"Refugees and Sustainable Development:a rights-based approach"

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In the on-going debate concerning the complex linkages between the international movement of refugees and the phenomenon of international migration, UNHCR has insisted that refugees constitute a legally distinct group of people by virtue of the fact that they have left their own country in response to serious threats to their life and liberty. On this basis, UNHCR has stressed the dangers of blurring the line that separates refugees from migrants moving from one country to another for economic or social reasons.

In the debate concerning Migration and Development, UNHCR has again pointed to the difference between refugees and migrants, and noted the apparent limited relevance of the current discourse in that debate to the situation of refugees. For instance, while the primary motivation of most international migrants is to find work, earn a better income or learn new skills, refugees are forced to move in order to seek asylum and find protection in another state. While migrants increasingly move backwards and forwards between their country of origin and destination, refugees cannot participate in such forms of circular migration. And while there is growing evidence that refugees are both sender and recipients of remittances which make a critical difference to the receivers, the total amount of money involved in such transactions is modest if compared to the much larger total sums which are transferred by economic migrants globally.

However, States do not always recognise the very real contribution that refugees can make to development, nor has the international community always been able or willing to ensure the additional financial resources and vigorous political engagement which participation of refugees in the development process requires. There is therefore a need for the international community to be fully aware of the specific linkages that exist between the special category of forced migration and development, and the distinct sustained response required by the international community so that refugees' contribution to economic, social, cultural and political development can be maximised in conditions where their human rights and fundamental freedoms can be fully realized.

In that respect, UNHCR considers it essential to interpret the notion of development in a broad and rights-based manner, rather than using it as a synonym for increased productivity, output and economic growth. According to the UN Declaration on the Right to Development, "the right to development is an inalienable human right, by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized."

It is precisely because they have not been able to realize their human rights and fundamental freedoms that so many people have felt obliged to seek protection or improved social and economic conditions outside their country of origin. An essential principle therefore in the formulation of a more effective human rights approach to migration and development is that citizens of all countries should be able to live safely and securely in their country of origin.

The reality is, however, that despite strong advocacy internationally in favour of the prevention of displacement, countries with flawed development processes continue to reach breaking point and generate displacement, within their borders and outside. The UN Declaration on the Right to Development then properly applies to all persons on the move: the internally displaced persons and refugees who have been forced to move, and the economic or social migrants who have chosen to move, or have had no real viable alternative to that of choosing to move.

Concerning the wider issue of the international ratification of the rights of all categories of migrants generally, it is significant that while 147 States are party to the 1951 Convention of refugees or its 1967 protocol or both, and 193 States have ratified the Convention on the Rights of the Child, only 37 States so far have adhered to the International Convention on the Rights of all Migrant workers and their families.

Following this introduction I will now on UNHCR's and the International Community's efforts to identify and implement solutions for solutions refugees in a way that satisfies their fundamental human rights including the right to development in the sense spelt out in the UN Declaration.

UNHCR's mandated function to search for durable solutions for refugees has entailed a continual debate on how to maximise sustainability. The link between relief and development has been an important concern of that debate to this day. In 2000, for instance, the "Global Consultations on International protection" gave new impetus to the discussion and resulted in a number of useful initiatives, one of which was the issuance of practical guidelines for the consolidation of durable solutions.

In what follows I consider solutions in which the link to the development process is most apparent; that is, within repatriation operations in countries of origin, and within local integration programmes in countries of asylum close to the area of displacement. I will make brief reference to conditions in the developed world, including in the European Union.

Countries of origin – repatriation

With respect to countries of origin, the focus should be on improving sustainability by fostering the capacities and institutional partnerships necessary to ensure the smooth transition from emergency relief to long-term development. Repatriation must involve more than transferring refugees across the border; it must ensure sustainable reinsertion in the community by establishing partnerships with a range of development specialists,

including government representatives, NGOs and some agencies of the United Nations system such as the World Bank, UNICEF, UNDP, ILO and WFP.

Useful examples of the past include Central America in the 1980s, as illustrated in the closely coordinated in-puts of UNHCR and UNDP within the CIREFCA process, the Conferencia Internacional para Refugiados Centro-Americanos. Within that frame-work, both agencies, donor countries, the Central American countries, Belize and Mexico cooperated in the design and implementation of multi-sectoral projects, making it possible for returnees to reintegrate in Nicaragua, El Salvador and Guatemala. The multi-sectoral nature of the projects and their linkage to the development process must be emphasized: since the ultimate goal of this regional programme was the stabilization of the region and prevention of further displacement, the projects were designed to include economic, social and political aspects in the adopted definition of sustainable development.

