

## **Lessons learned from UNHCR's involvement in the Guatemala refugee repatriation and reintegration programme (1987-1999)**

by Paula Worby

### **Preface**

In early 1998 and in view of operational phase-down and eventual closure of the Office, UNHCR Guatemala began planning a series of lessons learned exercises. UNHCR considered that its unique experience in the repatriation of Guatemalan refugees from Mexico constituted an important resource for future operations, particularly in light of the highly organised and political nature of the collective return process, as well as the innovative role which UNHCR played in areas such as negotiation over refugee lands, socio-economic reintegration, and personal documentation.

The general objective of the exercise was to systematise and analyse lessons learned throughout the repatriation and reintegration process, with a view to identifying "best practices" and successful models that could be applied to other UNHCR repatriations, as well as shortcomings and limitations which should be avoided in the future. A secondary objective of the exercise was to identify "gaps" that UNHCR has been unable to meet, in order to promote appropriate linkages with long-term development actors present in the areas of return. Finally, it was hoped that a series of inter-institutional lessons learned exercises would serve a public information purpose in disseminating information about UNHCR's work in Guatemala, highlighting the importance of the international community's contribution to the achievement of a lasting peace through the donors' support for repatriation process.

The various lessons learned exercises created the opportunity to reflect on the successes and shortcomings of the repatriation process operation not only among UNHCR staff, but also among a variety of national and international institutions. This final report synthesises and builds on the results of the lessons learned field exercises, which were virtually all co-sponsored with other institutions, and include:

1. Internal UNHCR Guatemala Lessons Learned Workshop with the participation of all professional and field staff.
2. Mediating Group/GRICAR Evaluation Workshop
3. Forum on Lessons Learned in UNHCR's Work with Refugee/Returnee Women's Organisations
4. Permanent Commissions -CCPP- Workshops on the Return Process involving 35 returnee communities
5. Workshop on Reintegration and QIPs (UNHCR/CECI)
6. Workshop on the Documentation of the Uprooted Population (UNHCR/CTEAR/EU)
7. Workshop on Linkage Strategy and Sustainable Development in Returnee Areas, (UNHCR/UNDP/CEAR/CTEAR).

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**The opinions expressed in this report do not necessarily represent the opinions of UNHCR**

*The task of analysing lessons learned by UNHCR in Guatemala after 12 years of intervention is a challenging one. There is a wealth of information available but the complexity and ever-changing nature of the situation as the refugees returned, eludes simplistic analysis.*

*There is an even bigger challenge in making this information accessible and of use in UNHCR's difficult work. Surely the nature of the refugee situation and return process in Guatemala was atypical in so many ways that practical lessons are difficult to discover.*

*But the lessons are there: whether it be the benefits of ceding partial control over a repatriation process so that the refugees themselves have a voice in their destiny or the example of fortitude that the Guatemalan women put forth with full and unique support from UNHCR*

*The standards of assistance and support to the Guatemalans were high compared to the rest of the world's refugees (thanks to ongoing and specific donor support) but the conditions offered the Guatemalans should be a goal to strive for in relation to all refugees and returnees when set against the standards of minimal human dignity.*

*Above and beyond the lessons learned, however, here, among the Guatemalan refugees and returnees, there is an important story to be told. The story is about the struggle of a people overcoming their difficult historical legacy but it is intimately intertwined with the in-depth experience in repatriation and reintegration gained by UNHCR. All the UNHCR colleagues who had the privilege to work with this population were marked positively by the experience and have taken some part of their learning to other parts of the world.*

*The author of this report spent seven years with UNHCR-Guatemala (as a UNV, JPO and finally as a part-time consultant). This account is meant to be as balanced and complete as possible as well as to clear up some consistent misunderstandings about UNHCR's work in Guatemala. This report would not have been possible without the collaboration and support of numerous colleagues in both UNHCR-Guatemala and Mexico, past and present. The author also acknowledges the support of the United States Institute of Peace (USIP), which subsidised a portion of the time dedicated to this project. The views do not necessarily represent those of either UNHCR or USIP.*

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## **1. Context and background**

