new Afghan government in Kabul.”
4th April 2002	1 year “Joint Programme” tripartite agreement between Iran, Afghanistan and UNHCR signed in Geneva. In 29 articles; it sets out the scope of the programme and the principles of voluntary repatriation. These include, in particular, the voluntary nature of the return, assurances of safety of returnees, access to information on the return programme and reintegration in Afghanistan, family unity, and provisions on juridical status and equivalency. It guarantees UNHCR’s access to refugees, displaced persons and returnees. It establishes a tripartite commission and sets out operational parameters, such as the repatriation assistance packages, the use of voluntary repatriation centers and the determination of border crossing stations. It also introduces Voluntary Repatriation Forms (VRFs), issued by UNHCR, as valid identification and travel documents for the purpose of return and details simplified customs formalities.
3 June 2002	Decree of the president of the Afghan Interim Administration on the Dignified Return of Refugees. In 9 Articles, the Decree welcomes Afghan nationals which left the country and ensure them freedom from persecution, irrespective of political affiliation, for criminal offences against the internal and external security, committed up to 01.10.1380 (22 December 2001), except crimes against peace or humanity, or war crimes (Articles 3 and 4). It stipulates that the recovery of immovable and movable property will be affected through

	relevant legal organs (Article 5) and guarantees the enjoyment by returnees of the “same human rights and fundamental freedoms enjoyed by other citizens” (Article 6). ^{lxxiv}
June 2002	UNSCR S/RES/1419 ^{lxxv}
28 September 2002	Tripartite Agreement between the Government of the French Republic, the Government of the Islamic Transitional State of Afghanistan and UNHCR, in Paris.
12 Oct. 2002	Tripartite Memorandum of Understanding between the Government of the United Kingdom, Afghanistan and UNHCR, Kabul.
2003	Tripartite Agreement between Pakistan, Afghanistan and UNHCR. 28 Articles. The tripartite Agreement established the creation of a commission (Art. 2) with 2 members from each party (UNHCR, Pakistan, Afghanistan) aiming at facilitating the voluntary repatriation of Afghan refugees in safety and dignity (Art. 3). The Commission takes decision on mutual agreements from the parties (Art. 4). In Article 8, Pakistan “retain responsibility for the safety and security of Afghan citizens while on the territory of Pakistan including in urban areas, camps, staging areas and during convoy movements en route to the designated border crossing points”, while “the Transitional Islamic State of Afghanistan shall be responsible for the safety and security of the returnees once within the territory of Afghanistan”. All parties ensure that refugees can return in safety (Art. 9). Afghanistan recognizes the legal status of Afghan citizens repatriated in Pakistan, as well as the academic and vocational skills obtained by Afghan citizens while in Pakistan (Art. 10). UNHCR ensured a full access to all Afghan refugees in Pakistan and returnees in Afghanistan (Art. 12), being inform of any arrest, detention and legal proceedings in Afghanistan; the access to returnees under detention is also extended to all NGO acting on behalf of UNHCR. UNHCR takes the engagement to provide accurate and objective information to Afghan refugees in order to help them in the decision to come back, while Afghanistan ensures to take all necessary measures to sensitize and prepare the population residing in areas of return (Art.14). The Voluntary Repatriation Form shall be recognized by all parties as valid identity documents (Art. 15).

	<p>The preservation of the family unity is part of the agreement as well as the protection of vulnerable groups (as unaccompanied minors) (art. 16 and 17). Some border crossing points must be designated (Art. 18). All refugees' goods must be exempted of taxes and duties while passing the boundary to return home and governments must simplify formalities at border points (Art. 19). UNHCR staff must be secured and its movement must be facilitated (Art.20). The UN material is also exempted of taxes and duties and governments must authorize and facilitate UN communication (Art.21). Afghanistan shall try to obtain the resources to implement reintegration activities and UNHCR shall obtain resources to carry out the repatriation operation. The 13th March 2009, the tripartite agreement was extended until the end of 2012.</p>
17 March 2003	Brussels: extension of the "Joint Programme" between Iran, Pakistan and UNHCR for 2 years. Agreement to establish Dispute Settlement Committees in Iran to assist Afghans in solving their legal problems prior to their return.
18 March 2003	Tripartite Memorandum of Understanding between Afghanistan, the Netherlands and UNHCR, The Hague.
2004	UNSCR S/RES/1536 ^{lxxvi}
2005	Afghanistan accede to the 1951 Refugee Convention and the 1967 Protocol
19th April 2006	Memorandum of Understanding signed by UNHCR and Pakistan for the registration of Afghan refugees living in Pakistan, with identity cards valid for a period of three years. The UNHCR provides \$5.9 million to Pakistan for the registration process. ^{lxxvii} The Government of Pakistan and the one of 000 and legal refugees (100 000) toward Afghanistan.
2007	UNSCR S/RES/1746 ^{lxxix}
2008	UNSCR S/RES/1806 ^{lxxx}
2009	UNSCR S/RES/1868 ^{lxxxi}
2010	UNSCR S/RES/1917 ^{lxxxii}

The 3 tripartite agreements to date signed with non-neighboring countries incorporate the same principles and standards applicable to voluntary repatriation in general: Commitments

for the safety of the returnees by the Afghan administration, freedom and choice of destinations in Afghanistan, juridical status and equivalency, information to refugees, the use of VRFs and family unity.

The impact on Afghan refugees

Years	Events
1992	UNHCR funding in Pakistan to Jihad for Afghan refugees reached \$60.1 millions. It then decreased to \$3.2 million in 1999. The World Food Program reached \$97.3 million in 1991 to \$3.1 million in 1995.
1995	The World Food Programme and UNHCR announce they will phase out all assistance by 1998 : in the understanding that all Afghans will repatriate.
1996	New influx of refugees into neighboring countries, particularly Pakistan and Iran. Pakistan closes its border with Afghanistan for a few months and will then do it periodically.
1999	Iran deported 35 000 refugees. However, the situation in Afghanistan is deteriorating: 5 million over the 25 million population dependent on the food aid programme, 1 in 4 children dying before the age of 4, 1 million homeless.
2001	The prospects for returnees are dismal: widespread poverty and unemployment, limited food security, no significant rehabilitation or development projects, or private sector investment, complete lack of basic services.
January 2002	UNHCR issued a draft planning document for the “Return and Reintegration of Afghan Refugees and Internally Displaced People” over a three-year period. nearly 1.6 million Afghans returned from Pakistan in spring 2002, followed by some 340,000 in 2003 and more than 380,000 in 2004. Although, the Tripartite agreement signed between UNHCR, Iran and Afghanistan covered only the registered Afghans living in Iran; consequently, around 40,000 non-registered Afghan citizens were deported in 2002. ^{lxxxiii} Afghan authorities have issued declarations of amnesty for returnees, to ensure non-discrimination, non-recruitment for military activities and the

2002	<p>recovery of property.</p> <p>The drought has severely affected 2.5 million farmers and deprived over a million people of their coping-mechanisms; humanitarian crisis.</p>
March 2003	<p>The Pakistan Census Organization (PCO) organizes a survey on Afghan refugees. The result announced 3 million Afghans living in Pakistan. More than 75% of Afghan refugees not willing to return to Afghanistan invoked economic problems, while 18 percent invoked insecurity in Afghanistan as the main obstacle towards their return.^{lxxxiv} Under international law, those staying for economic reasons are not entitled to asylum because the 1951 UN Convention Relating to Status of Refugee and its 1967 Protocol clearly exclude them from the definition of a refugee. In such circumstances, forced repatriation of refugees is likely to take place, despite the principle of non-refoulement. In Iran, in 2005 over 95% of the 1 million Afghan refugees still lived outside the government settlements.</p>
2004	<p>the United Nations Assistance Mission for Afghanistan (UNAMA) ensure the respect of Human Rights for returnees, UNHCR ensure that legal instruments are in place to define returnees' rights; the Government participates.</p> <p>UNHCR's budget was included in funding requirements of Afghanistan's National Development Budget; strategies were agreed with the Government; programmes aligned with national priorities; and co-ordination organized through a Consultative Group system that involved the Government, donors, and organisations involved in assistance and development.</p> <p>For the UNHCR, women are becoming trapped in abusive situations because of a lack of legal and social support systems. Widespread illegal taxation, illegal occupation of land, and discrimination against minorities, particularly in the northern part of the country, preventing the return of many IDPs and refugees to their places of origin.</p>
August 2005	<p>Rebels Attack on national and international forces and on electoral, governmental and humanitarian workers. It creates significant reductions, or even suspension, of activities from the international community.</p> <p>August 2005: The Government of Pakistan announced the closure of refugee</p>

	<p>camps because of security problems. Increase of the repatriation process, 100,000 Afghans are concerned; however, many Afghan complain about forced eviction. They will return to the provinces of Khost, Nangarhar, and Paktia in eastern Afghanistan as well as central Kabul province. Yet, the weak Afghan government is in no position to absorb and effectively integrate returnees. Decrease in traditional humanitarian funding without an increase in development fundings.</p>
<p>2006-2010</p>	<p>2006-2010: Afghanistan has one of the poorest social indicators in the world (electricity, public transport, water management,..).</p>
<p>2008</p>	<p>security issues restrain operational access for UNHCR and is the primary obstacle for the return of refugees. Since 2006, the UN has access to half of the country.</p> <p>Land issues, including those related to tenure, confiscation, illegal occupation and disputes over property remain widespread. Indeed, landlessness in general is a significant obstacle to reintegration. More than 46 per cent of returnees face housing problems, and some 28 per cent of returnee households report that they do not have a stable income.</p>
<p>2010</p>	<p>Approximately 3 million Afghans still reside in Pakistan and 900 000 in Iran. The profile of these refugees is rather different from the refugees who returned since 2002: “ the great majority of the families remaining in Pakistan and in the Islamic Republic of Iran have been in exile for more than 20 years. Half of the registered Afghan population in these two countries was born in exile.”^{lxxxvi}</p> <p>UNHCR try to persuade the Afghan government to play a bigger role in the management of refugee issues. However, the capacity of relevant government counterparts remains limited due to the high turnover of officials both at the central and provincial levels.</p>

The empirical implementation of repatriation in Afghanistan

	Year	Events
The character of the state (weak, contested or repressive)	1990-1994	Weak and contested. Absence of a central government.
	1995-1999	Weak and contested and Repressive. 2001: civil war, no central government
	2000-2004	activities, seemingly exacerbated by growing dissatisfaction with the lack of socio-economic development, weak local administration and resentment towards the Coalition forces. 2002: the state is unstable, impossible to ensure a voluntary repatriation of refugees in safety and dignity 2004: contested, Demobilization, Disarmament and Reintegration activities were launched.
		From 1996 to 2009, the World Bank calculated an almost complete political instability, with 3% in 1996 and 0% in 2009, and just a slight increase in 2003 (4%). ^{lxxxvii}
	2010:	Weak state
Agreements and legal frameworks (e.g. tripartite agreements) governing return and reintegration.	2001	Bonn Agreement
	2002	Creation of the return commission, gathering UNHCR, UNAMA, MoRR) and representatives from the main political parties, to identify protection-related obstacles.
	2002	1 year "Joint Programme" tripartite agreement between Iran, Afghanistan and UNHCR
	2003	Tripartite Agreement between Pakistan, Afghanistan and UNHCR
	2003	Extension of the "Joint Programme" between Iran, Pakistan and UNHCR for 2 years 2006: 6 weeks grace period for the repatriation of illegal (200 000 and legal refugees (100 000) toward Afghanistan
The different actors involved and their actions.	1990-1994	UNHCR's budget was included in funding requirements of Afghanistan's National Development Budget; strategies were agreed with the Government; programmes aligned with national priorities; and co-ordination organized through a Consultative Group system that involved the Government, donors, and organizations involved in assistance and development.
	1995-1999	
	2000-2004	
Budget: UNHCR	Budget for refugees and returnees:	Budget only for refugees (Pakistan + Iran)

<p>Budget for Afghanistan refugees, in Afghanistan (returnees), Pakistan and Iran. In US Dollars (USD).</p>	<p>2010:139196452\$ 2009:79077890\$ 2008: 52622081\$ 2007 : 76173495\$ 2006: 94526496\$ 2005: 95984815\$ 2004 :111198137\$ 2003: 41992714\$ 2002 :55745980\$ 2001: 40774423\$ 2000: 36778694\$ 1999:35521888\$</p>	<p>2010: 77490186\$ 2009: 51083430\$ 2008: 19627153\$ 2007: 31167201\$ 2006: 38227996\$ 2005: 40902179\$ 2004: 49283473\$ 2003: 41392714\$ 2002: 46253804\$ 2001: 32189917\$ 2000: 28964892\$ 1999: 29483929\$</p>
<p>The repatriation process of Afghan Refugees</p>	<p>Number of Refugees: 1991: 3074161 1992: 6306301 1993: 3374576 1994: 2731169 1995: 2674990 1996: 2674236 1997: 2676674 1998: 2664560 1999: 2567242 2000: 3579886 2001: 3806668 2002: 2507453 2003: 2133312 2004: 2411017 2005: 2164889 2006: 1279223 2007: 1908741 2008: 1816758 2009: 1904765</p>	<p>Number of Returnees: 1990: 21580 returnees 1991: 178270 returnees 1992: 1576933 returnees 1993: 1994: 329327 returnees 1995: 348343 returnees 1996: 158714 returnees 1997: 173000 returnees 1998: 107045 returnees 1999: 253031 returnees 2000: 292484 returnees 2001: 26092 returnees 2002: 1957958 returnees 2003: 645864 returnees 2004: 879870 returnees 2005: 752084 returnees 2006: 387917 returnees 2007: 373852 returnees 2008: 278965 returnees 2009: 57582 returnees</p> <p>Between 1992 and 1996: 2.7 million Afghan Refugees repatriated</p>

2.2: The historical, legal and political background of Bosnia and Herzegovina

The Bosnian historical background

Years	Events
1974	New Constitution within the Socialist Federal Republic of Yugoslavia, which enable decentralization and confer more powers to the 6 Republics which compose Yugoslavia.
March 1991	Karađorđevo agreement: Partition Plan of Bosnia between Croatian President Franjo Tudman and Serbian President Slobodan Milosevic.
April 1991	Open armed conflict broke out between the self-proclaimed republic of Krajina, a region in Croatia inhabited by around 200,000 Serbs, supported by forces of the Yugoslav People's Army (JNA), and the Croatian army. The conflict escalated when Croatia declared its independence from Yugoslavia on 25 June 1991, after a referendum in May, and Croatian Serbs opposed this move, expressing their desire to remain with Yugoslavia. ^{lxxxviii}
October 1991	The Arbitration Commission of the Peace Conference on Yugoslavia, established by the European Community, declared that 'the SFRY is in the process of dissolution'. Bosnia and Herzegovina expressed its desire of sovereignty through a Parliamentary Resolution, contested by the Serbian deputies. Croatia and Serbia do not recognize the independence of Bosnia and Herzegovina.
February 1992	A referendum is held on independence in Bosnia Herzegovina, which, besides the boycott of the Bosnian Serb (60% of eligible voters participated), 90% of the voters voted in favor of independence. According to a 1991 Census, the 3 largest religious/cultural traditions are: Bosniaks (46% of the population) with generally a Muslim background, Serbs (31%) with a Serbian Orthodox or Orthodox background, Croats (14%) with a mainly a Roman Catholic background. ^{lxxxix}
29 th February 1992	UN mediator Cyrus Vance negotiates a cease-fire in Croatia.
March 1 st 1992:	Bosnia and Herzegovina proclaimed its independence. The European Community recognizes the independence of Croatia, Serbia and Bosnia and

	Herzegovina, which internationalize the conflict.
April 1992	Hostilities began between Bosnian Croat (sustained by Croatia) against the Army of the Republic of Bosnia and Herzegovina, and Bosnian Serbs (sustain by Serbia) also against the Republic of Bosnia and Herzegovina. Dissolution of the YPA.
12st May 1992	Bosnian Serbs rebel under the leadership of Radovan Karadzic created their own separate state in Bosnia -- the Serb Republic or Republika Srpska. President of Serbia, Slobodan Milosevic cooperates closely with the Bosnian Serbs and provided them with military and political support. He also sustained an ethnic cleansing, and the military occupation of 70% of Bosnia.
April 1993	conflict between Bosnian Croats and Muslims in the remaining 30% of Bosnia.
April 1992-October 1995	Sarajevo under siege. The war stopped thanks to the intervention of the NATO led Implementation force (IFOR) against Serbian forces, from December 1995 to December 1996 (Operation Joint Endeavour)
1995	The Dayton Agreement is signed in December by the presidents of Bosnia Herzegovina, Croatia and Serbia; Bosnia Herzegovina is recognized as a multi-ethnic and democratic government, with a High Representative in charge of the implementation of the agreement. The country is however divided in 3 federal State, a Muslim Croat federation (Federation of Bosnia and Herzegovina), a Serb entity (Republika Srpska), and the Brcko District.
1996	First elections in Bosnia Herzegovina, boycotted by many Bosnian Serbs. Parties dominated by a single ethnic group remain powerful.
2004	The European Union officially took over NATO's peacekeeping mission in Bosnia.
2006	National elections, the Serbian coalition, which favors an independent state, is defeated by the Muslim Croat Federation that prefers moving toward a more unified country.

