

CHAPTER 8

RETURN TO HOMELAND - RELOCATION

IV. Return or Minority Return

It is only just over two years since Dayton was signed. In a country so divided ethnically by the war, in a country where there was so much physical destruction of personal and productive capacity, not to count infrastructure, preparing the conditions for return takes time. But if the focus and most of the energy are concentrated on return to areas in which the returnee will be a minority, the return process will take another ten to fifteen years at the rate of return demonstrated by mid-1998. Given the pressures from European countries with large numbers of refugees who have received temporary asylum, fifteen years is too long a time - far too long a time.

Should a program of reintegration into Bosnian society be developed to complement the minority returns program to the specific homes, villages and towns from which the refugees and displaced persons fled? As the Reconstruction and Return Task Force (March 1998) noted, "Successfully reintegrating them [the refugees and displaced persons] into Bosnian society is essential both from a humanitarian perspective, and to ensure sustained economic growth and overall political stability in the medium-term." (p. i) Clearly, returns to minority areas requires a much greater degree of commitment from the Bosnian authorities at the local level than they have demonstrated thus far. It also requires a far higher degree of political intervention and a more activist IPTF and SFOR presence to guarantee security by the international community.

In the meanwhile, other aspects of Dayton are largely being ignored - particularly the right of the displaced persons and refugees to receive compensation and get on with their lives. We will have to examine whether initiating a compensation program will undermine the minority returns program, but we must first note what the experienced internationals in BiH have concluded will be necessary in order for the minority program to have much greater success.

The March RRTF plan calls on the international community for intensified OHR intervention, enhanced SFOR and IPTF preventive actions, increased support for UNHCR human rights monitors, and increased financial investment for jobs and education as well as infrastructure and housing. In addition, the local authorities are reprimanded for not putting a stop to double occupancy, for continuing to allow bureaucratic obstructions to slow the rate of return, for not removing remaining legislative barriers for obtaining permits, etc, and for in general lacking the requisite will to carry out the provisions of the Dayton Accords.

But the international community has been so focused on the reintegration provisions of Dayton that it has all but ignored the provisions for compensation and the rights of the displaced and refugees to get on with their lives even if it means resettlement and reintegration in majority areas or abroad. Article

7 is routinely and repeatedly cited to support the vast array of measures required to support minority return, while those provisions for alternative initiatives are ignored. Is the international community just as responsible for ignoring these provisions of Dayton as the indigenous authorities are for undercutting the minority return provisions? Would the pressure be eased and the prospects for minority returns **enhanced** if a proper compensation program were developed? Or would the development of such a program undermine the minority returns program rather than enhance it?

On a bus stop touring through BiH, I met a young man who worked as a manager in a small airline company. He spontaneously translated my needs to the local restaurateur. He had a wife who spoke perfect English and a four year old daughter. Both he and his wife were of mixed Bosniac/Serb extraction. As it turns out, he had recently obtained permission to migrate to Canada after only applying four months ago and was going through the agony of deciding by the end of the year whether he would follow through on this initiative and deal with the trauma of emigration and the agonies of leaving behind family, particularly both sets of parents. But he was just one example of the despair that gripped many younger people when economic prospects still looked so poor several years after the end of the war, when the situation seemed to still be so unstable, and when Kosovo and the reminders of the lack of international resolve to intervene as thugs took the initiative in determining the real results on the ground. He was but a small example of the continuing hemorrhaging of human capital of young and educated people as the country struggled to get on its feet.

The RRTF report as well as many others have noted that the time of easy returns to areas controlled by the majority **and** to which the returnee belonged is over. 1997 returns were 40% lower than 1996, and 1998 looks like it will be lower still, well under the number targeted. As the RRTF report noted, reiterating the theme of other studies, "Few people have returned to areas where they would be ethnic minorities, and such 'minority returns' are often localized in the Zone of Separation and correspond to elderly individuals or large groups with strong international back up." (pp. i-ii)

It is often said that most displaced people and refugees express as their first desire a wish to return to their homes from which they fled. But this is virtually a universal wish among refugees and means nothing. It is not a basis for policy. For it is always conditioned by the qualification "if things could get back to the way they were." The desire is not unconditional. Nor does it exclude the possibility of other choices. The question is whether the international community has done an adequate job in offering those other choices as contemplated and provided for in the Dayton Accords. Further, "a large number of rural people who were displaced into cities express little desire to return to their villages." (RRTF, 1998 ii) The war simply greatly accelerated the rural-urban migration process.