The work carried by UNHCR in Central America illustrates how repatriation programmes can become an important aspect part of the wider programmatic frame-work of post-conflict reconstruction. The approach requires recognition of returnees' role as active participants rather than mere passive recipients of aid.

The contribution of returnees is indeed an important factor in the success of repatriation programmes and, in the context of UN managed peace-building operations, of peace-building efforts as a whole. For instance well-disposed returnees who have positive attitudes to their former neighbours and a clear understanding of the changes in the country of origin can make a major contribution. They can help establish at least some level of tolerance and in some cases reconciliation, especially when acting within the frame-work of well-designed community-level projects linked with regional development plans which permit different parties, factions and social groups to work together on the basis of common needs and interests.

It should be noted, however, that the above-mentioned Central American experience of the 1980s and subsequent repatriation operations attest to the fact that the application of a relief-to-emergency multi-sectoral approach cant be successfully applied only when unless certain political conditions are met and when some changes in the reciprocal attitudes of refugees and receiving communities have taken place.

Unfortunately, despite the successes, the fragility of solutions must be noted: the fact is that about half of the countries emerging from conflict fall back into it within 5 years of its apparent resolution. This is a subject which UN High Commissioner for Refugees Antonio Guterres continues to raise. At his briefing of the Security Council in 2006, and referring to the repatriations to the Democratic Republic of Congo, Burundi, South Sudan, Afganistan, Liberia, Mr Guterres said:

 "UNHCR promotes return after minimum conditions are met and after we are able to verify that people will be safe following their repatriation. But in so doing we - and when I say we, I mean the International Community as a whole - routinely ignore a simple fact:

returnees cannot live on hope alone. The absence of an effective transition from short to longer-term assistance reduces the life expectancy of solutions. Without adequate resources for development, institution-building and reconciliation, he said, societies can unravel again, dormant conflicts can reignite, and civilians can be forcibly displaced once more."

Many reasons explain this. For instance: the dysfunction in the collaboration of international institutions, among themselves and with the relief or development structures of donor countries, and the adoption of different or even conflicting models of relief and development cooperation. Another reason is the failure to that programmes are funded over a long enough period. While international solidarity and multi-lateral cooperation is a reality, the selection of the locations of intervention and the commitment to ensure a continual injection of in-puts tend to be contingent upon internal political constraints and the dynamics of international politics rather more than on the criterion of sustainability. It is not uncommon that programmes in which relief and development have been well integrated in the design and initial implementation phase do not reach sustainability due to a premature, partial or total interruption of funding.

Notwithstanding these pessimistic observations, efforts to find new ways to achieve more sustainable solutions in countries of origin continue, not least within the United Nations system. For instance, the creation of the United Nations Peacebuilding Commission has the overall objective "to assist states in their transition from conflict to sustainable peace". UNHCR cooperates closely with the Commission with the aim of ensuring that the full range of UN's peace-building endeavours is brought to bear on returnee areas, which is critical for sustainability and lasting peace.

Another effort is the United Nations' coordinated multi-agency response to situations of internal displacement. The model, which is known as the "cluster approach" consists in ensuring that a number of UN agencies respond in coordinated fashion according to their mandates. It was initially applied in Uganda, the Democratic Republic of the Congo, Liberia and Somalia, and is gradually being used according to local circumstances in other countries, including Colombia and Iraq.

Countries of first asylum with large-scale refugee populations

In countries of first asylum, the mass influx of refugees and their protracted stay can drain the host country of scarce resources and, for the refugees, can result in chronic assistance dependence, in the weakening or loss of existing skills, and therefore, in reduced opportunities to participate in the development process. Also, their presence can have economic, political, environmental and security implications. In such countries the authorities can be reluctant to permit refugees to move outside the confinement of camps, unless significant financial support is provided by the international community.

Depending on the policies of host countries, refugees' engagement in the community in various activities, including the economic, can vary. It can sometimes be limited by being defined as temporary; but it is sometimes permanent, in which case the additional

development assistance provided to states not only facilitates refugees' economic self-reliance, socio-cultural integration and access to legal rights, but can permit the acquisition of citizenship.

It should be noted that the <u>timing</u> of a repatriation process can be critical for its success. For instance, a challenge posed by the presence of long-standing and large-scale refugee situations in a host country is the potential for the repatriation to occur before the necessary conditions for a safe and sustainable return exist in the country of origin. In this case, the International Community's influence in the country of asylum to prepare for the return process and to time it is critical.