The international legal framework for Bosnia Herzegovina

Years	Events
Sept. 1991	UN arms embargo imposed on all of the former Yugoslavia, prevented the growth of the Bosnian Muslim army, which was consequently unable to counter much stronger Bosnian Serb forces. ^{xc} UNSC Resolution 752 for operation Joint Endeavour in Bosnia ^{xcii}
1993	UNSC Resolution S/RES/836, ^{xcii} UNSC Resolution S/RES/859 ^{xciii}
1993	The Vance Owen-Plan: it gathered an 'Agreement relating to Bosnia and Herzegovina' including a set of constitutional principles; a Map indicating the boundaries of the 10 provinces; an 'Agreement for Peace in Bosnia-Herzegovina'; and an Agreement on Interim Arrangements which included a cooperation with relevant organizations for the return and rehabilitation of refugees and displaced persons. ^{xciv}
1994	UNSC Resolution S/RES/959 and S/RES/900 ^{xcv}
February 1994	Beginning of the negotiation for the Dayton Agreement, under the auspices of Holbrooke , Assistant Secretary of State for Canadian and European Affairs under the Clinton Administration (USA). Creation of the contact group, gathering the “western” interests (USA, FRANCE, UK, Germany, Italy, Greece and Russia), with a preponderant role for the USA. ^{xcvi} In the process of strategic simplification, Holbrooke gathered Bosnian Muslim, Bosnian Croats and Croatia to balance Bosnian Serbs allied to Croatian Serbs and Serbia. Holbrooke prioritizes first basic institutional arrangements: Recognizing Bosnia’s existing borders, accepting the creation of two entities within Bosnia – one for the Bosnian Muslims and Croats and one for the Bosnian Serbs, allowing each entity to establish relationships with neighboring countries, and asserting a commitment to basic human rights. Secondly, Holbrooke, thanks to NATO troops empirical sustain, could negotiate a Serbian withdrawal from Kosovo. Thirdly, Holbrooke established the binding rules for friendly relations between factions within Bosnia. Afterwards, he could convinced the parties to agree on a ceasefire. He also convinced Tujman (president of Croatia) to give up land for the peace negotiation.

March 1994	Washington Agreement signed between Bosnian Croats and Muslims in Bosnia. Ceasefire, creation of a Croat Muslim federation, with each Canton having its own Constitution, with legislative and taxing powers.
14 December 1995	<p>A General Framework for Peace (GFAP or Dayton Agreement)^{xcviii} signed in Bosnia and Herzegovina. It embodied a right to return and recover property rights and amnesty for everybody (Annex 7); creation of the Office of the High Representative (Annex 10), of the Commission for Displaced People and Refugees (Annex 7, Chapter 2), the International Police Task Force (IPTF, Annex 11) and the Multinational military implementation force (IFOR).</p> <p>The 1995 Dayton Peace Agreement ended the conflict by establishing the state of Bosnia and Herzegovina consisting of two entities, the Federation of Bosnia and Herzegovina and the Republika Srpska. The DPA contains annexes governing both civilian and military matters, with the Office of the High Representative taking the lead role of monitoring and fostering all aspects of civilian implementation. Included in the DPA is the right of refugees and displaced persons to return and repossess their prewar property.^{xcix}</p>
1996	UNSC Resolution S/RES/1088 ^c
1998	UNSC Resolution S/RES/1198 ^{ci}
1999	UNSC Resolution S/RES/1247 ^{cii}
2000	UNSC Resolution S/RES/1305 ^{ciii}
2001	UNSC Resolution S/RES/1357 ^{civ}
From 2002 to 2010	<p>on a routine based, with exactly the same wording each year, the UNSC established that “<i>Acting</i> under Chapter VII of the Charter of the United Nations [...] facilitating returns of refugees and displaced persons. Accordingly, there are the resolution S/RES/1423 (2002), UNSC Resolution S/RES 1491 (2003),^{cv} UNSC Resolution S/RES/1575 (2004),^{cvi} UNSC Resolution S/RES/1639 (2005),^{cvii} UNSC Resolution S/RES/1722 (2006), UNSC Resolution S/RES/1785 (2007), UNSC Resolution S/RES/1845 (2008),^{cix} UNSC Resolution S/RES/1895 (2009)^{cx}, UNSC Resolution (2010)^{cxii}</p>

Of importance for the repossession of property are Resolutions 752^{cxii} of 1992 and 820 of 1993.^{cxiii} In Resolution 752, the Security Council expressed full support for all efforts to assist in the return of displaced persons to their homes. It also called upon all parties concerned to ensure the cessation of forcible expulsions. Resolution 820 expressed Security Council insistence that displaced persons be allowed to return to their former homes, and reaffirmed that any commitments made under duress regarding land and property were null and void.

In 1994, the Washington Agreement ensured the return of refugees and displaced persons, as epitomize Article I (1): “the early return of refugees and displaced persons is an important objective of the settlement of the conflict”. The Annex 7 of the Agreement ensure the right for refugees “to have restored to them property of which they were deprived in the course of hostilities since 1991 and to be compensated for any property that cannot be restored to them”.^{cxiv} The right to repossession of property is also reiterated in the Constitution of Bosnia and Herzegovina.^{cxv} Moreover, a Commission for Displaced Persons and Refugees was created to fully implement the right to repossession of property, and to decide if the claim was for return of property or for compensation.^{cxvi} Furthermore some enforcement mechanisms have been implemented, by the Organization for Security and Cooperation in Europe, the United Nations High Commissioner for Refugees and the United Nations Mission in Bosnia and Herzegovina which adopted the Property Law Implementation Plan.^{cxvii} Under the Bosnia and Herzegovina Constitution, refugees and displaced persons have the right to be compensated for any property of which they were deprived in the course of hostilities that cannot be restored to them.^{cxviii}

The impact on Bosnian refugees

Years	Events
July 1992	the UNHCR instaured a temporary protection regime which by passes individual procedures in order to facilitate the obtaining of the refugee status. ^{cxix}
1992-1995	During the three-and-a-half years violence following the break up of Yugoslavia, much of it aimed at displacement of different ethnic/religious

	groups, over 2.3 million people became refugees and displaced persons (already 1 million at the end of 1992). Some individuals fled active fighting, while others were forcibly evicted and displaced because of their ethnicity.
1999	Bosnia and Herzegovina witnessed a large-scale influx of refugees from Kosovo and elsewhere in Yugoslavia that peaked at 75,000 refugees in June. With UNHCR support, the authorities amended legislation that provided the legal basis for the admission to safety and protection of these refugees, and assistance for them. The Stability Pact for South-Eastern Europe was launched in June 1999 to harness the support of the international community for reforms and investment aimed at stabilising the entire region. It provides a comprehensive regional framework for tackling population displacement issues in support of the Dayton Agreement's Peace Implementation Council. Moreover, the Reconstruction and Return Task Force (RRTF) co-chaired by UNHCR and the Office of the High Representative developed a Plan of Action, identifying the main return axes, and prioritizing support for the reintegration of displaced persons within Bosnia and Herzegovina as well as for the return of Bosnian refugees.
2000	The implementation of return is unfortunately influenced by the political agendas of the representatives of the three ethnic groups. UNHCR will seek to prepare the establishment of a Bosnia and Herzegovina Refugee Council. The Office will also work for legal reforms and monitor the removal of administrative obstacles to minority return and the implementation of legislation (particularly that dealing with internally displaced persons and returnees, citizenship, property and pensions).
2001	UNHCR hopes that the emergence of a more positive climate for the return of minorities will not be compromised by a lack of resources for these returnees.

The implementation of repatriation in Bosnia Herzegovina

	Year	Events
The character of the state (weak, contested or repressive)	1992-1993	1996-2010: The state of Bosnia is weak but not contested or repressive for refugees, the
	1994-1995	

		World Bank established a Political stability and an absence of violence at around 30%. ^{cxx}
Agreements and legal frameworks (e.g. tripartite agreements) governing return and reintegration.		1995: Dayton Peace agreement (Annex 4,6 and 7) 2002-2010: UNSC resolutions, implementing the use of Chapter VII
Budget for Bosnian Refugees, in US Dollars	2010: 19,283,244 USD 2009: 6418164 USD 2008: 5615204 USD 2007: 6702164USD 2005: 10638600 USD 2006 : 10714500 USD 2004 : 11944867 USD 2003: 17134897 USD 2002 : 22352926 USD 2001 : 34137115 USD 2000 : 43852300 USD 1999 : 56279894 USD 1998 : 10005611 USD	
The repatriation process of Bosnian refugees.	1992 : 437501 refugees 1993: 331714 refugees 1994 776084 refugees 1995: 769753 refugees 1996: 993868 refugees 1997: 849241 refugees 1998: 640075 refugees 1999: 554419 refugees 2000: 474981 refugees 2001: 447321 refugees 2002: 406326 refugees 2003: 300006 refugees 2004: 228815 refugees	1992: 10300 returnees 1993: 1 returnee 1994: 99 returnees 1995: 815 returnees 1996: 70648 returnees 1997: 120852 returnees 1998: 129073 returnees 1999: 31783 returnees 2000: 18715 returnees 2001: 18665 returnees 2002: 41705 returnees 2003: 14012 returnees 2004: 2447 returnees

	2005 : 109930 refugees	2005 : 1273 returnees
	2006 :199946 refugees	2006 : 1419 returnees
	2007 : 78273 refugees	2007 : 757 returnees
	2008 :74131 refugees	2008 : 971returnees
	2009 :69911 refugees	2009 : 874 returnees

2.3: The historical, legal and political background of Rwanda

The Rwandan historical background

Years	Events
1972	important massacre against Bahutu, 200 000 dead.
1990	Economic crisis in Rwanda due to the fluctuation of Coffee's price. Forces of the rebel, mainly Tutsi, Rwandan Patriotic Front (RPF) invade Rwanda from Uganda.
1991	New multi-party constitution promulgated
6 April 1994	The President of Rwanda, Juvénal Habyarimana (Hutu), who began its mandate in 1974, die in an airplane terrorist attack. The Opposition between the Hutu interim government and the Rwandese Patriotic Front (Tutsi) become more violent. Beginning of the genocide against Tutsi, until July 1994. Beginning of the civil war between Kagame's PRF and FAR (Forces armées Rwandaises). 2 millions refugees, essentially in Democratic Republic of Congo.
July 1994	Kagame takes power
1995	Extremist Hutu militias and Zairean government forces attack local Zairean Banyamulenge Tutsis; Zaire attempts to force refugees back into Rwanda
2010	Joint Operation between RDC and Rwanda to demobilize the Democratic Forces for the Liberation of Rwanda (FDLR) in Eastern RDC and repatriate them to Rwanda.

The international legal framework for Rwanda

Years	Events
1993	UNSC Resolution S/RES/872 ^{CXXI}

9 June
1993

Protocol of Agreement between the Government of Rwanda and the Rwandese Patriotic Front on the Repatriation of Rwandese Refugees and the Resettlement of Displaced Persons. The Rwandese government engaged itself to find free resettlement places for the returnees and to ensure all refugees the right to repossess their property on return, unless they left the country more than 10 years ago and their property is now occupied by other people; in that case, the government should ensure compensation (Art. 3 and 4).¹

A Commission for Repatriation composed of Government, UNHCR, OAU and Refugee representatives must be created (Art. 9) to finalize and to implement a programme for the repatriation and reintegration of returnees (Art.10), in particular to develop settlement sites with all facilities (schools, Health Centres, water, access roads, etc) (Art. 28). Exemption of taxes and duties for refugee goods (Art. 11). Refugees must also receive a small amount of money at their arrival in the country (Art. 14), as well as food (for at least 15 months), medicines, farming tools, free education (for at least 2 years) (Art.15). The returnees will have facilities to find jobs in public services (Art. 22 and 25). The UNHCR is in charge to find funding within 6 months after the establishment of the Broad-Based Transitional Government.

For the technical implementation of the various components of the Repatriation Programme, the Government of Rwanda and the ANCHOR shall preferably resort to those NGOs (Art.32). According to Art. 34, within 6 months, after the establishment of the Broad-Based Transitional Government, tripartite agreements between Rwanda, the UNHCR and individual countries in the Region, and the ANCHOR shall have been concluded on issues pertaining to the repatriation of refugees and within nine (9) months following the establishment of that Government, the repatriation of the first batch of

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1. ¹ Accordingly, a Rwandese Refugee is: *Anyone in possession of documents issued by the Office of the United Nations High Commissioner for Refugees (UNHCR), testifying that the bearer is a Rwandese refugee;*
 2. *Any Rwandese national who declares himself to be a Rwandese refugee, but who is not registered with the Office of the UNHCR (Art. 8)*

	<p>returnees may begin. Following Article 36, the organized return of persons displaced as a result of war and social strife shall be done after the following preparatory measures have been taken:</p> <ol style="list-style-type: none"> 1. Deployment of the International Neutral Force. 2. Disengagement of Forces in the war zones. 3. Establishment of the Broad-Based Transitional Government 4. Clearance of mines in the war zones. 5. Planning and provision of humanitarian assistance in essential services.
4th August 1993	Arusha agreement signed between officials of RPF (Tutsi and President Habyarimana of Rwanda (Hutu), to end a 3 years civil war: durable cease-fire agreement, new constitutional agreement with a new power sharing and division between judiciary and executive. It would have let the possibility for Tutsi to come back in Rwanda, but the implementation of the agreement is a failure, hijacked by Habyarimana himself. UN mission sent to monitor the peace agreement; it is successful.
5th August 1993	Security Council resolution 872, to implement UNAMIR ^{cxxii} .
1994	UNSC Resolution S/RES/965 ^{cxxiii} and S/RES/918 ^{cxxiv}
June 1994	France announces its intention to intervene militarily in Rwanda, backed by a UNSC mandate to intervene under Chapter VII. France succeeded to create a safe zone in southwest Rwanda.
22 December 1994	UN General Assembly Resolution A/RES/49/23 “Emergency international assistance for a solution to the problem of refugees, the restoration of total peace, reconstruction and socio-economic development in war-stricken Rwanda.”
November 1994	UNSC Resolution for the instauration of the Tribunal. ^{cxxv}
1995	UNSC Resolution S/RES/1029 ^{cxxvi}
12 April 1995	Tripartite Agreement between UNHCR, Tanzania and Rwanda for the Voluntary Repatriation of Rwandese Refugees from Tanzania. ^{cxxvii}

16 August 1995	United Nations Security Council Resolution S/RES/1011 , the UNSC “Calls upon the Government of Rwanda to continue its efforts to create an atmosphere of trust and confidence for the safe return of refugees.” ^{cxxviii,}
12 December 1995	United Nations Security Council Resolution S/RES/1029 , the UNSC decides to assist the Government of Rwanda in the facilitation of voluntary repatriation of Rwandese refugees and to assist the UNHCR in the provision of logistical support for the repatriation of refugees. ^{cxxix}
1996	UNSC Resolution S/RES/1053 ^{cxxx} and UNSC Resolution S/RES/1050 ^{cxxxi}
8 March 1996	end of the UNAMIR mandate.
1998	UNSCR S/RES/1161 ^{cxxxii}
1999	The 1999 Lusaka Cease-Fire Agreement between RDC and Rwanda is signed. the Inter-Congolese Dialogue took place as planned in Sun City, South Africa, but some parties were excluded, and, as a result, the talks produced relatively few tangible results. Consequently, UNHCR could not facilitate the return of the bulk of Rwandan refugees from the eastern part of the DRC.
30th July 2002	Pretoria Peace Agreement, between Rwanda and the Democratic Republic of the Congo (DRC), for the withdrawal of the Rwandan troops from the territory of the Democratic Republic of the Congo and the dismantling of the ex-FAR/Interahamwe forces in the Democratic Republic of the Congo
2003	Tripartite Agreement between UNHCR, Uganda and Rwanda, for the Voluntary Repatriation of 25000 Rwandese Refugees from Uganda. ^{cxxxiii} The UNHCR also favored the signing of Tripartite Agreement, that is to the preliminary negotiations to set up Tripartite Agreements with Zambia, the Republic of the Congo, Namibia, Malawi, Mozambique and Zimbabwe. These agreements set up the necessary legal basis for promotional campaigns and repatriation convoys to be organized. New Constitution and first post 1994 elections. The new Government held 95 per cent of votes in favor, end of the 9 years transition period.
18th August	Tripartite Agreement between UNHCR, Burundi and Rwanda, for the Voluntary Repatriation of Rwandese Refugees from Burundi. ^{cxxxiv}

2005	
2005	Opening of the <i>Gacaca</i> traditional courts, dealing with cases of the 1994 Genocide. As a consequence, several thousand people from Butare and Gikongoro prefectures fled Rwanda and sought asylum in Burundi and Uganda in April 2005.
2007	Abolition of the death penalty, an initiative to foster unity and reconciliation. Three Tripartite Commission meetings were held to discuss the voluntary repatriation of Rwandans with the Governments of Malawi, Uganda, and South Africa. The cessation clause was mentioned by Rwanda and backed by some countries of asylum. However, UNHCR informed the concerned Government representatives that refugees had raised valid reasons for not returning. The Office will investigate these concerns before invoking the cessation clause.