With the stress on minority return, the RRTF report concluded that, "The primary factor for refugee and displaced persons when making the decision to return is political. A proper political and environment and security are critical pre-conditions. To date, economic assistance has proven to have little influence on the decision to return if political conditions are not right." (ii) Fair enough as stated, for economic assistance has been focused on returns to minority areas. Why not facilitate the process of return by providing economic assistance that would facilitate return to majority areas and decrease the demand external political and security interventions, which, in any case, could never be any where near

sufficient given the size of the country.

In majority areas, the political and security concerns significantly diminish, though they certainly do not go away. The focus can then be on accommodation and employment opportunities, the latter enhanced when private investors are not faced with continuing ethnic tensions and insecurity. The RRTF report noted that, "Assistance should be aimed at ensuring refugees and displaced persons can make free and informed choices with regard to their place of residence within Bosnia and Herzegovina." (ii) But for free and informed choices to be made, a market must be available for them to sell and buy their property and relocate to areas with security and employment opportunities, which in turn enhances the attraction of some areas for private sector investment and for more migration to that area. Instead, the RRTF report sees free choice of migration to majority areas as the exception and the alternative option. "In appropriate cases, assistance may, however, also be directed towards those rural populations who wish to settle permanently in cities, and to persons returning to majority areas from asylum countries." In other words, in recognition of rural to urban migration, and under the compulsion to resettle refugees from abroad, assistance could be provided to returns to majority areas. This was in clear recognition that the policy of rebuilding houses in small villages that had been evacuated and in which the houses had been destroyed in order to attract returnees to minority areas had not been successful. "Reconstructing villages of origin has proven both costly and relatively ineffective in motivating such people to return; even once their homes are repaired, they tend to stay in town." (RRTF Task Force, March 1998, 33)

Perhaps one should be grateful for small gifts. But why not create an environment which shifts the burden from assistance to a market in real estate and which allows choices to be made instead of basing policy almost entirely on a political doctrine which stresses economic assistance priorities for minority areas. Because the minority relocation program would then be undermined? Perhaps that is both the motive for ignoring the compensation issue and reduced support for minority integration might even be a consequence. But, as I will suggest, a properly devised compensation program based on market considerations would not only enhance the number of returnees, but ease the impossible pressures and demands on the current efforts towards minority return. After all, as it now exists, even if with enhanced aid as advocated and indicated as required by the EC and World Bank (April 1998), "External financial support will remain insufficient compared to the needs." (RRTF, iii)

The present program, in light of the World Bank's post-Washington doctrine of framing economic reforms within a political/security context, now puts the emphasis on the political/security environment and places economic revival and employment creation, housing and infrastructure reconstruction within that context. However, all those efforts are put within the larger political ideology of minority integration to ensure that the "ethnic cleansers" do not enjoy what Emil Fackenheim called (in reference to the Holocaust) a posthumous victory. Perhaps, one of the motivations for putting a provision for property compensation within the Dayton Accords was to satisfy a demand of the Serbs, but which the other side, supported by the international community, had no intention of implementing. However, if those reluctant to implement Dayton, and hell-bent on undermining the intentions of the peace agreement, see some provisions ignored, then how can they be faulted for ignoring others.

There is another argument for making use of the compensation provisions in addition to relieving the pressures for a proper and adequate implementation of the minority return provisions, the humanitarian interest in allowing the refugees and displaced persons to get along with their lives, the principle of allowing those individuals to make the key choices rather than having those choices predetermined by extremist spoilers or internationals committed ideologically to exclusive emphasis on minority return, and for keeping the principle that all provisions and not just selected provisions of the Dayton Accords should be upheld and implemented. It is the principle of humanitarian realism - that is, ideals must be implemented taking account of reality lest that very reality totally subvert idealist goals.