### **a. The Central America crisis and Guatemalan refugees in Mexico**

In the 1970's, Guatemala, along with its Central American neighbours El Salvador and Nicaragua, was immersed in social and political upheaval due to historic and profound inequalities. State violence was a frequent response to peaceful protest thus further fuelling insurgency movements. Beginning in 1980, a brutal counter-insurgency war waged under successive military governments in Guatemala, caused first individual and then massive displacements. While 20% of the country's total population was estimated to have been displaced at least temporarily (one and a half million people), of these, between 150,000 and 200,000 crossed an international border, mostly to Mexico. Here, UNHCR eventually registered and assisted some 46,000 persons dispersed in makeshift camps along the Guatemalan-Mexican border in rural and, in some cases, jungle regions in the Mexican state of Chiapas. More than 85% of the registered refugees were from approximately eight different ethnic-linguistic Mayan groups, comprising part of the indigenous population of Guatemala (which includes a total of 22 language groups). The refugee population was composed mainly of family groups (though many families were split up in flight) with an equal number of men and women. UNHCR began to negotiate its presence in Mexico when Mexican migration officials deported the first groups of refugees in 1981, and when refugee flows started to overwhelm local resources in early 1982. UNHCR opened a Mexico City office in March 1982 with the signing of an *Accord de Siege* in October of that same year. UNHCR established a presence in Comitán, Chiapas, at the same time. Significant refugee flows continued into 1983. Many groups of refugees had been in hiding in the Guatemalan jungle for months and arrived in Mexico decimated and only after their food supplies had run out. Supplies to some of the large and isolated camps in the Chiapas jungle were difficult to ensure reliably and the Mexican government documented more than 60 incidents of Guatemalan army incursions into Mexican territory including some where refugees were killed.

Under a complex regional-political situation in 1984, the Mexican government undertook a refugee relocation operation to two states on the Yucatan peninsula: Campeche and Quintana Roo. Most refugees were relocated against their will. Others fled within Chiapas or repatriated spontaneously. UNHCR was not granted open access to the relocation process. After approximately 18,500 persons had been relocated outside of Chiapas and others had spontaneously moved inland, the Mexican government halted the relocation. More than 25,000 refugees remained in Chiapas.

As of 1984, the Mexican government with international funding channelled by UNHCR made considerable effort to create model settlements in Campeche and Quintana Roo. The security situation in Chiapas improved. As food supplies became stable, the highly organised refugee population began to benefit from improved basic services including schools staffed by education promoters from their own communities and from productive and income-generating projects. In the mid-1980s refugees began to improve communication links between camps. They were also contacted clandestinely by representatives of guerrilla organisations in Guatemala who saw the

refugees as natural allies and potential recruits given their experiences with state and military repression. This relationship would influence but not over-determine the political stance that refugees would later assume towards the Guatemalan government.

- The movement for organised refugee return

In 1985, the Guatemalan Constitution was reformed and elections took place for the first civilian President since 1969. When the new government assumed office in 1986, one of its concerns was attracting the refugees home since refugee return was deemed an important political barometer for the international community of the human rights situation. UNHCR entered into a tripartite agreement with the corresponding Mexican and Guatemala government agencies (COMAR and CEAR), to aid voluntary repatriation. Nevertheless, the majority of refugees were fearful of returning and many knew their land was occupied or in war zones. Thus a group of male leaders began to organise as many refugees as possible to demand a collective return with basic conditions guaranteed by the Guatemalan Government with the international community as witnesses and guarantors. The organised expression of this movement was the Comisiones Permanentes (CCPP) or "Permanent Commissions", formed in late 1987 and composed of refugee leaders who would negotiate the terms of their repatriation directly with their own government.

Before bearing fruit, this movement suffered many setbacks and problems in establishing its legitimacy. Eventually, though, the CCPP became the representative body for an important majority of refugees and as early as 1989, UNHCR gave them logistical and other support in their quest to create the conditions for large-scale returns. The Guatemalan Government initially chose to ignore the CCPP and encouraged individual repatriations in order to offset the influence of the collective return movement. However, stories filtered back to the refugee camps of individual repatriates unable to recover their land, or conscripted into civilian militias and served to discourage return with the government-backed repatriation program. Consequently, the ranks of those backing the CCPP "collective and organised" return platform increased and the government eventually agreed to a direct dialogue.