The impact on Rwanda refugees

Years	Events
1994-96 -	Refugee camps in Zaire fall under the control of the Hutu militias responsible for the genocide in Rwanda.
July 1995	More than 720,000 Hutu refugees around Goma refuse to return to Rwanda.
Fall 1995	17 000 Rwandan refugees experienced “voluntary” repatriation from Zaire. ^{CXXXV}
1994-1996	Mass return of refugees from Zaire (Congo Kinshasa, Democratic Republic of Congo) because of civil war, 800 000 refugees are concerned. Mass expulsion from Tanzania
1996	Rwandan troops invade and attack Hutu militia-dominated camps in Zaire in order to drive home the refugees.
2000	Unsecure asylum because of warfare in Congo Kinshasa, the Rwandan refugees prefer to go home.
2002	
2003	The Government of Tanzania recently threatened to expel up to 200,000 long-term residents of the country who are of Rwandan origin. UNHCR monitored the situation.

		1995	Arusha Agreement.
			Tripartite Agreement between UNHCR, Tanzania and Rwanda.
		2003	Tripartite Agreement between UNHCR, Uganda and Rwanda.
		2005	Tripartite Agreement between UNHCR, Burundi and Rwanda.
Budget for Rwandan refugees in Burundi, Republic Democratic of Congo, Republic of Congo, Cameroon, Tanzania, Uganda and Zambia	Budget only for refugees:		Budget only for returnees:
Budget for returnees and refugees:	2010: 1757392\$ for refugees		2010: 3087293\$ for returnees.
2010:4844685\$	2009: 2056176\$ for refugees		2009: 433325\$ for returnees
2009:2489501\$	2008: 2185912 \$ for refugees		2008: 456322\$ for returnees
2008:2642234\$	2007: 1492064\$ for refugees		2007: 991600\$ for returnees
2007:2483644\$	2006: 1822556\$ for refugees		2006: 2998674 for returnees
2006:4821230\$	2005: 1625175\$ for refugees		2005: 3994031 for returnees
2005:5619206\$	2004: N/A		2004: N/A
2004:N/A	2003: N/A		2003: 4026149\$ for returnees
2003:N/A	2002: 3864826\$ for refugees		2002: 3674807\$ for returnees
2002:7539633\$	2001: 6214007\$ for refugees		2001: 4419235\$ for returnees
2001:10633242\$	2000: 4114140\$ for refugees		2000: 3655175\$ for returnees
2000:7769315\$			1999: 15317764\$ for returnees
Rwandan refugees.	1991: 431240 refugees		1992: 140 returnees
	1992: 434736 refugees		1993: 307 returnees
	1993: 450462 refugees		1994: 758455 returnees
	1994: 2257273 refugees		1995: 238747 returnees
	1995: 1819366 refugees		1996: 1410782returnees
	1996: 469136 refugees		1997: 299771 returnees
	1997: 66005 refugees		1998: 10939 returnees
	1998: 75745 refugees		1999: 38420 returnees
	1999: 100858 refugees		2000: 26262 returnees
	2000: 119056 refugees		2001: 21656 returnees
	2001: 354513 refugees		2002: 17223returnees
	2002: 75251 refugees		2003: 23290 returnees
	2003: 75263 refugees		2004: 14136 returnees
	2004: 63308 refugees		

	2005: 100264 refugees 2006: 92966 refugees 2007: 80955 refugees 2008: 72530 refugees 2009: 129109 refugees	2005: 9854 returnees 2006 : 5971 returnees 2007 : 9489 returnees 2008 : 11790 returnees 2009 : 20596 returnees
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2.4: The historical, legal and political background of Palestine

the historical background

Years	Events
1948	first Arab-Israeli War, displacement of around 750,000 Palestinian refugees. Israel issued the “Abandoned Areas ordinance” as well as the “Absentees Property Law “in order to allow the confiscation and expropriation of any movable or immovable property within any area or place conquered, surrendered or deserted and then legalized the control of former Arab territories by Israel. ^{cxxxvi}
1967	second Arab-Israeli War, the 6 day war.
1973	Third Arab-Israeli War, the Yom Kippur War
1987	First Intifada, a civil revolt against the military occupation of the Palestinian territories.
1993	Oslo Agreement, but no final agreement for voluntary repatriation
2000	Camp David Summit, but no final Agreement for the voluntary repatriation of Palestinian refugees. The Second Intifada begin.
2002	Beirut Summit. The Arab Summit Conference agree on finding a “just solution to the Palestinian Refugee problem to be agreed upon in accordance with UN General Assembly Resolution 194.” ^{cxxxvii}
2005	Effective Israelian Disengagement from Gaza
2006	Hamas won the presidential elections. The International Community do not recognize the legitimacy of its power. Split of the government between Gaza and the West Bank, the former one being administrated by the Fatah political party whereas Gaza is controlled by the Hamas political party.
2007	Annapolis conference to resolve the Israel- Palestine, promoting a two state solution. However, no agreement is found for refugees.

the legal framework

Years	Events
1951	Israel signed the 1951 Convention Relating to the status of refugees, but

putting reserves on Articles 8 and 12 of the Convention; that is to say say the following articles do not apply to Israel:

Art. 8: exemption from exceptional measures

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality. Contracting States which, under their legislation, are prevented from applying the general principle expressed in this article, shall, in appropriate cases, grant exemptions in favor of such refugees.

Art. 12: personal status

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.
2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognized by the law of that State had he not become a refugee.

Dec. 1948 UN General Assembly Resolution A/RES/194 (III), establishing and defining the role of the United Nations Conciliation Commission to facilitate peace in the region, and expressing the right for *refugees* to return to their *homes*.^{cxxxviii}

1949 Lausanne Conference: Israel bargains the return of 100 000 on 550 000 refugees (according to Israel) or the incorporation of Gaza (with its refugee burden of 150 000 refugees), while the Arab States (Egypt, Transjordan, Lebanon and Syria) should “absorb all those not resettled in Israel”, against the recognition of the de facto ceasefire territorial frontiers.^{cxxxix} The Conference is

	a check, no agreement is ratified by parties.
1949	UN General Assembly Resolution A/RES/302 (IV): ^{cxli} Article 7: <i>Establishes</i> the United Nations Relief and Works Agency (UNRWA) for Palestine Refugees in the Near East.the UNRWA’s mandate is “to provide relief, humanitarian, human development and protection services to Palestine Refugees and other persons of concern in its Area of Operations.” ^{cxlii}
1967	UN Security Council Resolution S/RES/237 (in the context of 6 Days War) ^{cxliii}
1971	UN General Assembly Resolution A/RES/2792 (for Gaza Strip) ^{cxliii}
1981	General Assembly Resolution A/RES/36/146(A-H) ^{cxliv}
1992	UN Security Council Resolution S/RES/799 ^{cxlv}
2010	United Nations General Assembly Resolution A/RES/64/90. ^{cxlvi}

The impact on refugees

Years	Events
1948	750000 to 900000 Palestinians fled because of the war.
1948-1967:	35000 to 45000 refugees
1967:	flee of around 325,000 Palestinian refugees from Israel during and after the 6 Days war.
1967-2010	Hundreds of thousands of new refugees

The empirical implementation of Repatriation

	Year	Palestine
Reasons for displacement		To flee from the zones of conflict or because of forced eviction
Budget of the UNRWA	2010 : 615.000.000\$ 2009 : 649.952.000\$ 2008 : 544.648.000\$ 2007 : 505673000\$ 2006 : 488566000\$ 2005 : 360949000\$ 2004 : 350968000\$ 2003 : 344081000\$ 2002 :330748000\$ 2001 : 310392000\$ 2000 : 292000000\$ 1999 : 280000000\$	
The repatriation process, UNRWA	1950 : 914221	2001 :3874738

registered Palestinian refugees	1955: 905986 1965: 1120889 1970: 1280823 1975: 1632707 1980: 1844318 1985: 2093545 1990: 2422514 1995: 3172641 2000: 3737494	2002: 3973360 2003: 4082300 2004: 4186711 2005: 4283892 2006: 4396209 2007: 4510510 2008: 4671811 2009: 4718899 2010: 4766670
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Chapter 3: Analysis and comparison of the different cases studied

3.1 Synthesis of the data available for each case

Afghanistan

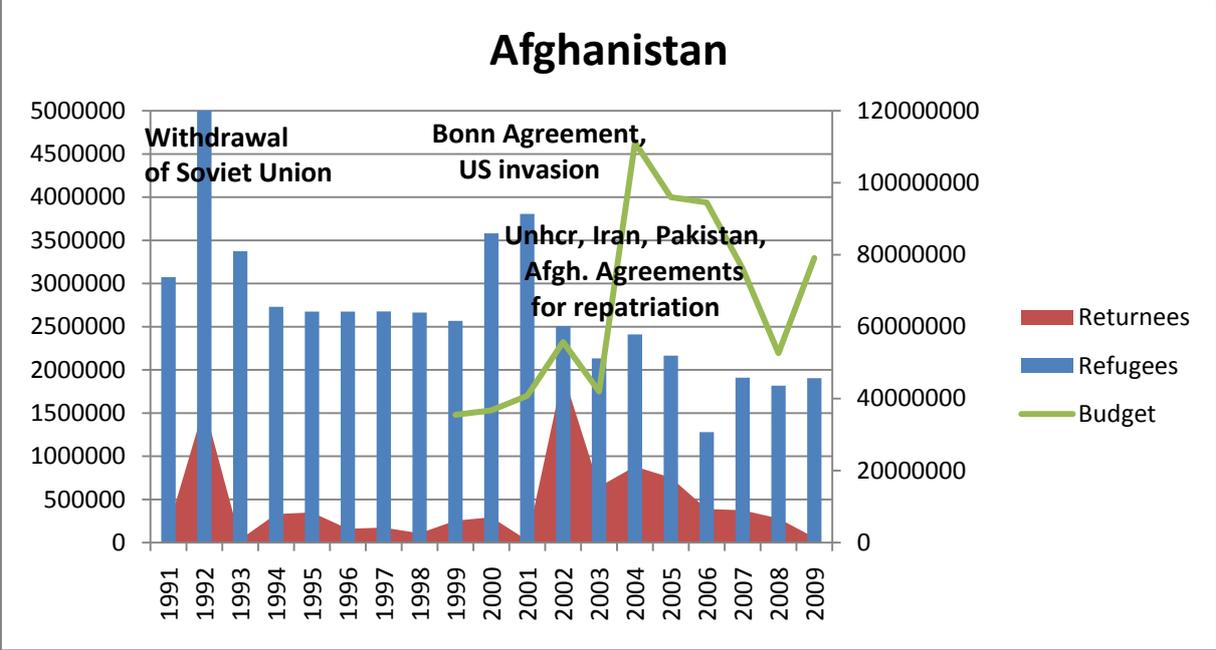


Chart 1: Overall number of Afghan refugees and returnees and the annual UNHCR budget allocated to them

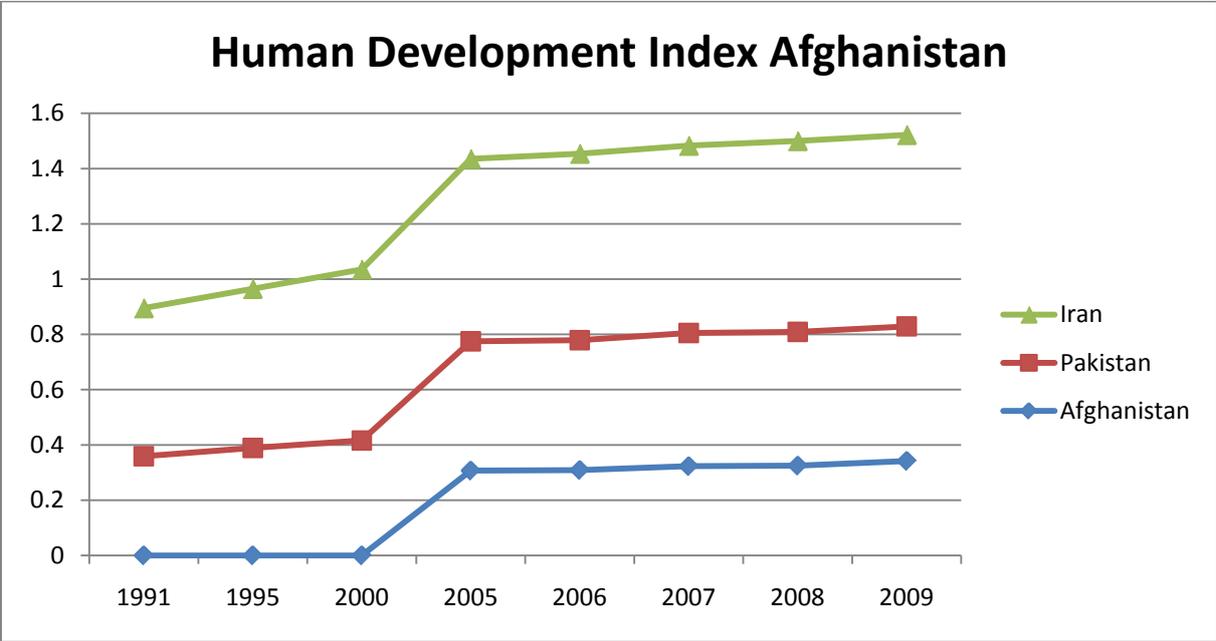


Chart 2: Comparative Human Development Index between Afghanistan and the main countries of asylum for Afghan refugees.³

³ The Human Development Index Charts of this fact sheet are based on the information provided by the United Nations Development Program. This indicator includes 3 Dimensions: Health (Life expectancy at birth),

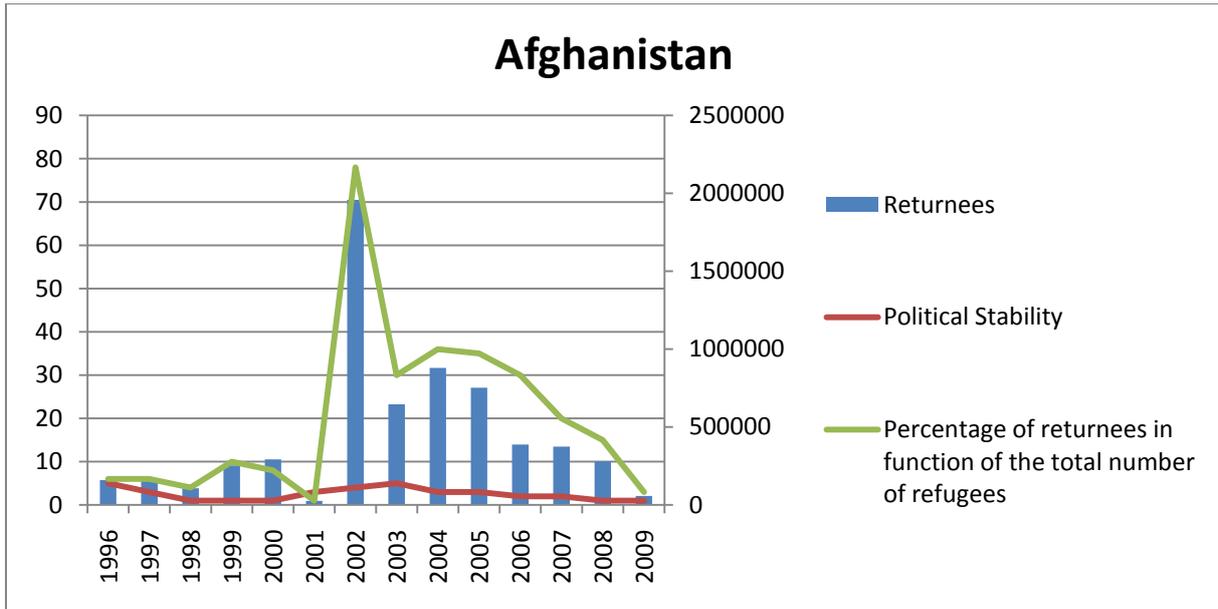


Chart 3: The political stability of Afghanistan and the number of refugees

The first chart highlights two periods during which the return of Afghan refugees has been massive, that is to say in 1992 and 2002. According to the historical background of the country, these 2 years correspond to a radical change on the Afghan political exchequer: 1992 matches with the fight between the Mujahiddin and the Soviet Union, a struggle which generated many refugees but also many returnees following the Soviet withdrawal from Afghanistan; 2001 matches with the USA invasion, which also generated many refugees and then many returnees after the USA has taken the lead of the country. However, the Human Development Index (which includes a GDP analysis) do not show any improvement in the economic situation of the country during those periods, comparing with the 2 main countries hosting Afghan refugees, Pakistan and Iran. Then, it is not for economic purposes that refugees choose to return.