Timeliness is also important, because there are a number of other possible contributions that returning refugees can make to peace-building efforts. For instance, well-timed pre-election repatriation programmes can bring an important degree of legitimacy to a UN-supervised ballot. Also, well-timed voluntary repatriation programmes can have a valuable confidence-building function by demonstrating that the peace process is moving forward and is having very tangible results: the safe return of friends and relatives who have been living in exile for many years is indeed often a more meaningful and moving experience than any number of formal peace agreements and UN resolutions. It is an important basis on which sustainable processes can be launched with a chance of success.

<u>Countries of asylum – protracted refugee situations</u>

Repatriation is not always immediately possible. Because of a lack of opportunities for repatriation, a number of refugee groups have lingered on in camps in countries of asylum in what are known as "protracted refugee situations". These account for well over half of the world's refugee situations. They receive little publicity but continue to absorb substantial amounts of international assistance without prospects for any kind of linkage to development. Refugees in such situations are trapped in static conditions, characterized by long periods of exile, stretching to decades for some groups.

There are now well over 30 protracted refugee situations in the world, mostly found in the world's poorest and most unstable regions and originating from some of the world's most fragile states, including Afghanistan, Myanmar, Burundi, Liberia, Sierra Leone, Somalia and Sudan. The average duration of these refugee situations has nearly doubled over the recent past: from an average of 9 years in 1993 to some 17 years in 2006.

The cost to the International Community in maintaining these unresolved situations does not only consist of assistance and maintenance bills. For instance, when the protracted situations neighbour the refugees' country of origin, they can continue to prevent the resolution of the conflict in the country of origin by being the source of destabilizing actions geared to undermine conflict settlement.

Countries of first asylum – the impact of developmental in-puts in the area of displacement

From a global perspective, UNHCR is fully supportive of efforts to build protection and promote solutions in the regions from which refugees originate. By reinforcing the protection and assistance available in refugees' own regions and by ensuring that refugees have access to an acceptable degree of self-reliance there, such programmes help ensure that refugees' rights are upheld, refugees' skills are kept alive and new ones developed. Also, the programmes contribute to prepare refugees for repatriation, thereby reducing the pressures which encourage refugees' onward movement to other countries of the region or to other regions, including the European Union.

However, UNHCR has continued to argue that the building of regional protection capacities outside the EU must be a complement to and not a substitute for EU Member States' obligations towards asylum-seekers arriving directly on their territory. It is important that capacity-building in host countries close to the country of displacement be driven primarily by a desire to secure effective protection, with the reduction of onward movement being a secondary consideration.

Movement of mixed population flows outside the area of displacement

Developed and developing countries are responding to the mixed population flows moving in a south-north and south-south direction with increasingly restrictive immigration policies. But the policies can only partly contain a phenomenon which is strongly dynamic, rooted as it is in the functioning of the global economy and its divisive consequences: an economy characterised by systems of production located where costs are lowest, and with a world-wide global interplay between supply and demand which create opportunities for enrichment of some sectors in some countries, but have deepened the rift between rich and poor within and among them.

In theory, addressing the divisive effects of globalisation including mounting wealth differentials should at least reduce the scale of movements. But realistically, in the mid-term, even a very significant intensification of effective development in-puts in migration-producing countries could result in only some reduction of the migration flows; it would certainly not stop them.

We can therefore expect that mixed migratory movements will continue to be a challenge in the foreseeable future. For receiving countries in the developed world including the EU, this will continue to mean the need to focus on two issues. The first is economic and developmental in-puts of economic migrants, and how to offer them opportunities for temporary or permanent settlement in conditions which respect their fundamental human rights. The second is the need to address the specific protection requirements of asylum-seekers, and how to ensure entry into the territory, access to a fair system of refugee status determination, and once recognized as refugees, access to real opportunities to integrate, participate in the development process and benefit from economic, social, cultural and political rights.

However, reconciling the arrangements required to respond to these two issues with the mechanisms established by states to control their borders, manage irregular migration and combat the activities of smugglers and traffickers, is a challenge for which no easy formula is available. The challenge provides material for continual debate, as was amply illustrated in the recent High Level Conference on Legal Migration held in Lisbon just last week.

There are, then, many challenges in creating the conditions for the integration of refugees and other migrants. The last one I wish to mention is especially important; that is the creation of an environment in which the tendencies to intolerance, xenophobia and racism are absent. The tendencies are pervasive in the range of societies in which refugees try to rebuild their lives, not only in some countries of first asylum and of origin, but also in the developed world, including the European Union. Promoting a culture of tolerance and solidarity, and encouraging politicians and the media to distinguish between security, terrorism, migration and asylum are a major part of the concerted actions required to ensure that migrants and refugees can make their contribution to development.

With such efforts, refugees can indeed become agents of development in host countries as well as upon eventual return, in ways which ensure that their human rights are respected and realized.