When the first talks between the refugees and the government to reach a direct agreement on the CCPP's demands did not prosper, UNHCR devised a Letter of Understanding which was signed by the Guatemalan President during a visit of the High Commissioner, Sadako Ogata, in November 1991. The letter recognised in generous terms the efforts made by the Guatemalan Government for repatriates to date and then addressed some of the most important concerns being negotiated by the refugees. The letter also outlined security guarantees for UNHCR itself as well as other agencies and NGOs. The Letter of Understanding became the single most important document in backing UNHCR's role in Guatemala with returned Guatemalan citizens because it constituted a formal governmental commitment to recognising and facilitating UNHCR's presence and "legitimate interest" with returnees.

In October 1992, after protracted negotiations mediated by UNHCR and other national and international entities, the October 8th Accords were signed between the CCPP and the Guatemalan government which outlined certain basic guarantees and other novel advantages-- most notably access to land for landless families (see box below). By June 1992 and in anticipation of the refugee-government agreement and the projected return of 30,000 refugees in two years, UNHCR had established four field offices in the Guatemalan countryside and had expanded its central office resulting in a total of approximately 35 staff members for the entire Guatemalan operation by the end of 1992.

By this time, Guatemalan women refugee participation was becoming more visible. Initially confined to carrying out artisan and other small-scale projects, women began to develop networks within and between refugee camps. In 1990, the first refugee women's organisation, Mamá Maquín, linking women in Chiapas, Quintana Roo and Campeche was formed. Involved in different outreach and training activities, a majority of women refugees began to change their roles at home and in the community. An important priority for Mamá Maquín and other organisations of women refugees that formed later was to organise around their common objective of returning to Guatemala and negotiating adequate conditions for them and their families.

In January of 1993, the first large-scale, organised return took place comprising a three-week caravan of 2,500 persons with an airlift component, as well as partially by foot over arduous terrain. Every decision along the way, logistical and otherwise, became a political debate between the returnees and the government. As in the negotiations over the October 8th

Accords themselves, a confrontational situation emerged between the two negotiating parties wherein a concession by one became a political victory for the other. UNHCR inevitably was caught in the middle; the government often considered it too much of a refugee advocate and therefore politicised, at the same time that the refugees and many of their supporters thought that UNHCR too often backed the government position.

Throughout much of the repatriation/return operation, UNHCR facilitated the voluntary return of those refugees who expressed interest without actively promoting repatriation in the absence of a finalised peace process (not signed until late 1996). As will be seen, the constantly changing and often conflictive situation in Guatemala shaped the kinds of protection activities UNHCR undertook, prolonged the entire process and thus extended UNHCR presence far beyond what was initially anticipated.

**b. International support and funding for re turn**

The Guatemalan return programme as financed by UNHCR, and support to the Guatemalan refugees and returnees in general, may be considered an unprecedented case of international generosity when compared to *per capita* spending in other return operations. In the context of the 1980's cold war approach to Central American politics, many international donors were interested in counteracting U.S. policy in the region seen as prolonging armed conflict and social confrontation. On the other hand, the refugees and displaced in the region were seen as the hapless victims whose organisational models (especially in the case of Guatemala and El Salvador) might well serve as important examples for post conflict reconstruction.

Many countries and some private donors supported the UNHCR repatriation operation in Mexico and Guatemala from 1992 to 1999: most consistent and generous were Sweden and Norway, the European Commission, the U.S., Japan, and Canada (see annex 2). As a way of explaining the continued support by these donors above and beyond a minimal programme to bring about repatriation as an end in and of itself, one analysis concludes: "*Few donors believed they invested their money [solely] in an individualised humanitarian operation. The return has been an input to a political process that to some extent contributed to pave the way for political changes in Guatemala.*"

**The contributions of the refugee return process to the Guatemalan Peace Process**

*Government-refugee negotiations provides lessons for peace process*

The process of Guatemalan refugees organising and negotiating and the Guatemalan peace process were simultaneous and of mutual influence. While the overall context of peace negotiations stimulated the specific negotiations with refugees, the refugee negotiations were a partial blueprint for the way the peace talks took place and contributed concretely to the content of the eventual agreements. For example, the partial peace accord relative to displaced populations adapted the previous experiences with refugees in regard to government land acquisition programmes, documentation legislation and efforts addressing the problem of land mines and explosive artefacts.