The curve of the UNHCR budget, unfortunately available only from 1999, demonstrates a huge increase of the UNHCR budget in 2004, which in fact has a correlation with an increase in the number of refugees from 2003 to 2004. It also corresponds to the implementation's period of the Tripartite Agreements between UNHCR, Iran and Afghanistan and UNHCR, Pakistan and Afghanistan. In Chart 3, the curve of the percentage of returnees in function of

Education (Expected Years of schooling, Mean Years of schooling), Living standards (Gross National Income per Capita). More information is available on: <http://hdr.undp.org/en/statistics/hdi>

the total number of refugees point out a sustainable period of returns from 2002 to 2006. Then, it is possible to consider that those returns are not only spontaneous, but also favored by the UNHCR, as the period of return is longer than the short term aftermath's effects of the political change following the US invasion. Moreover, chart 3 enables to show that there is no political evolution in Afghanistan; the level of political stability tends even to decrease, as its lower level in 2009 since 20 years. Even during the peak of returns, in 2002, there was no strong increase of the political stability of the country. Then, a radical change in the political regime can generate hopes for refugees of a better future and motivate their decision on the short term to return to their country of origin; however on the long term they tend to move back again as political instability impede them the possibility to live with dignity. A lack of political stability can ruin all the improvements generated by the development of a favorable legal framework for the return of refugees.

Therefore, in the case of Afghanistan, it is clear that the legal and political framework do have an impact on refugees' decision to return to Afghanistan. Yet, while the number of refugees during the 2000' remains stable at around 2 million refugees, the number of returnees tends to decrease, besides the implementation of the UNSC Resolutions and the legal framework implemented by the UNHCR. The international legal framework which allowed the use of force under the Chapter VII of the UN Charter and neither UNHCR policies are then not enough to solve the mass refugee issue.

Rwanda

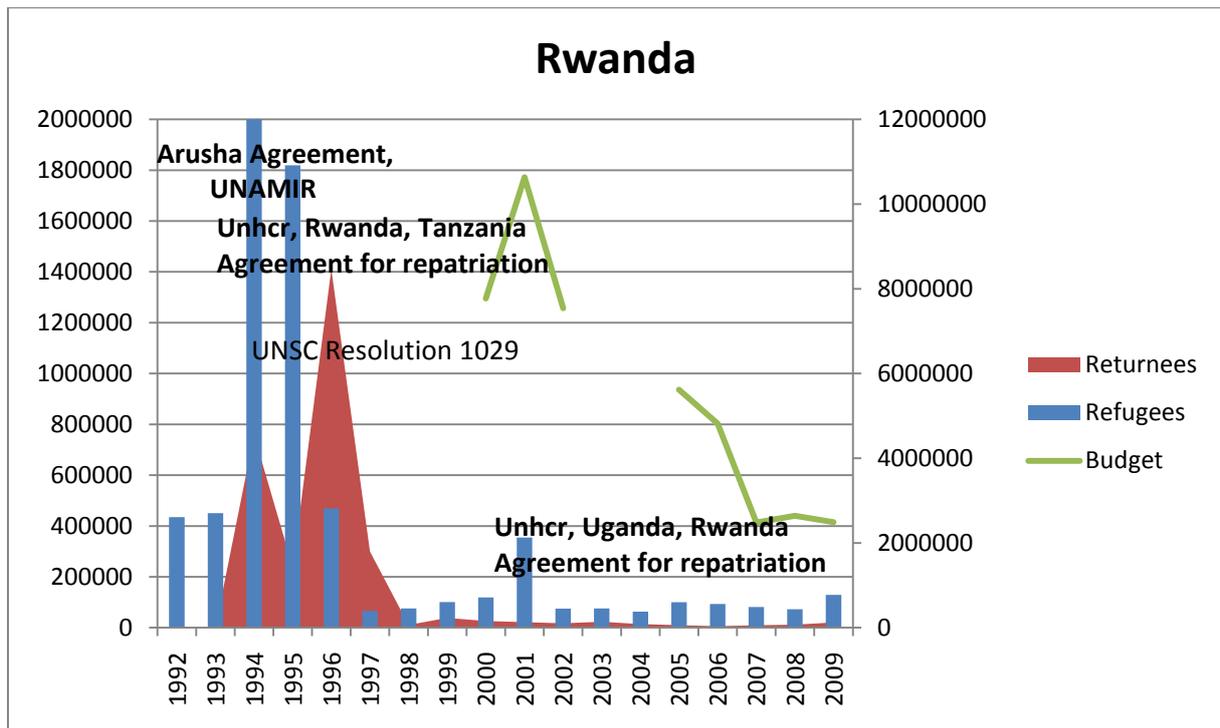


Chart 4: Overall number of Rwandan refugees and returnees and the annual UNHCR budget allocated to them.

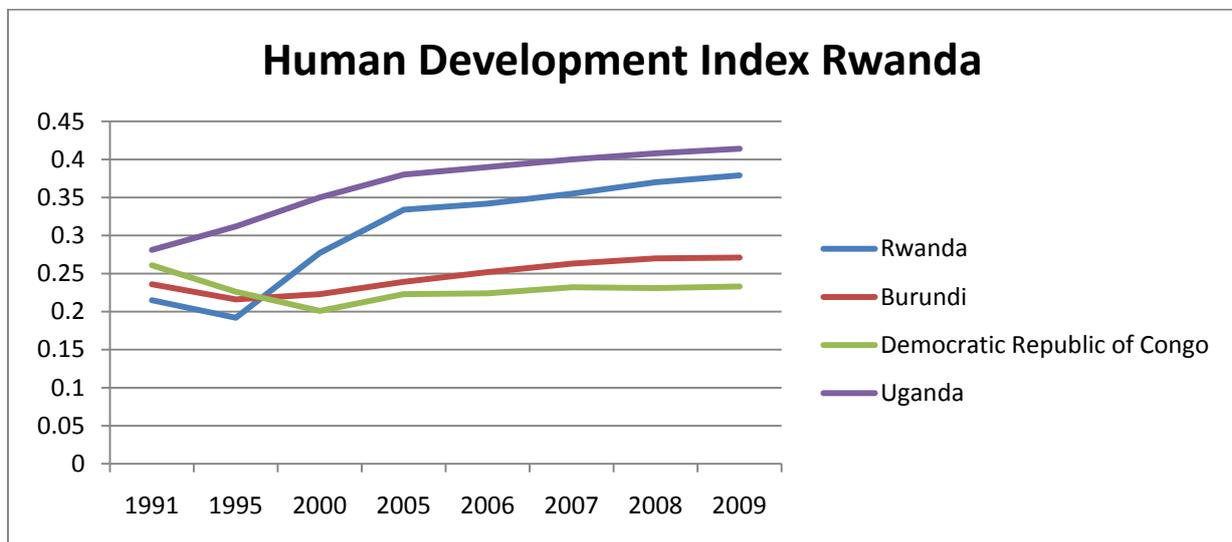


Chart 5: Comparative Human Development Index between Rwanda and the main countries of asylum for Rwandan refugees.

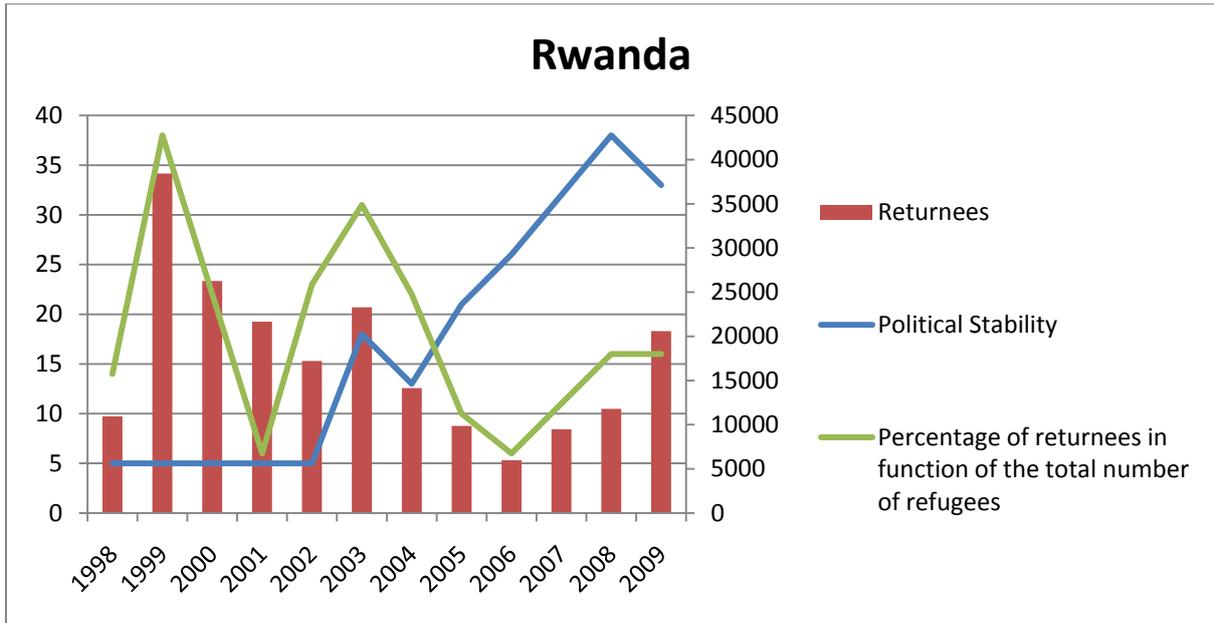


Chart 6: The political stability of Rwanda and the number of refugees.

Chart 4 shows that the most important period for the return of Rwandan refugees is the one before and following the 1994 Arusha Agreement, from 1993 to 1998. The international legal framework surrounding the issue had then a great influence on the return of refugees, as it is thanks to the UNSC Resolutions and the UNAMIR international force implemented in Rwanda, that the state could welcome the return of refugees. Moreover, thanks to the 1995 Tripartite Agreement between Rwanda and Tanzania, hundreds of thousands of refugees chose to return to Rwanda. Many refugees from Uganda have also chosen this option. In 1996, 1,4 million refugees chose to return home, while only 400 000 decided to remain abroad and keep their status. In 1997, the number of Rwanda refugees diminished again drastically, and the majority of refugees chose repatriation. In fact, through the UNSC Resolution 1029 (12 December 1995), recalling resolutions 872 (1993), 912 (1994), 918 (1994), 925 (1994), 955 (1994), 965 (1994), 978 (1995), 997 (1995), the UN Security Council extended the mandate of the UNAMIR (United Nations Assistance Mission for Rwanda) to provide a climate of trust and confidence for the safe return of refugees. It enables to enforce the Arusha Agreement and give stability for the new Rwandan government. Therefore, the impact of the UNAMIR mission has been successful to implement voluntary repatriation.

Chart 5 is interesting to highlight the fact that the Human Development Index has increased significantly in Rwanda after the signing of the Arusha agreement and that the refugees followed this tendency. Yet, even if life had better economic prospect in Uganda than Rwanda for the whole period analyzed, many refugees made the choice to go back to Rwanda. It is then more the political and legal frameworks which motivate refugees to go back to their country of origin. The role of the UNHCR is also relevant to carrying the repatriation of returnees, as the UNHCR negotiated an agreement between Rwanda and Tanzania while taking the responsibilities of the populations' movements.

Chart 6 underscores the parallel between the evolution of the political stability and the increase in the number of returnees in Rwanda, in particular for the period 2001-2003 and 2006-2009. Even if many factors have influenced the choice of refugees to returning to their place of origin, it is then possible to hypothesize a direct influence of the political stability and their will to come back.

Bosnia Herzegovina

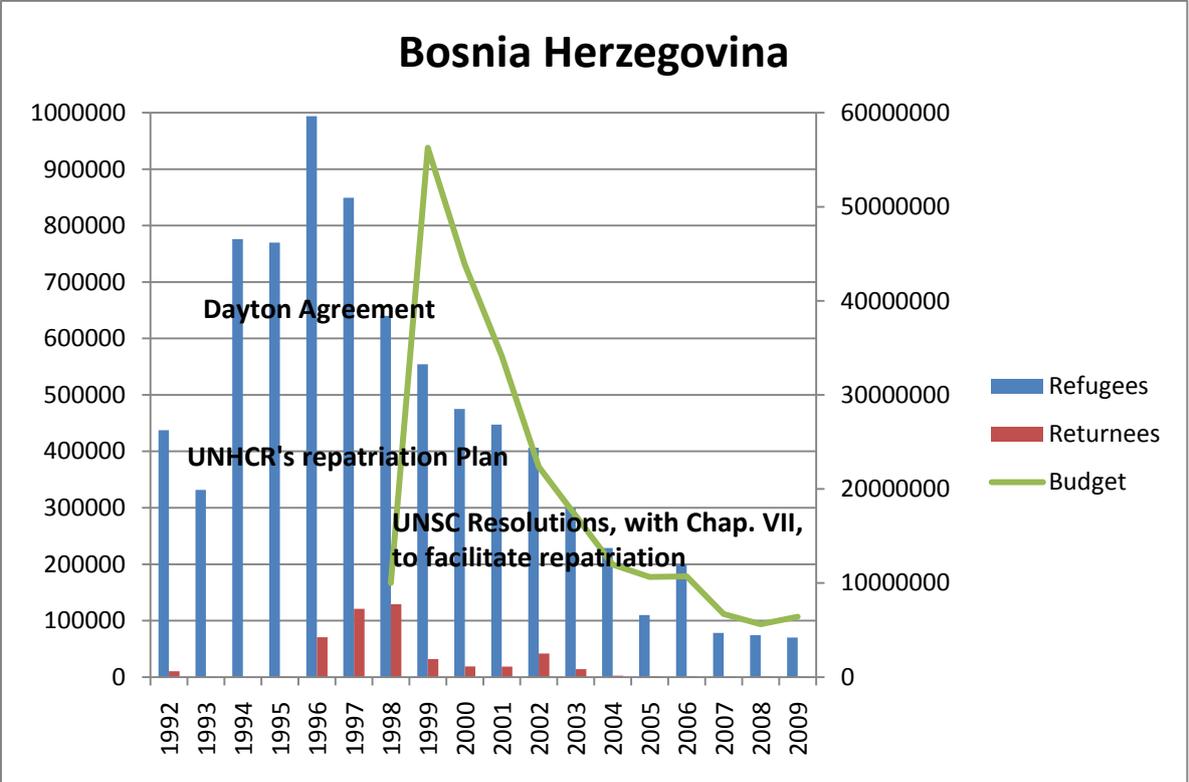


Chart 7: Overall number of Bosnian refugees and returnees.

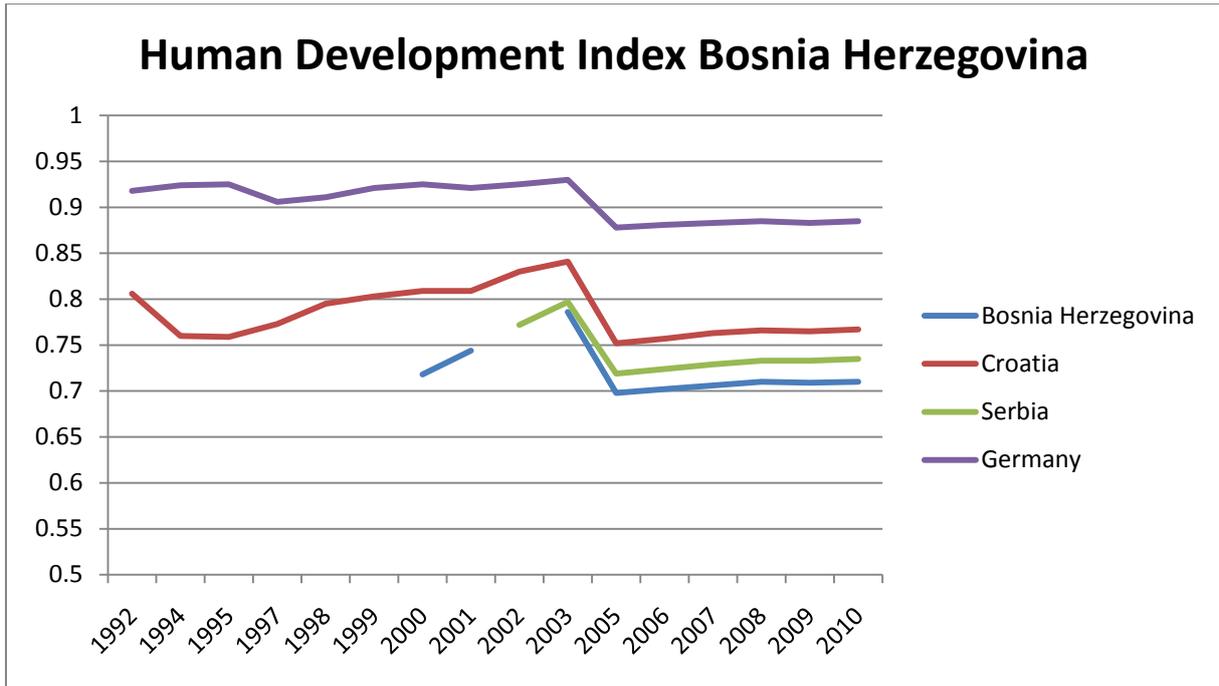


Chart 8: Comparative Human Development Index between Bosnia Herzegovina and the main countries of asylum for Bosnian refugees.