Therefore, the stress should be placed on as free and full an individual choice as is possible to enhance the return and reintegration of refugees and displaced persons, and to do so to enhance the options both for relocation in majority areas as well as reintegration in minority ones. The RRTF March 1998 report emphasized that, "To achieve harmonious reintegration in accordance with Annex 7 of the Dayton Peace Agreement, international assistance is needed - or population movements will result only in chaos and long-lasting uncertainty for many." I would argue that placing the whole emphasis on harmonious reintegration means that there will never be sufficient international support, that the possibilities for harmonious reintegration will be undermined, that progress will be slow and discouraging and that the results will ensure that there will certainly be 'long-lasting uncertainty for many'. What is needed is to put the other track in place provided in Dayton, to create a capital rather than assistance package which will facilitate a sale of properties for those unwilling or unable to return to minority areas.

V. Changing Direction: From Minority Return to Relocation

While 1998 had been declared the year of minority returns, a number of changes indicated a significant shift in strategy for the international community. The shift began with the recognition that the policy of minority returns would enjoy, at best, only a very minor success. If something was not done, the refugees and internally displaced would be left in limbo for years. Further, as little as the success was of minority returns, it was also set back by the continuing destruction of property and the exodus of minority populations from majority areas *following* the signing of the Dayton Accords. It began with the continuation of the ethnic cleansing after the cease-fire; 60,000 Serb nationals from Sarajevo moved in February and March of 1996 as the biggest single movement, but there were other lesser movements as well.

As indicated in the beginning of this article, the Dayton Accords had made provision for an alternative strategy to minority returns - namely compensation. "A Refugees and Displaced Persons Property Fund (the "Fund") shall be established in the Central Bank of Bosnia and Herzegovina to be administered by the Commission. The Fund shall be replenished through the purchase, sale, lease and mortgage of real property which is subject to claims before the Commission. It may also be replenished by direct payment from the Parties, or from contributions by States or international non-governmental organizations."

Though the shift in strategy was probably stimulated by the recognition by astute and

experienced officials in the international community that the minorities strategy would enjoy only limited success, the recognition of the need to develop an alternative strategy came when the views of displaced persons were ascertained. The beginning of implementing this provision for creating a mechanism for relocation began with two separate surveys, one done by the Danish Refugee Council in November of 1997 and another undertaken jointly by the UNHCR and the Commission in December of 1997. Heretofore, the received reasoning was simple - displaced persons and refugees simply wanted to return to their original homes. These surveys changed that perception even though many of the questions were intended to reinforce the minority returns strategy.¹

First, both surveys clearly and unequivocally made clear that a majority of Serbs (53%) did not even want to return to their original homes at all and a further 22% were equivocal even if the majority of their neighbors returned and even if local authorities guaranteed their safety. Though a majority of Croats wanted to return and, overwhelmingly (80%) Bosniacs chose this option, this question only indicated a first preference, not what they would or would prefer to do given the current circumstances. For example, in a separate survey of Croats from Bugojno and of Bosniacs from Prozor done for the CRPC, the desire to return was also accompanied by a desire to shift an area from one that would give them only a minority status into an area in which they would be a majority. In other words, the preference for return was conjoined with a preference for collective return and the reconstitution of that area as a majority area for the individuals group. Further, the survey indicated that it was the older people who wanted to return to their original homes while younger people, especially those from small villages and rural areas, just wanted to get on with their lives in a place where they could be secure (93% of those surveyed in the CRPC poll noted that trust of local authorities and the security they provided was a prime consideration in the determination of where to live), and, more significantly, access to employment opportunities. Interesting enough, an overwhelming 97% of the displaced persons and refugees indicated that the quality of the housing was more important than even employment opportunities. None of these preferences were inconsistent with the readiness of the majority to live side by side members of other ethnic groups. They just did not want to do so at the expense of their own sense of security.

What emerged most clearly from the surveys was that the prime issue for most of the displaced was not return to origins, but the political environment and security, and, for younger people, employment opportunities. Of course, the availability of accommodation was also a key consideration.

Minority registrations in elections would be one indirect indicator of a desire to return. But in the western part of Republika Srpska, only 14% of eligible voters registered. The greatest reluctance to receive minority returns has been in contested areas, areas that in the pre-war period had one group in the majority and in the post-war period had another group in control. In other words, "minority returns may be easier to achieve in areas where an overwhelming pre-war majority still exists" and, more notably for the RRTF Task Force was the recognition of the complementary proposition: "Minority returns will be more difficult, at least for some years to come in municipalities and regions where current majorities were minorities or narrow majorities prior to the war." (p. 9)

The strategy of minority returns now had to deal with contested areas. The phase of easy

returns to majority areas and minority areas was now over. The heart of the problem now had to be confronted. Would the strategy concentrate on an idealistic effort to restore the situation of a mixed population before the war, or would the effort now be placed on accepting the new reality, however much it played into the hands of the ethnic cleansers and however distasteful it was to facilitate the accomplishment of their goals, even if it was for humanitarian purposes and the best interests of the displaced population. Clearly, the time had come to offer a new strategy to complement the overwhelming emphasis on minority returns.