Both negotiating forums (refugees and governmental repatriation agency on the one hand and guerrilla and government on the other) were similar in that two declared opponents were sitting down to make agreements, with international/UN mediation and with the stated mutual goal of reaching reconciliation. Furthermore, specific formulas used in the experience with refugees (mixed commissions with governmental and civil sector participants alongside external observers/facilitators) were incorporated into the different partial agreements of the government-insurgency negotiations.

*The returnees didn't wait for peace, they helped forge it*

Contrary to various other refugee scenarios in the world where the beginning of refugee return or its acceleration depends on a negotiated peace settlement, in Guatemala "[i]ronically, the role of the refugees in paving the way for the global peace

refugees determined to arrive home had already returned or were actively negotiating their return independent of the peace process." (\*\*) By December 1996, when the final peace agreement was signed, 78% of total returnees (calculated until June 1999) were already in Guatemala. The fact that the majority had returned to conflictive regions and stimulated the demilitarisation of these areas, pre-empted a formal cease-fire that followed.

#### *Uncovering the memory and trauma of war victims*

Another positive contribution of the returning refugees includes the capability to speak out. Unlike most of Guatemala's population that, after years of violence and militarism, tended to cover-up or under play their real experiences with war and repression, the returning refugees had been in an environment where free expression had flourished. When the Guatemalan Peace Accords' ordained "Commission for Historical Clarification" (a post-war "truth" commission) began to gather testimony, the returnees had already created a precedent by their forthright manner in recounting their experiences. Furthermore, much of the urban population, including government officials, learned for the first time of the extent of the war's destruction in the countryside through contact with returnees and press coverage of their stories.

#### *New models: education in rural areas*

Returning refugees also contributed a model for training community members as educational promoters to replace the need for outsiders as primary school teachers. This model, developed in conjunction with returnee representatives, was eventually discussed with the Ministry of Education and other relevant institutions including UNESCO, and was adapted as a pilot project for policy changes at a national level under the co-ordination of a commission created by the Peace Accords

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(\*) Relevant documents citing various other factors are: *Instancia Mediadora/GRICAR* (1999) and *Colom Caballeros* (1997).

(\*\*) Spence, et. al. 1998

- CIREFCA: A regional conference for regional solutions

The initial framework for support to UNHCR activities with returnees as a whole was the May 1989 International Conference on Central American Refugees (CIREFCA), created by the UN General Assembly and organised by UNHCR and UNDP. CIREFCA is believed to have opened the door to the initial solutions for Central American refugees although it was deemed less successful in generating concrete solutions and funding for the internally displaced who were its other anticipated beneficiaries.

Although CIREFCA was institutionalised via a standing follow-up committee and a UNDP-UNHCR joint support unit until 1994, it was never meant to be an institution, permanent or otherwise. Rather, *"[i]t is, above all, an ongoing process, an evolving mechanism for growing co-ordination. It is also an experiment in a new kind of international body, combining, for the first time, the role of governments, the resources and scope of action of international organisations, and the initiative and experience of NGOs around a single issue"*

Among the principal accomplishments of CIREFCA is the fact that it reflected and channelled an ongoing regional peace process while introducing new elements specifically to benefit the plight of displaced populations in the region which were estimated at two million people at the time. Initially considered by regional governments as a forum where only they and international organisations would design and implement solutions, regional and international NGOs were given a voice in the initial conference and displaced populations an incipient role in ensuing meetings. This quadripartite participation was no minor accomplishment in the context of the

Central American governments of the 1980's, which in many cases were antagonistic towards both NGOs and the refugees/displaced, particularly if the latter were organised.

- The seeds for incorporating a gender focus: FoReFem

Another innovative by-product of CIREFCA was a subsequent conference that planted the seeds for increased sensitivity to the particular situation of refugee, displaced and returnee women. As such, it would bolster UNHCR's latter attempts to integrate gender focus in its own programmes and that of counterpart institutions. The conference or forum, known as FoReFem, was held in Guatemala in February of 1992. It was primarily UNHCR's female staff in conjunction with women from UNDP and both local and international NGOs with a shared gender perspective that created the event. One of the recommendations was that UNHCR, UNDP and NGOs undertake training in gender issues to better prepare themselves for the work ahead.