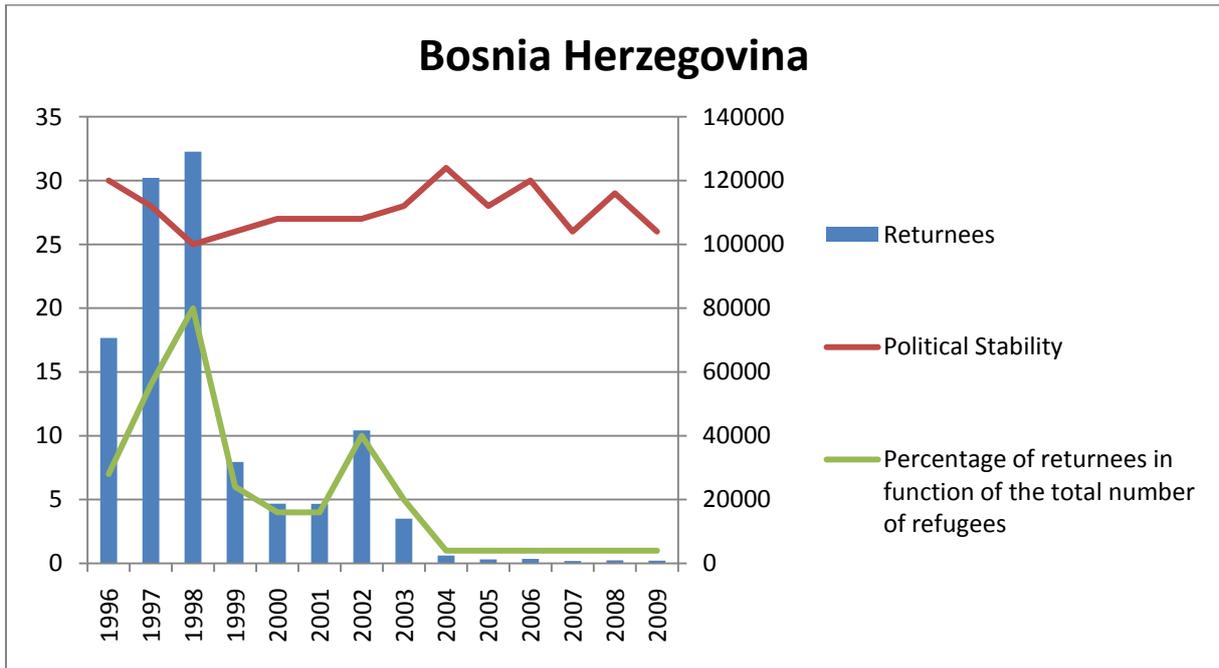


Chart 9: The political stability of Bosnia Herzegovina and the number of refugees

In chart 7, it is possible to observe that the number of returnees is much lower than the number of refugees, which means that many refugees choose another durable solution than voluntary repatriation, such as local integration or resettlement. The most impactful legal agreement for the refugees has been the Dayton Peace Agreement, which created a stable political framework for the return of refugees. In fact, the only period during which refugees

choose to return massively to their country of origin is the one following the Dayton Agreement, after 1997. The UNHCR’s repatriation plan had also a relevant impact for the return of refugees. However, the UNSC Resolutions 1088 (1996), 1198 (1998), 1247 (1999), 1305 (2000), 1357 (2001) and all the following ones, had a very little impact on the empirical situation of refugees and did favor massive returnees. It is also interesting to notice that there is no correlation between the increase of the UNHCR budget from 1999 to 2002 and the number of returnees.

Chart 8 do not permit to observe any connection between the percentage of returnees to Bosnia Herzegovina and the political stability of the country, as the political stability tends to decrease between 1996 and 1998 while the number of returnees is increasing during the same period; moreover between 2002 and 2004, the number of refugees is decreasing while the political stability is rising.

Palestine

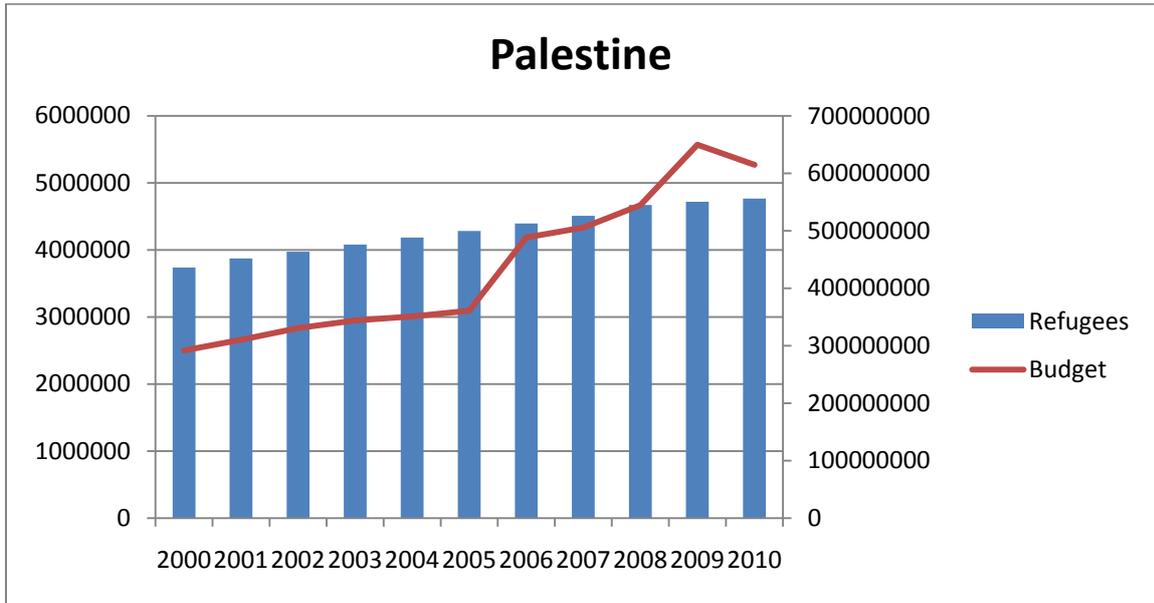


Chart 10: Overall number of Palestinian refugees and the annual UNRWA budget allocated to them

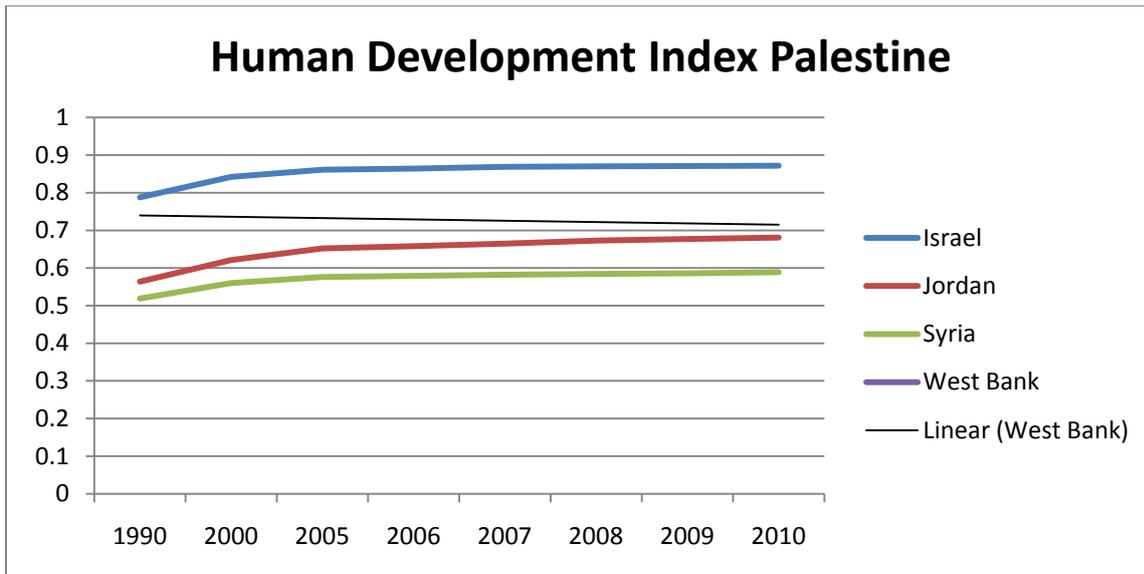


Chart 11: Comparative Human Development Index between Israel and the main countries of asylum for Palestinian refugees.

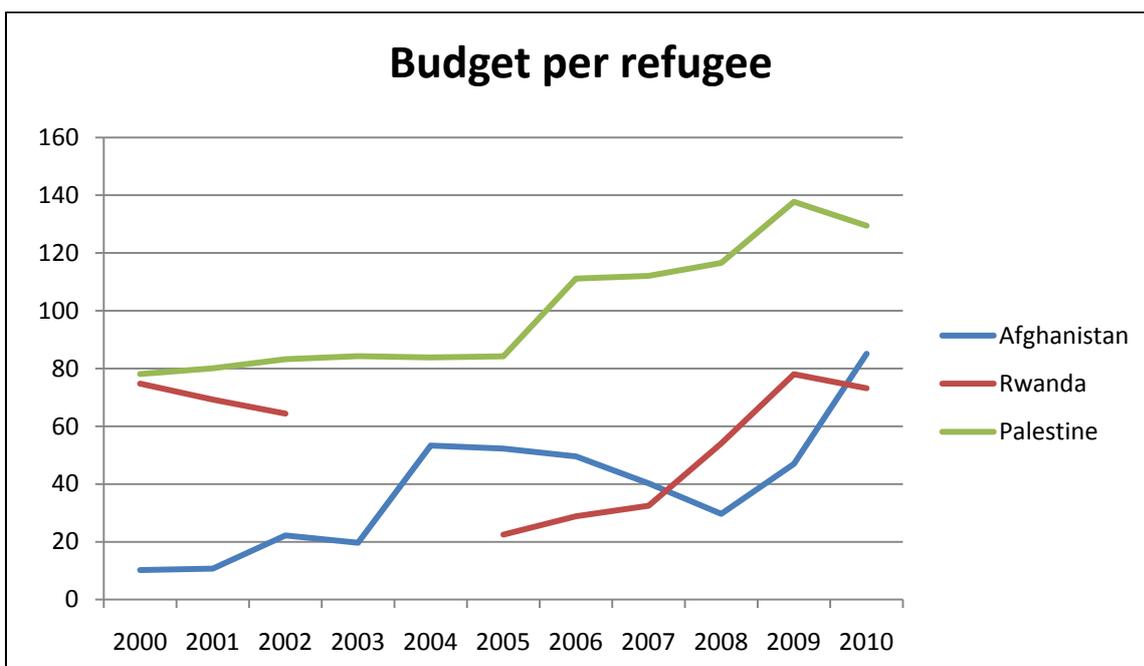


Chart 12: Cost per refugee between Afghanistan, Palestine and Rwanda

Chart 10 emphasizes the fact that the number of Palestinian refugees is constantly and steadily increasing, as well as the budget dedicated to those refugees. It means that, not only there is no voluntary repatriation for Palestinian refugees, but neither large movements of local integration into the countries of asylum for Palestinian refugees. Obviously, there is no curve for the returnees, as no Palestinian refugees could return to their country of origin.

Chart 11 illustrates the gap between the living conditions in the country of origin of Palestinian refugees and the living conditions in their asylum country. Data are not available for Lebanon. It is obvious that the living standard is much higher in Israel than in the neighboring countries and refugees would have a great incentive to return to their country of origin if they had that possibility.

Chart 12 demonstrates that the annual cost of a Palestinian refugee is much higher than the annual cost of an Afghan or a Rwandan refugee. However, this budget is not dedicated for advocacy or repatriation, but to help refugees in their everyday life, for education, health, welfare state, management of the camps, etc. The UNRWA's budget reached more than 650 million dollars in 2009, to help more than 4.7 million Palestinian refugees.

3.2: The similarities and discrepancies between the Afghan, Rwandan and Bosnian cases

The main difference between Afghanistan and Rwanda or Bosnia is that the Bonn peace agreement, which normally should have brought stability in Afghanistan, did not include all the factions having power on the ground. While the Arusha Agreement for Rwanda or the Dayton Agreement in Bosnia Herzegovina tries to include all the factions having an empirical military power in their country, the Bonn agreement was radically anti-Taliban. Therefore, as the Bonn agreement was not binding for the Taliban, all measures concerning the refugees were not respected by the Taliban, which are however one of the leading military faction in Afghanistan. Moreover, the Bonn Agreement did not address directly measures for the return of refugees, but only guarantees the participation of refugees in the political process. The Arusha and the Dayton Agreement are dealing directly with the refugees' return issue, it is part of the agreement, and the result is more successful.

Another main difference between the Afghan case and the Rwandan and the Bosnian case is the fact that the peace enforcement measures have been determinant for the successful implementation of the peace agreement in Bosnia and Rwanda. In Rwanda, the Arusha agreement could not have been successfully implemented without the intervention of UNAMIR. In Bosnia, Holbrooke used the NATO led Implementation force to empirically enforce and impose its partition plan to the different factions. In the case of Afghanistan, the

International force is part of the political instability. Moreover, the actual Afghan President, Ahmid Karzai, has no legitimacy for the Afghan refugees, as they could not exercise their right to vote directly from their country of asylum (see above, 2.1, the Afghan legal background, p.19).

It is clear from the Afghan and the Rwandan cases that the lack of political stability impedes the return of refugees. In the Bosnian case, the political stability has been much higher but did not favor a massive return of refugees to the Bosnian state. A hypothesis would be that most of them found refuge in places which offer them much better opportunities than what they could have found going back into their country of origin, and then they choose to resettle or try the local integration. For Afghan or Rwandan refugees, local integration is often very difficult and they prefer to go back to their country of origin even if the conditions there are very harsh.

3.3: The divergence which can be found between Palestine and the other cases

The wording of the UN resolutions is different in the case of Palestine and the other cases. The means used to enforce the decision of the United Nations Security Council in the case of Palestine are then also different. In the case of the UNSC Resolution S/RES/237, the UNSC *calls upon* the Government of Israel to facilitate the return of the inhabitants displaced, and *requests* the Secretary General to follow the effective implementation of this resolution. The follow up of this Resolution was brief. In its report S/8851, the Secretary General advises the Security Council that he could not give effect to the decision of the Security Council as Israel answered with a “conditional and therefore inadequate response;^{cxlvii}” Finally, no other UNSC Resolution have been voted and the Resolution 237 remained without effect. At the contrary, in the case of Bosnia and Rwanda, the implementation of the paragraphs calling for the return of the displaced people to their territory of origin is enforced by measures from the Chapter VII of the Charter of the United Nations. For example, in 1995, the UNSC Resolution S/RES/997 extended the scope of the mission of the United Nations Assistance Mission for Rwanda (UNAMIR) to “assist the Government of Rwanda in facilitating the voluntary and safe return of refugees and their reintegration in their home communities.”^{cxlviii}

In the case of Bosnia (UNSC Resolution S/RES/836,^{cxlix} UNSC Resolution S/RES/859),^{cl} the right of refugees is to return *home*; In the case of Rwanda (UNSC Resolution S/RES/1050^{cli}), the destination of the refugees is their *country* ; In the case of Palestine, the UN Resolution S/RES/237 (in the context of 6 Days War),^{clii} refers to *the areas where hostilities have taken place*. All those UN Resolutions apply to territories at war, applying the principles of International Humanitarian Law, in particular the Article 43 of the 4th Hague Convention^{cliii} and Article 49 of the 4th Geneva Convention.^{cliv} Yet, in the case of Palestine, the UN Security Council has been careful in the application of Humanitarian Law, to circumscribe it to the areas in which hostilities have taken place and to the inhabitants of those areas, not using the expression *all refugees*, and the notion of *home*, which are generally used.