The motivation of refugees and the very limited success of the minority returns policy were not the only reasons. The acceptance of general trends in migration was another critical factor. One of the key factors in migration in general is the existence of housing shortages which provide one pressure for movement. So does the rural/urban shift. Beyond the security issue particular to areas of conflict, in addition to lack of access to housing and the attractions of city life, a key factor in migration is the existence of employment opportunities. Thus, focusing only on majority returns to majority areas and returns to minority areas ignored population shifts as a dynamic process.

This was, of course, one of the key factors in migration factors in general for housing shortages provide one pressure for movement. So does the rural/urban shift. But beyond the security issue particular to areas of conflict, the key factor in migration is employment opportunities. Thus, focusing only on majority returns to majority areas and returns to minority areas to reconstruct the *status quo ante* tended to reify populations rather than accept that populations movement was a fact of life even in non-conflict areas. The conflict not only forced the issue of relocation on an unwilling population, but accelerated patterns and trends already present.

The RRTF Action Report recognized the existence of all these factors and its new action plan began to prepare the ground for the shift in emphasis from minority return to relocation. In March, the RRTF Action Plan had stressed a new path and priority: “donors should focus their financial assistance on accompanying population flows, as well as supporting focused interventions aimed at promoting return.” (p. 4) In other words, not only was it now acceptable to financially support relocation, this was the preferred new strategy while efforts at minority returns continued.

Though UNHCR was an integral part of the new Action Plan, its public rhetoric was more cautious when it came to implementation. While UNHCR restated the theme of voluntary return to pre-conflict homes for refugees and displaced persons “as the preferred solution” as well as local integration (into Croatia for Bosnian Croats there and into the Republic of Yugoslavia for Bosnian Serbs there) and resettlement in third countries, a fourth option was opened in June of 1998 when UNHCR in a new policy offered “relocation” as a fourth *real* option. It was now acceptable to rehouse refugees and the internally displaced into majority areas - that is, to relocate the refugees and displaced persons. “On 9 June 1998, the Steering Board of the Peace Implementation Council announced its support for the Regional Return Strategy presented by UNHCR.” (Segal 1998, 1)

To implement the new direction in policy, a key mechanism had to be put in place to break the gridlock imposed by the existing housing stock being occupied by people who were not the rightful

possessors of that property. A facility was needed so that rightful possession and existing occupancy could be once again brought into alignment. For as it existed, people occupied property in which they did not have rights and had rights to property which they did not and, in most cases, could not occupy.

The Property Options Strategy was developed to deal with the alternative to return for those refugees and displaced persons no longer in possession of their property to offer an option for just compensation in lieu of return. Essentially, the intention of the Fund was to set up a mechanism for a market in certificates so that refugees and displaced persons who did not want to return or who had decided they would not be able to return to sell their certificates at a just price under the circumstances. It is also clear that the option of Compensation and the mechanism for its implementation serves the direct interests of the ethnic cleansers.

The CRPC operates by collecting property claims and issuing certificates of entitlement. By June 1998, the Commission had received 100,000 claims and, as of 1 July, 10,000 certificates had been issued. (Siegel 1998, 5) The certificates enable the refugees and displaced persons not only to return home, but to lease or sell their property or postpone any decision without prejudice to a later date. The Property Options Strategy was developed to deal with the alternative to return for those refugees and displaced persons no longer in possession of their property to offer an option for just compensation in lieu of return. Essentially, the intention of the Fund was to set up a mechanism for a market in certificates so that refugees and displaced persons who did not want to return or who had decided they would not be able to return to sell their certificates at a just price under the circumstances. It is also clear that the option of Compensation and the mechanism for its implementation serves the direct interests of the ethnic cleansers.