Furthermore, FoReFem gave a visible role for the first time to displaced women from the region including Guatemalan women refugees who were present and gave their testimony.

*"Conference participants learned a great deal about the situation of refugee women as they listened, most for the first time, [to] the women describe...their lives and their demands for change. As a result, the experience of refugee women was recognised and affirmed in a public way during this event..."*

#### **c. The Guatemalan peace process**

The regional "Esquipulas II" agreements signed by Central American presidents in August 1987, laid the specific groundwork for eventual direct negotiations between the Guatemalan insurgents - the Guatemalan National Revolutionary Unity (URNG) - and the Guatemalan Government initiated in what were known as the Oslo Accords of March 1990. The peace talks gained momentum in 1994 when a number of partial accords based on a pre-established agenda were signed. When this agenda was completed, a final agreement was signed in December 1996.

Many detailed analyses of the Guatemala Peace Accords regard them as far-reaching in scope with the potential to make profound and structural changes in some aspects of Guatemala, build involvement by civil society and benefit the population at large. Nevertheless, there is also consensus that many of the broad commitments are not backed by specific implementing mechanisms and are not likely to be fully realised.

Between the 1987 Esquipulas agreement (which emphasised the regional displaced and refugees) and 1994, when the Guatemala peace talks began to make significant advances, the negotiations undertaken by Guatemalan refugees were important in influencing and promoting the overall peace process (see box). In fact, the partial agreement signed between the Guatemalan Government and the URNG in 1994, the "Accord for the Resettlement of the Population Displaced by the Armed Conflict," uses the October 8th Accords as a blueprint and precedent for a substantial part of its content.

#### **d. UNHCR's presence and programme in Guatemala: an overview**

UNHCR's formal presence in Guatemala dated from the opening of an Office of the *Chargé de Mission* (OCM) in April of 1987 to both assist refugees in Guatemala (mostly from Nicaragua and El Salvador) and to receive returnees from Mexico and other countries. The same year, UNHCR posted one staff person in Huehuetenango near the main border crossing from Mexico. UNHCR and government repatriations took place on an *ad-hoc* schedule and repatriates received a basic assistance package and 12 months food aid (later scaled back to 9 months) provided by the World Food Programme (WFP).

Although the specific contents of the assistance package varied over the years, the components of agricultural tools and inputs, housing materials and tools, food aid and a cash grant were standard for all repatriates (regardless of whether they arrived individually or in the collective groups which began in 1993). Efforts to accompany the repatriates or, in some cases, to prepare destination sites, were sporadic in the early years due to lack of staff and difficult security conditions in conflict areas. As a consequence, security problems resulted for some repatriates, such as the discrimination and harassment of eight families during 1987 in a village in north-eastern Huehuetenango.

Early on UNHCR also initiated a programme component to provide all repatriates with the identity documents used by Guatemalan nationals. The bureaucratic and complex procedures required to recover and/or replace these documents case by case remained complex throughout UNHCR's presence in Guatemala and this was chiefly manifested in the high cost

per beneficiary. Nevertheless, documentation efforts were very successful, enabling returnees to rapidly exercise their civil and political rights. Furthermore, the experience UNHCR gained in obtaining returnee documentation was used in advocating changes in national legislation. New laws in turn streamlined documentation procedures leading eventually to a national-level campaign to promote personal documentation for all Guatemalans.

Developed initially from the model applied by UNHCR in Nicaragua, the office initiated Quick Impact Projects (QIPs) in 1993 which eventually reached 499 communities benefiting some 286,000 persons with one or more of the 364 projects implemented (including regional projects covering several communities). The overall expenditure was 10.7 million U.S. dollars from 1993 until the programme's closure in 1999.

Especially since 1991, UNHCR was involved in direct mediation between refugee groups and the Guatemalan government as part of a multi-institutional body. This formal role continued into 1998 and was complemented by other mediation activities around specific cases (often on a community level) or two-party conflicts involving returnees and the government, refugees and other Guatemalan communities and even returnees versus other returnees. Although there is no definitive conclusion as to whether many solutions that were eased by UNHCR intervention would or would not have been found otherwise, there is universal acknowledgement that UNHCR's credibility and moral authority were valued and also reinforced the activities of other, particularly Guatemalan, institutions.