One of the main differences between the cases studied and Palestine is the absence of agreement between the countries of asylum for Palestinian refugees and Israel. For the Afghan, Bosnian or Rwandan cases, there were always at some moment international agreements to manage the movements of populations between countries. Moreover, as it was emphasized in the analysis of the Afghan case, a peace agreement which do not include all the factions does not permit a sustainable return of refugees. Therefore, if the peace negotiations between Israel and the Palestinians representatives do not include all the factions having military power on the ground, then the repatriation of refugees risk to be problematic and the end of the conflict uncertain.

Concerning the living conditions of refugees, not so many Middle East countries has acceded to the main legal instruments of the international refugee regime, the 1951 Geneva Convention and the 1967 Protocol to the Convention: only Algeria, Egypt, Morocco and Tunisia has signed the Convention.^{clv} A Declaration on the Protection of Refugees and Displaced Persons in the Arab World was drafted in 1992, but only Egypt endorsed it. In April 1998, Jordan signed a Memorandum of understanding with the UNHCR. In the case of Afghan refugees, Iran (1976) ratified the 1951 Geneva Convention (in 1976), but not Pakistan. In the case of Bosnian refugees and Rwandan refugees, all their countries of asylum have signed the Convention.

The UNRWA (the United Nations Relief and Works Agency for Palestine Refugees in the Near East) is a UN agency which provides assistance, protection and advocacy for Palestinian refugees.^{clvi} Its role is not to help for the voluntary repatriation of Palestinian refugees. While the UNHCR refers to the 1st article of the 1951 Convention relating to the status of refugees, which is "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country [...]."^{clvii} Diversely, for UNRWA, Palestine refugees are « people whose normal place of residence was Palestine between June 1946 and May 1948, who lost both their homes and means of livelihood as a result of the 1948 Arab-Israeli conflict ». ^{clviii} UNRWA then considers refugees also people living in the West Bank and then never left Palestine.

Another main difference between Palestine and the other cases is the regularity of the increase in the number of Palestinian refugees. It seems that there is a real will from the countries of asylum for Palestinian refugees to maintain them as refugees and to not integrate them with the rest of the society. At the contrary, especially in the case of Bosnia, the rate of voluntary repatriation is not very high because refugees found the possibility to integrate themselves in other societies.

Conclusions

The 4 bodies of International Law (Law of Nationality, International Humanitarian Law, Human Rights law, and Refugee law) have granted to all refugees a right of return to their country of origin. The enforcement of this right of return is achieved mostly by the UNHCR, which has for mandate to facilitate voluntary repatriation. However, this facilitation varies in function of the political situation and the feasibility of this return.

Apart the Afghan case, in all other cases studied in this fact sheet, the refugees have been part of the conflict and there was a political will to impede their return. In the case of Rwanda and Bosnia, it is in fact only thanks to the intervention of the international community, through the creation of an international legal framework and the use of means permitted under Chapter VII of the UN Charter, that the durable return of refugees has been possible. In the case of Palestinian refugees, an international legal framework has been created under the auspices of the United Nations Security Council, but not with the same wording and not invoking the same means. Furthermore, all the non binding resolutions voted by the UN General Assembly to solve refugee issues have been unsuccessful, not only in the case of Palestine.

Most of refugees' returns happened following a radical change in the political situation of their country of origin (or in their country of asylum), such as the US invasion in Afghanistan or the signing of the Dayton Agreement in Bosnia. It suggests that most of returns have been spontaneous, without the intervention of the UNHCR and independently of political or economic considerations. For instance, between 1994 and 1996, 800 000 Rwandan refugees returned to Rwanda to flee civil war in Zaire (Congo Kinshasa and the Democratic Republic of Congo). It means that many refugees return home because their country of asylum forced them to leave, or does not constitute anymore a safe place. It also means that there is not necessarily a correlation between the legal agreements signed by states to promote and help voluntary repatriation, and the massive spontaneous repatriation of refugees to their country of origin. It is then difficult to determine what factor is the most important to favor voluntary repatriation.

However, this fact sheet has also shown that repatriation could become a durable solution only thanks to the UNHCR intervention and the help of the international community. In particular, the agreements between the country of asylum and the country of origin are determinant to favor voluntary repatriation. In the case of Afghanistan, this external support was even not enough to solve the refugee problem. It is obvious that no agreement between Israel and countries of asylum for Palestinian refugees has precluded any possibility of return for Palestinian refugees. For Palestinian refugees under the responsibility of the UNHCR, there are no such necessary means deployed to implement the right to voluntary repatriation. Moreover, most of Palestinian Refugees have a different status and are protected by a different institution than other refugees. In fact, under the sovereignty of Lebanon, Jordan, Syria and the Palestinian Authority, Palestinian refugees are under the UNRWA's mandate. The role of the UNRWA is not to advocate or facilitate voluntary repatriation, but mostly to care about the health, the education and the social welfare of refugees, as well as the infrastructure and the management of the refugee camps. It is one of the main reasons of the perpetuation of the Palestinian refugees' situation.

To conclude, the refugees' right of return as a durable solution has been facilitated by the UNHCR. It is necessary for Palestinian refugees to obtain the same protection than other refugees and withdraw from the UNRWA's protection which do not help to find a durable solution. This durable solution is not necessarily voluntary repatriation, which could be difficult to achieve, but could also be local resettlement. In any case, Palestinian refugees deserve a right to change their status and not be maintain in this situation forever.

Annex I: the organizational and functional structure of the UNHCR

SUB-OFFICE	BRANCH OFFICE	HEADQUARTERS
<p>Involve representatives of line ministries at provincial and district level in planning process;</p> <p>_ Provide support to local authorities for joint project monitoring;</p> <p>_ Facilitate inter-agency/line ministry/community sensitization on reintegration programmes;</p> <p>_ Provide reintegration briefing and on-the-job training sessions to Field Office/partner staff ;</p> <p>_ Conduct regular returnee monitoring and home visits;</p> <p>_ Build information network with community structures (village councils, etc.);</p> <p>_ Conduct regular self-reliance and village-of-return surveys;</p> <p>_ Build capacity of community structures for project implementation and monitoring;</p> <p>_ Facilitate coordination of 4Rs meetings among UN agencies and line ministries;</p> <p>_ Identify and utilize services of reputable community-based organisations; and</p> <p>_ Strengthen inter-agency collaboration on implementation of community empowerment projects for sustainable reintegration.</p>	<p>_ Link with partners (government, UN, civil society, etc.);</p> <p>_ Strengthen UNCT collaboration and integrated planning at country level;</p> <p>_ Initiate and follow up inter-agency collaboration at country level on 4Rs and for specific sector interventions;</p> <p>_ Provide current Sub-office and Field Office Memoranda of Understanding with other agencies (e.g. WHO, WFP DFID and NORAD);</p> <p>_ Provide Sub-offices and Field Offices with regular training and technical guidance on policy priorities, Quick Impact Projects, Community Empowerment Projects, etc.;</p> <p>_ Request regular reintegration updates from field and provide field with relevant information on national level issues;</p> <p>_ Ensure reintegration activities are part of national (government and UN) strategies;</p> <p>_ Promote joint information management systems;</p> <p>_ Develop return and reintegration policies and frameworks and help Sub-offices and Field Offices operationalise them ;</p> <p>_ Provide legal and protection support and advice to field;</p> <p>_ Act as first point of contact for national authorities;</p> <p>_ Brief new reintegration</p>	<p>Provide technical guidance and operational policy support;</p> <p>_ Facilitate Headquarters inter-agency planning for 4Rs in early stages;</p> <p>_ Provide support to UNCT;</p> <p>_ Draw lessons from other operations to guide planning and implementation (e.g. write a lessons learned newsletter);</p> <p>_ Take stock every six months through UN agency built-in evaluations;</p> <p>_ Standardize tools and strategies used in reintegration planning;</p> <p>_ Brief new staff assigned to deal with reintegration;</p> <p>_ Advocate for policy changes within UNHCR and partner organisations to make reintegration sustainable;</p> <p>_ Provide consistent support beyond pilot for 4Rs;</p> <p>_ Create pool of expertise on reintegration to deploy as needed;</p> <p>_ Provide training support and capacity building; and</p> <p>_ Help strengthen internal cohesion between protection, community services and reintegration.</p>

	staff; _ Liaise with regional and Headquarters units; and _ Conduct regular assessments and support missions to field.	
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Annex II: Main Organizations providing information on the country of origin to assess the possibilities of Voluntary Repatriation.^{clix}

Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD),
 Amnesty International (AI),
 Council of Europe,
 Danish service for Immigration (UDLÆNDINGESTYRELSEN)
 German federal office for immigration (AUSWÄRTIGES AMT)
 High Commissioner of the United Nations for Human Rights (OHCHR)
 Human Rights Watch (HRW),
 Integrated Regional Information Networks (IRIN),
 Internal Displacement Monitoring Centre (Global IDP Project),
 International Crisis Group (ICG),
 International Federation for Human Rights (FIDH),
 International Helsinki Federation,
 Minister for foreign Affairs of the Netherland (MINISTERIE VAN BUITENLANDSE ZAKEN),
 Organization for economic cooperation and development (OECD),
 Organisation Suisse d'aide aux Réfugiés (OSAR),
 Secretary General of the United Nations (UNSG),
 Swiss federal Office for Refugees
 UK Home Office
 United Nations (UN),
 United Nations High Commissioner for Refugees,
 United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA)
 United States Committee for Refugees (USCRI)
 US Bureau of Citizenship and Immigration Services Resource Information Center.
 US Department of State

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- ^x **Convention and Protocol relating to the status of refugees**, July 28, 1951, 189 UNTS 137, Geneva, <http://www.unhcr.org/3b66c2aa10.html> [Accessed 01/12/2010], Art.1(2): “owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”
- ^{xi} *Ibid*, Art. 33(1): “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”
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^{xxv} **Davis** M. Jane, *Security Issues in the post cold war*, Cheltenham, UK ; Edward Elgar, 1996, p.127.

^{xxvi} **United Nations Security Council Resolutions** S/RES/841, 16 June 1993, 3238th Meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N93/354/58/IMG/N9335458.pdf?OpenElement> [Accessed 09/12/2010], "Also recalling the statement of 26 February 1993 (S/25344), in which the Council noted with concern the incidence of humanitarian crises, including mass displacements of population, becoming threats to international peace and security [...] Decides to prohibit any and all traffic from entering the territory or territorial sea of Haiti carrying petroleum or petroleum products, or arms and related matériel of all types, including weapons and ammunition [...]. »

^{xxvii} **United Nations General Assembly Resolution 377**, 302nd plenary meeting, 3 November 1950, <http://www.un.org/Depts/dhl/landmark/pdf/ares377e.pdf> [Accessed 09/12/2010], the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security.

^{xxviii} **United Nations General Assembly Resolution 428**, 14 December 1950, 325th Plenary Meeting, http://www.un.org/french/documents/view_doc.asp?symbol=A/RES/428%20%28V%29&TYPE=&referer=http://www.google.com/url?sa=t&Lang=E [Accessed 09/12/2010].

^{xxix} *Nottebohm case*, 1955 ICJ Reports 1, 23 "the principle that a state's determination regarding conferral of national status can only be recognized by other states if the determination has fallen within international standards regarding the existence of a "genuine link" between the individual and the state, in Badil Resource Center for Palestinian Residency and Refugee Rights, 2007, *The 1948 Palestinian Refugees and the Individual Right of Return: an international law analysis*, Bethlehem (West Bank), p.28.

^{xxx} Report of the International Law Commission on the Work of Its Fifty-First Session (3 May – 23 July 1999), GAOR 54th Sess., Supp. 10, UN Doc. A/54/10 and Corr. 1 & 2), Chapter IV titled "Nationality in Relation to the Succession of States."

^{xxxi} **United Nations General Assembly Resolution A/RES/55/153**, 30th January 2001, 56th Session, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/568/57/PDF/N0056857.pdf?OpenElement> [Accessed 10/12/2010], Article 22: When a State dissolves and ceases to exist and the various parts of the territory of the predecessor State form two or more successor States, each successor State shall, unless otherwise indicated by the exercise of a right of option, attribute its nationality to:

(a) Persons concerned having their habitual residence in its territory [...].

^{xxxii} **ILC Draft Articles on Nationality of Natural Persons in Relation to a Succession of States**, <http://www.dipublico.com.ar/english/treaties/ilc-draft-articles-on-nationality-of-natural-persons-in-relation-to-a-succession-of-states/> [Accessed 10/12/2010].

^{xxxiii} **Goodwin-Will** Guy, 1996, *The refugee in International Law*, p. 269, in **Badil Resource Center for Palestinian Residency and Refugee Rights**, 2007, *The 1948 Palestinian Refugees and the Individual Right of Return: an international law analysis*, Bethlehem (West Bank), p.41.

^{xxxiv} **Convention with respect to the laws and customs of war on Land (Hague II)**, 29 July 1899, Yale Law School, The Avalon Project, http://avalon.law.yale.edu/19th_century/hague02.asp [Accessed 10/12/2010].

^{xxxv} **Laws and Customs of War on Land (Hague IV)**, 18th October 1907, Yale Law School, The Avalon Project, http://avalon.law.yale.edu/20th_century/hague04.asp#art40 [Accessed 10/12/2010]

^{xxxvi} **The Fourth Hague Convention**, 18th October 1907, Yale Law School, The Avalon Project, Laws and Customs of War on Land, http://avalon.law.yale.edu/20th_century/hague04.asp#art43 [Accessed 20/11/2010], Article 46(1) Art. 43 " The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

Art. 46. "Family honor and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected"

^{xxxvii} **Fourth Geneva Convention**, 1949, International Committee of the Red Cross, <http://www.icrc.org/ihl.nsf/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5> [Accessed 13/12/2010], Article 49.

^{xxxviii} Ibid, Article 45.

^{xxxix} Ibid, Article 134, “The High Contracting Parties shall endeavour, upon the close of hostilities or occupation, to ensure the return of all internees to their last place of residence, or to facilitate their repatriation.”

^{xl} **Universal Declaration of Human Rights**, GA Res. 217A, UN GAOR, 3rd Sess., UN Doc. Np. A/810, at 71 (1948), <http://www.un.org/en/documents/udhr/> [Accessed 22/11/2010], Article 13: (2) “Everyone has the right to leave any country, including his own, and to return to his country.”

^{xli} Ibid.

^{xlii} **International Covenant on Civil and Political Rights, 1966**, Office of the United Nations High Commissioner for Human Rights, <http://www2.ohchr.org/english/law/ccpr.htm> [Accessed 13/12/2010], Article 12(4).

^{xliii} **General Comment No. 27 (67) adopted by the Human Rights Committee**, 18 October 1999, 1783rd meeting (sixty-seventh session), 18 October 1999, Faculty of Law, The University of Hong Kong, <http://law.hku.hk/clsourcebook/human%20rights/HRcommGC27.htm> [Accessed 13/12/2010].

^{xliv} **International Convention on the Elimination of All Forms of Racial Discrimination**, 1965, General Assembly resolution 2106 (XX), <http://www2.ohchr.org/english/law/cerd.htm> [Accessed 13/12/2010], Article 5(d) (ii) “The right to leave any country, including one’s own, and to return to one’s country.”

^{xlv} **American Convention on Human Rights**, 22 November 1969, San José, Human and Constitution Rights, http://www.hrcr.org/docs/American_Convention/oashr.html [Accessed 13/12/2010], Article 22(5) “No one can be expelled from the territory of the state of which he is a national or be deprived of the right to enter it”

^{xlvi} Protocol 3 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, **Protecting certain Additional Rights, 16th September 1963, Strasbourg, Hellenic Resources Network**, <http://www.hri.org/docs/ECHR50.html> [Accessed 13/12/2010], “No one shall be deprived of the right to enter the territory of the State of which he is a national.”

^{xlvii} **African Charter on Human and Peoples’ Rights, 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982)**, African Union, http://www.africa-union.org/official_documents/Treaties_%20Conventions_%20Protocols/Banjul%20Charter.pdf [Accessed 13/12/2010], Article 12(2) “Every individual shall have the right to leave any country including his own, and to return to his country. This right may only be subject to restrictions, provided for by law for the protection of national security, law and order, public health or morality. »

^{xlviii} **Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa**, 10 September 1969, Addis-Ababa, Sixth Ordinary Session, United Nations High Commissioner for Refugees, <http://www.unhcr.org/45dc1a682.html> [Accessed 13/12/2010], Article 5.

^{xlix} **Declaration on the Protection of Refugees and Displaced Persons in the Arab World**, 1992, Article 1: Reaffirms the fundamental right of every person to the free movement within his own country, or to leave it for another country and to return to his country of origin.

ⁱ Prettitore Paul, 2009, **The right to housing and property : restitution in Bosnia and Herzegovina**, in *Rights in principle, rights in practice : revisiting the role of international law in crafting durable solutions for Palestinian refugees*, Badil Resource Center, p.115.