On 9 June 1998, the mechanism for compensation emerged into the open and “The Steering Committee welcomes the *Property Options Strategy* developed by the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC).” However, the new option was undermined as soon as it was endorsed since the resources for the Property Compensation Fund was to be generated locally by the two Entities. Thus, even though Dayton provided that contributions to the Fund could come from international sources, the Steering Committee had excluded this option. In fact, the initial draft proposal for the Compensation Fund had suggested that the Fund be created by redirecting “major donor support for reconstruction activities throughout Bosnia and Herzegovina” to the Fund matched by contributions from the two Entities. This would clearly have undermined the monies used as sticks for the minority return, and, in any case, was unnecessary if the fund was to be self sustaining. On the other hand, in contrast to the UNHCR proposal, there was no reason that contributions to the Fund could not come from capital, repayable loans from the international community rather than from concessionary loans and grants. The Fund was explicitly intended to break the gridlock where a displaced person in one area could neither purchase his existing state of residence nor receive compensation or possession for his residence occupied by another displaced person.

What are the numbers involved. According to the RRTF Action Plan of March 1998, “refugee returns to Bosnia and Herzegovina and further movements of displaced persons are likely to involve no more than 400,000 people in the two to three years to come.” (p. 9) This means 100,000 households.

At an average cost of \$20,000 rehabilitation cost per house and a purchase price averaging \$20,000 for the distressed property and a contingency of \$10,000 for other factors - demining, etc., we are talking about a capital investment of \$50,000 x 100,000 homes for a total of US\$5 billion. These need not be concessionary grants. Further, only 60% or US\$ 3 billion needs to be provided in fact as 40% of the monies could come from the sale of property rights in the territory where the individual originally came from.²

This partially explains the incentives behind the Open Cities Initiative (see below) but it does not explain the neglect of provision for financing and facilitating returns to majority areas of those refugees who are unwilling or unable to return to minority areas.

“Whereas the RRTF maintains that ‘relocation is not a solution t the refugee problem,’ [source, RRTF, December 1997, 18] UNHCR considers that ‘relocation is an important component in the search for durable solutions for displaced persons and refugees.’[source, UNHCR, December 1997, 5- Note: the reference supported only voluntary and not passive or hostile relocations] (ICG May 1998, 7)

“The main proponents of relocation are Croat and Serb hard-liners: the HDZ, the SDS, the Serb Radical Party (SRS, *Srpska radikalna stranka*), the SNS (*Srpski narodni savez*) party pf President Biljana Plavsic, and the Serb Party for Krajina and Posavina (SSKIP).” (ICG May 1998, 8)

“Relocation is clearly unacceptable when it takes place as a result of official manipulations and would likely leave behind frustrated, hate-filled or despairing refugees. It would also play into the hands of those forces who most want to destroy all potential for restoring a multi-ethnic Bosnia.” (ICG May 1998, 7)

“Prime Minister Dodik in March 1998 urged first the exchange of property, then financial compensation, and third, return with the respect of the personal will of refugees.” (ICG May 1998, 8, *Oslobodjenje*, 10 March 1998 cited)

“The combination of political resistance in many parts of Republika Srpska and a weak economic foundation leaves one likely solution for the vast majority of returnees: relocation.”(ICG May 1998, 12)

“Zeljko Matic, chairman of the Association of Croats from Republika Srpska explains that the only durable solution for the 230,000 Croats displaced from Republika Srpska is to build new viallages in Croat-controlled Federation in the Neretva valley and the Stolac plateau.” (ICG My 1998, 8, the citation is from *Slobobodna Bosna*, 27 Feb. 1998)

“The degree of relocation that has taken place in the Una-Sana Canton, especially in Sanski Most, supported in large part by funds from West European countries that host refugees, has now rendered the return of Serbs exceedingly difficult.” (ICG May 1998, 9)

“A (CRPC May 1998, 1)t the end of May 1998, CRPC had completed and distributed 7,400 decision

certificates.” (CRPC May 1998, 3)

“At current funding levels, the decision making rate of 3,200 per month is well below the needs of the peace process.” (CRPC May 1998, 3)

1. For an interpretation of these surveys, cf. RRTF Action Plan, March 1998, 5-6.

2. This estimate is close to that one arrived at by Bosnian authorities who stated “that bout US\$8,000 to US\$10,000 per person would be needed for successful return and reintegration, i.e. about US\$3 to US\$4 billion for the expected 300,000 to 400,000 persons.” (RRTF Action Plan, 1998, 16)