ⁱⁱ **Universal Declaration of Human Rights**, GA Res. 217A, UN GAOR, 3rd Sess., UN Doc. Np. A/810, at 71 (1948), <http://www.un.org/en/documents/udhr/> [Accessed 22/11/2010].

ⁱⁱⁱ **European Convention for the Protection of Human Rights and Fundamental Freedoms**, 04/11/1950, Rome, <http://conventions.coe.int/treaty/en/Treaties/Html/005.htm> [Accessed 21/11/2010], Art. 3(2) of its 4th Protocol: “[N]o one shall be deprived of the right to enter the territory of the state of which he is a national;” Art. 14:” The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

ⁱⁱⁱⁱ **American Convention on Human Rights**, 22/11/1969, Inter-American specialized conference on human rights, Organization of American States, Treaty Series, No 36, <http://www.oas.org/juridico/english/treaties/b-32.html> [Accessed 21/11/2010], Article 21: “No one shall be deprived of his property except upon payment of just compensation, for reasons of public utility or social interest, and in the cases and according to the forms established by law.”

^{liv} **Arab Charter on Human Rights, May 22 2004, League of Arab States**, University of Minnesota, Human Rights Library <http://www1.umn.edu/humanrts/instree/loas2005.html?msource=UNWDEC19001&tr=y&aid=3337655>

[Accessed 23/11/2010], Art. 31: “Everyone has a guaranteed right to own private property, and shall not under any circumstances be arbitrarily or unlawfully divested of all or any part of his property.”

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^{lvii} **United Nations High Commissioner for Refugees**, 1996, Handbook: voluntary repatriation: international protection, p.7, <http://www.unhcr.org/refworld/docid/3ae6b3510.html> [Accessed 19/10/2010].

^{lviii} **United Nations General Assembly Resolution 428(V)**, December 1950, *Statute of the Office of the United Nations High Commissioner for Refugees*, Annex, paras. 8(c), 9, <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/060/26/IMG/NR006026.pdf?OpenElement> [Accessed 20/10/2010], p.47.

^{lix} **Hattaway** James C., 1997, *The meaning of repatriation*, *International Journal of Refugee Law* Vol. 9 No. 4, Oxford University Press, p.552.

^{lx} **International Crisis Group**, August 2009, *Asian Report n° 175: Afghanistan: What Now for Refugees?*, <http://www.crisisgroup.org/en/regions/asia/south-asia/afghanistan/175-afghanistan-what-now-for-refugees.aspx> [Accessed 01/12/2010].

^{lxi} **United Nations High Commissioner for Refugees**, October 2004, *Report of the 55th Session of the Executive Committee of the High Commissioner's Programme (4-8 October 2004) A/AC.96/1003*, <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=4174ca81c&query=report%20executive%20committee> [Accessed 04/11/2010].

^{lxii} **Glover Tracey, Russell Simon, James C**, December 2001, Working Paper No. 7: "Coordination with UNHCR and States", *International Council of Voluntary Agencies*, <http://www.icva.ch/doc00000490.html> [Accessed 01/12/2010].

^{lxiii} **Goodwing-Gill Guy S.**, June 1999, *Closing Address Principles and Protection: Making it Work in the Modern World*, in *UNHCR and International Refugee Protection*, Refugee Studies Programme Working Paper No. 2, University of Oxford, p.6.

^{lxiv} *Ibid*, p. 12.

^{lxv} **United Nations High Commissioner for Refugees**, October 2004, *Report of the 55th Session of the Executive Committee of the High Commissioner's Programme (4-8 October 2004) A/AC.96/1003*, <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=4174ca81c&query=report%20executive%20committee> [Accessed 04/11/2010], para. 28.

^{lxvi} **Goodwing-Gill Guy S.**, June 1999, *Closing Address Principles and Protection: Making it Work in the Modern World*, in *UNHCR and International Refugee Protection*, Refugee Studies Programme Working Paper No. 2, University of Oxford, p.18.

^{lxvii} **Mc Namara** Dennis, 26 September 2003, *Statement by Dennis Mac Namara: UNHCR guest speaker*, UNHCR-NGO Pre-Excom Consultations 24-26 September 2003, <http://www.icva.ch/doc00001050.html> [Accessed 02/12/2010].

^{lxviii} **United Nations General Assembly**, 11 September 2002, 53th Session, Executive Committee of the High Commissioner's programme, note on international protection.

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^{lxx} **United Nations High Commissioner for Refugees**, May 2004, Handbook for Repatriation and Reintegration Activities, <http://www.unhcr.org/411786694.html> [Accessed 05/11/2010], p ONE 6.

^{lxxi} **United Nations High Commissioner for Refugees**, May 2004, Handbook for Repatriation and Reintegration Activities, <http://www.unhcr.org/411786694.html> [Accessed 05/11/2010], p. ONE 15

^{lxxii} **United Nations Security Council Resolution S/RES/1193**, 28 August 1998, 3921st meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N98/252/38/PDF/N9825238.pdf?OpenElement> [Accessed 08/12/2010], “Expresses its readiness to call, on a priority basis, for all possible financial, technical and material assistance for the reconstruction of Afghanistan once the conditions are established by the achievement of the lasting peaceful solution of the Afghan conflict, and for the voluntary, safe and secure return of refugees and internally displaced persons.”

- ^{lxxxiii} **United Nations Security Council Resolution S/RES/1378**, 14 November 2001, 4415th Meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N01/638/57/PDF/N0163857.pdf?OpenElement> [Accessed 08/12/2010], “Expresses its strong support for the efforts of the Afghan people to establish a new and transitional administration leading to the formation of a government, both of which [...] should facilitate the urgent delivery of humanitarian assistance and the orderly return of refugees and internally displaced persons, when the situation permits [...] Calls on Member States to provide: urgent humanitarian assistance to alleviate the suffering of Afghan people both inside Afghanistan and Afghan refugees, including in demining”
- ^{lxxxiv} **Lumpp** Katharina, **Shimozawa** Shoko, **Stromberg** Paul, 2004, *Voluntary repatriation to Afghanistan: key features*, Refugee Survey Quarterly, Vol. 23, N°3, p.151.
- ^{lxxxv} **United Nations Security Council Resolution S/RES/1419**, 26 June 2002, 4560th Meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N02/445/17/PDF/N0244517.pdf?OpenElement> [Accessed 08/12/2010] “Reiterating its endorsement of the Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions [...] and welcoming initial steps for its implementation, including the establishment of the Human Rights and Judicial Commissions [...] Calls for significantly greater and more rapid international assistance to the vast number of Afghan refugees and internally displaced persons to facilitate their orderly return and effective reintegration into society in order to contribute to the stability of the entire country”.
- ^{lxxxvi} **United Nations Security Council Resolution S/RES/1536**, 26 March 2004, 4937th meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/286/53/PDF/N0428653.pdf?OpenElement> [Accessed 07/12/2010], “Encourages Afghan authorities to enable an electoral process that provides for voter participation that is representative of the national demographics including women and refugees and calls upon all eligible Afghans to fully participate in the registration and electoral processes.”
- ^{lxxxvii} **Institute of Policy Studies**, undated, *Afghan Refugees in Pakistan Current Situation and Future Scenario*, <http://www.ips.org.pk/international-relation/the-muslim-world/1023.html> [Accessed 02/12/2010].
- ^{lxxxviii} **UNHCR Global Appeal 2008**, Pakistan.
- ^{lxxxix} **United Nations Security Council Resolution S/RES/1746**, 23 March 2007, 5645th meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/280/47/PDF/N0728047.pdf?OpenElement> [Accessed 05/12/2010], para. 27: “Recognizes the importance of voluntary, safe, orderly return and sustainable reintegration of the remaining Afghan refugees for the stability of the country and the region. »
- ^{lxxx} **United Nations Security Council Resolution S/RES/1806**, 20 March 2008, 5857th meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/279/31/PDF/N0827931.pdf?OpenElement> [Accessed 02/12/2010], “Decides further that UNAMA and the Special Representative of the Secretary-General, within their mandate and guided by the principle of reinforcing Afghan ownership and leadership, will lead the international civilian efforts [...] to creating conditions conducive to the voluntary, safe, dignified and sustainable return of refugees and internally displaced persons”, p.2.
- ^{lxxxxi} **United Nations Security Council Resolution S/RES/1868**, 23 March 2009, 6098th meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/277/12/PDF/N0927712.pdf?OpenElement> [Accessed 02/12/2010], “Decides further that UNAMA and the Special Representative of the Secretary-General, within their mandate and guided by the principle of reinforcing Afghan ownership and leadership [...] to creating conditions conducive to the voluntary, safe, dignified and sustainable return of refugees and internally displaced persons”, p.4.
- ^{lxxxii} **United Nations Security Council Resolution S/RES/1917**, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/283/38/PDF/N1028338.pdf?OpenElement> [Accessed 02/12/2010], para 6(c): “Also reaffirms that UNAMA and the Special Representative will continue to lead international civilian efforts in the following priority areas : [...] to creating conditions conducive to the voluntary, safe, dignified and sustainable return of refugees and internally displaced persons”, p.5.
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- ^{lxxxiv} **IRIN**, 25 August 2005, Islamabad, *PAKISTAN: Census suggests more than 2.5 million Afghans want to stay*, <http://www.irinnews.org/Report.aspx?ReportID=28940> [Accessed 02/12/2010].
- ^{lxxxv} **Abbasi-Shavazi** Mohammad Jalal, **Glazebrook** Diana, **Jamshidiha** Gholamreza, **Mahmoudian** Hossein, **Sadeghi** Rasoul, October 2005, **Afghanistan Research and Evaluation Unit (AREU)**, *RETURN TO AFGHANISTAN? A Study of Afghans Living in Zahedan, Islamic Republic of Iran*, p.1.
- ^{lxxxvi} **UNHCR Global Appeal Report**, 2008-2009, Afghanistan.
- ^{lxxxvii} <http://info.worldbank.org/governance/wgi/pdf/c24.pdf> [Accessed 10/01/2011].

- ^{lxxxviii} **Meindersma** Christa, 1997, *Population Exchanges: International Law and State Practice—Part 2*, International Journal of Refugee Law Vol. 9 No. 4, Oxford University Press: Oxford, p.614.
- ^{lxxxix} **US Department of State**, *International Religious Freedom Report 2002*, Bureau of Democracy, Human Rights, and Labor, <http://www.state.gov/g/drl/rls/irf/2002/1390.htm> [Accessed 18/12/2010]
- ^{xc} **Camisar** Adriana, **Diechtiareff** Boris, **Bartol** Letica, **Switzer** Christine, 2005, *An Analysis of the Dayton Negotiations and Peace Accords, Final Research Paper*, The Fletcher School of Law and Diplomacy, <http://ocw.tufts.edu/data/12/244825.pdf> [Accessed 29/11/2010].
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- ^{xcii} **United Nations Security Council Resolution S/RES/836**, 4 June 1993, 3228th meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N93/330/21/IMG/N9333021.pdf?OpenElement> [Accessed 05/12/2010], p.2: “recognition of the right of all refugees to return to their home; and respect for the sovereignty, territorial integrity and political independence of the Republic of Bosnia and Herzegovina”.
- ^{xciii} **United Nations Security Council Resolution S/RES/859**, 24th August 1993, 3269th meeting, UNHCR, <http://www.unhcr.org/refworld/docid/3b00f161f.html> [Accessed 13/12/2010], “Acting under Chapter VII of the Charter of the United Nations, recognition and respect for the right of all displaced persons to return in their homes in safety and honour.”
- ^{xciv} **Meindersma** Christa, 1997, *Population Exchanges: International Law and State Practice—Part 2*, International Journal of Refugee Law Vol. 9 No. 4, Oxford University Press: Oxford, p.626.
- ^{xcv} **United Nations Security Council Resolution S/RES/959**, 19th November 1994, 3462nd meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/458/34/PDF/N9445834.pdf?OpenElement> [Accessed 05/12/2010], **United Nations Security Council Resolution S/RES/900**, 4 March 1994 , 3344th meeting , <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/113/87/PDF/N9411387.pdf?OpenElement> [Accessed 05/12/2010], “Bearing in mind the importance of facilitating the return of refugees and displaced persons to their homes »
- ^{xcvi} *Ibid*, p.13.
- ^{xcvii} **Watkins** Michael, 1999, *Getting to Dayton: Negotiating an End to the War in Bosnia*, HBS Case No. 1-800-134. Cambridge: Harvard Business School, p.16-17.
- ^{xcviii} **Office of the high Representative and EU Special Representative**, 14/12/1995, *The General Framework Agreement*, http://www.ohr.int/dpa/default.asp?content_id=380 [Accessed 03/11/2010].
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- ^{ci} **United Nations Security Council Resolution S/RES/1174**, 15 June 1998, 3892nd meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N98/167/58/PDF/N9816758.pdf?OpenElement> [Accessed 05/12/2010], Stressing that a comprehensive and coordinated return of refugees and displaced persons throughout the region is crucial to lasting peace. And para. 2 « facilitating returns of refugees and displaced persons .»
- ^{cii} **United Nations Security Council Resolution S/RES/1247**, 18 June 1999, 4014th Meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N99/180/81/PDF/N9918081.pdf?OpenElement> [Accessed 05/12/2010] “Reiterates that the primary responsibility for the further successful implementation of the Peace Agreement lies with the

authorities in Bosnia and Herzegovina themselves in [...] strengthening joint institutions and in facilitating returns of refugees and displaced persons ».

^{ciii} **United Nations Security Council Resolution S/RES/1305**, 21 June 2000, 4162nd meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/491/85/PDF/N0049185.pdf?OpenElement> [Accessed 05/12/2010],] “*Reiterates* that the primary responsibility for the further successful implementation of the Peace Agreement lies with the authorities in Bosnia and Herzegovina themselves in [...] strengthening joint institutions and in facilitating returns of refugees and displaced persons ».

^{civ} **United Nations Security Council Resolution S/RES/1357**, 21 June 2001, 4333rd meeting, <http://daccess-ods.un.org/TMP/493479.147553444.html> [Accessed 05/12/2010], “*Reiterates* that the primary responsibility for the further successful implementation of the Peace Agreement lies with the authorities in Bosnia and Herzegovina themselves in [...] strengthening joint institutions and in facilitating returns of refugees and displaced persons ».

^{cv} **United Nations Security Council Resolution S/RES/1491**, 11th July 2003, 4786th meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N03/425/00/PDF/N0342500.pdf?OpenElement> [Accessed 05/12/2010].

^{cvi} **United Nations Security Council Resolution S/RES/1575**, 22th November 2004, 5085th Meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/619/22/PDF/N0461922.pdf?OpenElement> [Accessed 05/12/2010].

^{cvi} **United Nations Security Council Resolution S/RES/1639**, 21 November 2005, 5307th Meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/613/29/PDF/N0561329.pdf?OpenElement> [Accessed 05/12/2010].

^{cvi} **United Nations Security Council Resolution S/RES/1785**, 21 November 2007, 5782nd meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/608/63/PDF/N0760863.pdf?OpenElement> [Accessed 05/12/2010].

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^{cx} **United Nations Security Council Resolution S/RES/1895**, 18 November 2009, 6220th meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/612/34/PDF/N0961234.pdf?OpenElement> [Accessed 02/12/2010].

^{cx} **United Nations Security Council Resolution S/RES/1948**, 18 November 2010, 6426th meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N10/643/53/PDF/N1064353.pdf?OpenElement> [Accessed 02/12/2010].

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^{cxiii} **United Nations Security Council Resolution 820, UNSCOR**, 3200th meeting, UN Doc S/RES/820 (1993), <http://daccess-ods.un.org/TMP/7571467.75722504.html> [Accessed 21/11/2010].

^{cxiv} **Washington Agreement**, March 1, 1994, United States institute of Peace, Peace Agreements Digital Collection, http://www.usip.org/files/file/resources/collections/peace_agreements/washagree_03011994.pdf [Accessed 21/11/2010].

^{cxv} **Constitution of Bosnia and Herzegovina**, 14 December 1995, Constitutional Court of Bosnia and Herzegovina, <http://www.ccbh.ba/eng/article.php?pid=827&kat=518&pkat=500> [Accessed 23/11/2010].

^{cxvi} **Prettitore Paul**, 2009, **The right to housing and property : restitution in Bosnia and Herzegovina**, in *Rights in principle, rights in practice : revisiting the role of international law in crafting durable solutions for palestinian refugees*, Badil Resource Center, p.139.

^{cxvii} **Property Law Implementation Plan**, October 2000, OSCE, OHR, UNHCR, CRPC (Commission for Real Property Claims of Displaced Persons and Refugees), UN Mission in Bosnia and Herzegovina, Inter-Agency Framework Document, <http://www.oscebih.org/documents/5-eng.pdf> [Accessed 23/11/2010].

^{cxviii} **Constitution of Bosnia and Herzegovina**, 14 December 1995, Constitutional Court of Bosnia and Herzegovina, <http://www.ccbh.ba/eng/article.php?pid=827&kat=518&pkat=500> [Accessed 23/11/2010], Article II.

^{cxix} **Andersen Elisabeth**, 1996, *The role of Asylum States in promoting safe and peaceful repatriation under the Dayton Agreements*, European Journal of International Law, Vol. 7, Issue 2 (1996), pp. 193-206, p.195.

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<http://info.worldbank.org/governance/wgi/pdf/c24.pdf> [Accessed 10/01/2010]

^{cxix} **United Nations Security Council Resolution S/RES/872**, 5 October 1993,3288th meeting , <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N93/540/63/PDF/N9354063.pdf?OpenElement> [Accessed 08/12/2010],

“Decides that, drawing from the Secretary-General’s recommendations, UNAMIR shall have the following mandate: [...] (f) To monitor the process of repatriation of Rwandese refugees and resettlement of displaced persons to verify that it is carried out in a safe and orderly manner;

^{cxvii} **United Nations Security Council Resolution S/RES/872**, 5 October 1993, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N93/540/63/PDF/N9354063.pdf?OpenElement> [Accessed 10/11/2010], “ (f) To monitor the process of repatriation of Rwandese refugees and resettlement of displaced persons to verify that it is carried out in a safe and orderly manner”.

^{cxviii} **United Nations Security Council Resolution S/RES/965**, 30 November 1994, 3473rd meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/475/84/PDF/N9447584.pdf?OpenElement> [Accessed 08/12/2010], « Noting the deployment of human rights officers to Rwanda by the High Commissioner for Human Rights in order to monitor the ongoing human rights situation, to help redress existing problems and prevent possible human rights violations from occurring, to help foster a climate of confidence and the establishment of a more secure environment and thus facilitate the return of refugees and displaced persons, and to implement programmes of technical cooperation in the field of human rights, particularly in the area of administration of justice,” [...] Noting the deployment of human rights officers to Rwanda by the High Commissioner for Human Rights in order to monitor the ongoing human rights situation, to help redress existing problems and prevent possible human rights violations from occurring, to help foster a climate of confidence and the establishment of a more secure environment and thus facilitate the return of refugees and displaced persons, and to implement programmes of technical cooperation in the field of human rights, particularly in the area of administration of justice[...] Reaffirms that UNAMIR will: (a) Contribute to the security and protection of displaced persons, refugees and civilians at risk in Rwanda including through the establishment and maintenance, where feasible, of secure humanitarian areas;

^{cxviiii} **United Nations Security Council Resolution S/RES/918**, 17 May 1994, 3377th meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/218/36/PDF/N9421836.pdf?OpenElement> [accessed 08/12/2010] “Decides to expand UNAMIR’s mandate under resolution 912 (1994) to include the following additional responsibilities within the limits of the resources available to it:

(a) To contribute to the security and protection of displaced persons, refugees and civilians at risk in Rwanda, including through the establishment and maintenance, where feasible, of secure humanitarian areas.”

^{cxviiii} **United Nations Security Council Resolution S/RES/955**, 1994, <http://www.un.org/ict/english/Resolutions/955e.htm> [Accessed 10/11/2010]

^{cxviiii} **United Nations Security Council Resolution S/RES/1029**, 12 December 1995, 3605th meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N95/399/06/PDF/N9539906.pdf?OpenElement> [accessed 08/12/2010], “Underlining the need for increased efforts to assist the Government of Rwanda in the promotion of a climate of confidence and trust in order to facilitate the return of Rwandan refugees in neighbouring countries [...] Decides also, in the light of current efforts to restore peace and stability through the voluntary and safe repatriation of Rwandan refugees, to adjust the mandate of UNAMIR so that UNAMIR will: (a) Exercise its good offices to assist in achieving the voluntary and safe repatriation of Rwandan refugees within the frame of reference of the recommendations of the Bujumbura Conference and the Cairo Summit of the Heads of State of the Great Lakes Region, and in promoting genuine national reconciliation, (b) Assist the Government of Rwanda in facilitating the voluntary and safe return of refugees and, to this end, to support the Government of Rwanda in its ongoing efforts to promote a climate of confidence and trust through the performance of monitoring tasks, (c) Assist the United Nations High Commissioner for Refugees and other international agencies in the provision of logistical support for the repatriation of refugees [...]. »

^{cxviiii} **United Nations High Commissioner for Refugees**, 12 April 1995, Tripartite Agreement on the Voluntary Repatriation of Rwandese Refugees from Tanzania, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=type&docid=44ae612dc6&skip=0&type=MULTILATERALTR EATY&query=repatriation&searchin=title&display=10&sort=date> [Accessed 10/11/2010]

^{cxviiii} **United Nations Security Council Resolution S/RES/1011**, <http://www.mtholyoke.edu/acad/intrel/unamir4.htm> [Accessed 11/11/2010].

^{cxviiii} **United Nations Security Council Resolution S/RES/1029**, 12 December 1995, <http://www.unhcr.org/refworld/docid/3b00f15b18.html> [Accessed 11/11/2011].

^{cxviiii} **United Nations Security Council Resolution S/RES/1153**, 23 April 1996, 3656th meeting, Reaffirming the need for a long-term solution to the refugee and related problems in the Great Lakes States, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N96/102/55/PDF/N9610255.pdf?OpenElement> [Accessed 08/12/2010].

^{cxviiii} **United Nations Security Council Resolution S/RES/1050**, 3640th meeting, 8 March 1996, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N96/058/14/PDF/N9605814.pdf?OpenElement> [Accessed 08/12/2010],

“Emphasizing the importance it attaches to the role and responsibility of the Government of Rwanda in promoting a climate of confidence, security and trust and the safe return of Rwandan refugees [...] Emphasizing also the importance it attaches to States acting in accordance with the recommendations adopted by the Regional Conference on Assistance to Refugees, Returnees and Displaced Persons held in Bujumbura in February 1995, the Summit of Heads of States of the Great Lakes region held in Cairo on 28-29 November 1995, and the follow-up conference of 29 February 1996 held in Addis Ababa, and the importance it attaches to the continuation of efforts to convene a regional conference for peace, security and development in the Great Lakes region [...] Encourages the Secretary-General, in agreement with the Government of Rwanda, to maintain in Rwanda a United Nations office, to be headed by his Special Representative and to include the present United Nations communications system and radio station, for the purpose of supporting the efforts of the Government of Rwanda to promote national reconciliation, strengthen the judicial system, facilitate the return of refugees and rehabilitate the country’s infrastructure, and of coordinating the United Nations efforts to that end; [...] Commends the efforts of States, including neighbouring States, the United Nations and its agencies, the European Union and non-governmental organizations which have provided humanitarian assistance to refugees and displaced persons, and underlines the importance it attaches to continued efforts by the Government of Rwanda, neighbouring States, the international community and the United Nations High Commissioner for Refugees to facilitate the early, safe, voluntary and organized return of Rwandan refugees to their own country in accordance with the recommendations of the Bujumbura conference”.

^{cxviii} **United Nations Security Council Resolution S/RES/1161**, 3870th meeting, 9 April 1998, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N98/099/83/PDF/N9809983.pdf?OpenElement> [Accessed 08/12/2010], “Reaffirming the need for a long-term solution to the refugee and related problems in the territories of States of the Great Lakes region.”

^{cxviiii} **UNHCR Global Report 2004**, Rwanda, p.1.

^{cxviiii} **United Nations High Commissioner for Refugees**, 18th August 2005, Tripartite Agreement between UNHCR, Burundi and Rwanda, for the Voluntary Repatriation of Rwandese Refugees from from Burundi <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=type&docid=44ae612dc6&skip=0&type=MULTILATERALTR EATY&querysi=repatriation&searchin=title&display=10&sort=date> [Accessed 11/11/2010]

^{cxviiii} **Schafer** Leslie E., 1999, *Learning from Rwanda: addressing the Global Institutional Stalemate in refugee crises*, *Global Legal Studies Journal*, Vol 6:315, p.335.

^{cxviiii} **Government Printer**, *Laws of the State of Israel: Authorized Translation from the Hebrew, Volume I*., Jerusalem, Israel (1948-1987), p.25,

<http://web.archive.org/web/20091028101656/http://geocities.com/savepalestineno/israelaws/fulltext/abandonedareasord.htm> [Accessed 13/12/2010].

^{cxviiii} **Text of Arab peace initiative adopted at Beirut summit**, 28 March 2002, Relief Web, Agence France Presse, <http://www.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/5a7229b652beb9c5c1256b8a0054b62e> [Accessed 02/01/2011].

^{cxviiii} **United Nations Assembly Resolutions A/RES/194(III)**, 1948, *Palestine -- Progress Report of the United Nations Mediator*, <http://domino.un.org/unispal.nsf/0/c758572b78d1cd0085256bcf0077e51a?OpenDocument> [Accessed 18/10/2010], Article 11: *Resolves* that the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the governments or authorities responsible; Instructs the Conciliation Commission to facilitate the repatriation, resettlement, and economic and social rehabilitation of the refugees and the payment of compensation, and to maintain close relations with the Director of the United Nations Relief for Palestine Refugees [...]

^{cxviiii} **Caplan** Neil, 1993, *The Lausanne Conference, 1949 : a case study in Middle East peacemaking*, Tel Aviv, Tel Aviv : Tel Aviv University, p.51.

^{cxli} **United Nations General Assembly Resolution A/RES/302 (IV)**, 1949, *Assistance to Palestine Refugees*, <http://domino.un.org/unispal.nsf/0/af5f909791de7fb0852560e500687282?OpenDocument> [Accessed 18/10/2010].

^{cxli} **United Nations Relief and Works Agency for Palestine Refugees in the Near East**, 2006, Consolidated Eligibility and Registration Instructions, <http://www.unrwa.org/userfiles/2010011995652.pdf> [Accessed 02/01/2011].

^{cxlii} **United Nations Security Council Resolution S/RES/237**, 14 June 1967, 1361st meeting, <http://unispal.un.org/UNISPAL.NSF/0/E02B4F9D23B2EFF3852560C3005CB95A> [Accessed 13/12/2010] “Calls upon the Government of Israel to ensure the safety, welfare and security of the inhabitants of the areas where military operations have taken place and to facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities.”

^{cxliii} **United Nations General Assembly Resolution A/RES/2792 (XXVI) A-E**, 6 December 1971, <http://domino.un.org/unispal.nsf/eed216406b50bf6485256ce10072f637/0097a07d87cd0e53852560de006b021a?OpenDocument> [Accessed 13/12/2010] “calling upon the Government of Israel to take effective and immediate steps for the return without delay of those inhabitants who had fled the areas since the outbreak of hostilities.”

^{cxliiv} **United Nations General Assembly Resolution A/RES/36/146(A-H)**, 16 December 1981, <http://unispal.un.org/UNISPAL.NSF/0/16DC32D615D8176B852560D9005860C5> [Accessed 10/12/2010], “Recalling the provisions of paragraph 11 of its resolution 194 (III) of 11 December 1948 and considering that measures to resettle Palestine refugees in the Gaza Strip away from the homes and property from which they were displaced constitute a violation of their inalienable right of return [...] Reaffirms the inalienable rights of all displaced inhabitants to return to their homes or former places of residence in the territories occupied by Israel since 1967 and declares once more that any attempt to restrict, or to attach conditions to, the free exercise of the right of return by any displaced person is inconsistent with their inalienable rights and inadmissible.”

^{cxliv} **United Nations Security Council Resolution S/RES/799**, 18 December 1992, 3151th Meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N92/831/38/IMG/N9283138.pdf?OpenElement> [Accessed 13/12/2010], Reaffirms the applicability of the Fourth Geneva Convention of 12 August 1949 to all the Palestinian territories occupied by Israel since 1967, including Jerusalem, and affirms that deportation of civilians constitutes a contravention of its obligations under the Convention; Demands that Israel, the occupying Power, ensure the safe and immediate return to the occupied territories of all those deported.”

^{cxlvi} **United Nations General Assembly Resolution A/RES/64/90**, 19 January 2010, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/467/23/PDF/N0946723.pdf?OpenElement> [Accessed 10/12/2010], “Reaffirms that the Palestine refugees are entitled to their property and to the income derived therefrom, in conformity with the principles of equity and justice; Requests the Secretary-General to take all appropriate steps, in consultation with the United Nations Conciliation Commission for Palestine, for the protection of Arab property, assets and property rights in Israel.”

^{cxlvii} **Report by the Secretary General S/8851 in accordance with Security Council Resolution 259**, 14 October 1968, <http://unispal.un.org/UNISPAL.NSF/0/1E5C4BC46056126C852563FC006169D0> [Accessed 04/01/2011]

^{cxlviii} **United Nations Security Council Resolution S/RES/997**, 9th June 1995, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N95/173/26/PDF/N9517326.pdf?OpenElement> [Accessed 03/01/2011].

^{cxlix} **United Nations Security Council Resolution S/RES/836**, 4 June 1993, 3228th meeting, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N93/330/21/IMG/N9333021.pdf?OpenElement> [Accessed 05/12/2010], p.2: “recognition of the right of all refugees to return to their home; and respect for the sovereignty, territorial integrity and political independence of the Republic of Bosnia and Herzegovina”.

^{cl} **United Nations Security Council Resolution S/RES/859**, 24th August 1993, 3269th meeting, UNHCR, <http://www.unhcr.org/refworld/docid/3b00f161f.html> [Accessed 13/12/2010], “Acting under Chapter VII of the Charter of the United Nations, recognition and respect for the right of all displaced persons to return in their homes in safety and honour.”

^{cli} **United Nations Security Council Resolution S/RES/1050**, 3640th meeting, 8 March 1996, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N96/058/14/PDF/N9605814.pdf?OpenElement> [Accessed 08/12/2010], “Emphasizing the importance it attaches to the role and responsibility of the Government of Rwanda in promoting a climate of confidence, security and trust and the safe return of Rwandan refugees [...] Emphasizing also the importance it attaches to States acting in accordance with the recommendations adopted by the Regional Conference on Assistance to Refugees, Returnees and Displaced Persons held in Bujumbura in February 1995, the Summit of Heads of States of the Great Lakes region held in Cairo on 28-29 November 1995, and the follow-up conference of 29 February 1996 held in Addis Ababa, and the importance it attaches to the continuation of efforts to convene a regional conference for peace, security and development in the Great Lakes region [...] Encourages the Secretary-General, in agreement with the Government of Rwanda, to maintain in Rwanda a United Nations office, to be headed by his Special Representative and to include the present United Nations communications system and radio station, for the purpose of supporting the efforts of the

Government of Rwanda to promote national reconciliation, strengthen the judicial system, facilitate the return of refugees and rehabilitate the country's infrastructure, and of coordinating the United Nations efforts to that end;[...] Commends the efforts of States, including neighbouring States, the United Nations and its agencies, the European Union and non-governmental organizations which have provided humanitarian assistance to refugees and displaced persons, and underlines the importance it attaches to continued efforts by the Government of Rwanda, neighbouring States, the international community and the United Nations High Commissioner for Refugees to facilitate the early, safe, voluntary and organized return of Rwandan refugees to their own country in accordance with the recommendations of the Bujumbura conference".

^{clii} **United Nations Security Council Resolution S/RES/237**, 14 June 1967, *1361st meeting*, <http://unispal.un.org/UNISPAL.NSF/0/E02B4F9D23B2EFF3852560C3005CB95A> [Accessed 13/12/2010] "*Calls upon the Government of Israel to ensure the safety, welfare and security of the inhabitants of the areas where military operations have taken place and to facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities.*"

^{cliii} **The Fourth Hague Convention**, 18th October 1907, Yale Law School, The Avalon Project, Laws and Customs of War on Land, http://avalon.law.yale.edu/20th_century/hague04.asp#art43 [Accessed 20/11/2010], Article 46(1) Art. 43 "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

Art. 46. "Family honor and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected"

^{cliv} **Fourth Geneva Convention**, 1949, International Committee of the Red Cross, <http://www.icrc.org/ihl.nsf/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5> [Accessed 13/12/2010], Article 49.

^{clv} **UNHCR**, October 2008, States Parties to the 1951 Convention and its 1967 Protocol, <http://www.unhcr.org/3b73b0d63.html> (Accessed 23/12/2010).

^{clvi} **United Nations Relief and Works Agency for Palestine Refugees in the Near East**, <http://www.unrwa.org/etemplate.php?id=47> [Accessed 21/10/2010].

^{clvii} **1951 Convention and Protocol Relating to the status of refugees**, <http://www.unhcr.org/pages/49da0e466.html> [Accessed 22/10/2010].

^{clviii} **Nations Relief and Works Agency for Palestine Refugees in the Near East**, <http://www.unrwa.org/etemplate.php?id=86> [Accessed 21/10/2010].

^{clix} **Austrian Center for Country of Origin and Asylum Research and Documentation**, 2006, *COI Network & Training, Annex I*.