#### ***e. Closure of a lengthy return process***

After three years, the collective return process reached a peak in 1995, although return movements continued until 1999 (see table 1). Events in 1995 made many refugees delay their return. Firstly, in that year's presidential election campaign one of the two final contenders represented a political party created by the military general (Gen. Efraín Ríos Montt) under whose *de facto* rule in 1982-1983 many of the refugees had fled. Refugees felt that the near success of the general in the 1995 elections, meant that the violence that had driven them away could be repeated. Secondly, in an extraordinary and terrible incident, a military patrol opened fire on returnees protesting army presence in their community and eleven men, women and children were killed in October 1995. Thirdly, the Mexican Government declared that local integration would be made available for Guatemalan refugees through a naturalisation process initiated in December of 1995. Thereafter, UNHCR would refer to the simultaneous "two track" approach, facilitating repatriation with increasingly proactive measures while preparing for the eventual integration of those choosing not to return.

In retrospect, it is clear that many refugees who had been willing to return began to rethink their options after these events in 1995. As the Mexican Government, after many fits and starts, began to make good on its offer to integrate those refugees who wished to stay, the refugees who were previously ambivalent about returning decided to take a wait-and-see attitude as to how the security and land-access situation played out in Guatemala and what opportunities (land and naturalisation) might be made available in Mexico. The CCPP, and other organisations recruiting refugees for each return group, found themselves with high dropout rates at the last moment in each return. This discredited the refugee organisations vis-à-vis the Guatemalan Government which in turn slowed down its purchase of land for landless groups arguing that some land already purchased was not populated to full capacity. With the delays in procuring land, more refugees in Mexico dropped out of the negotiating groups, either to stay in Mexico or to repatriate individually. The diminished numbers fuelled the government's determination to once again slow down land acquisition except where 100% occupancy was anticipated. A vicious circle of delays had begun.

By late 1997 the Guatemalan Government began to insist that the attention paid to returnees, particularly the option of land acquisition under extremely favourable conditions, would not be offered forever despite the open-ended nature of the October 8th Agreements. The refugee organisations (the CCPP and two more groups that had formed later) negotiated the inclusion in the land purchase programme of all remaining groups organised to return and the government agreed to accommodate these groups as long as new groups were not added to the list and the refugees respected a December 1998 deadline for all return movements.

Once again, the total number of refugees who returned fell short of the anticipated figure. The single overriding factor for refugees in this last phase seemed to be the choice between work opportunities with which they were familiar in Mexico with access to adequate basic services (water, health, education, transport) as opposed to uncertainty in all these areas for returnees. By 1999 it was estimated that some 22,000 Guatemalan refugees (slightly more than half of

them dual-nationals born in the refugee camps) would opt to stay, although without a doubt, refugees will continue to trickle back to Guatemala with or without assistance for years to come. The last assisted collective return movement arrived in Guatemala in April 1999. Furthermore, UNHCR gave an extra assistance package to repatriate families independent of collective groups during the first six months of 1999. This served as an incentive for families who were decided about returning but still postponing their movement, to repatriate sooner rather than later. UNHCR closed the last of its five field offices in June 1999 and reduced its presence to a minimum by late 1999.

- Some general conclusions

Formal agreements with the government of the country of origin proved fundamental for UNHCR operations and permitted UNHCR to open the way for other institutions to work with returnees.

In the case of Guatemala, the promotion of a regional solution for refugees through a highly visible international conference (CIREFCA) created positive pressure on the government to offer more favourable conditions for returnees.

The fact that UNHCR gave direct support for refugees to organise and directly participate in tripartite or other relevant discussions concerning their future helped guarantee that solutions were acceptable and therefore durable. UNHCR made a significant contribution by permitting visits by refugees to the country of origin to negotiate return conditions with the government and identify settlement sites.

As a corollary to the above, where refugees' participation is fomented, but refugees are represented by men, refugee women need special support to directly express their needs alongside male leaders. This normally would have to be preceded by support for women to meet among themselves and generate consensus as well as preparing some women to develop communication skills.

## **2. Protection: mediation, documentation and monitoring basic human rights**

### ***a. A fragile and changing environment for protection activities***

From the outset, UNHCR-Guatemala operated in a political context considered a minefield of potential difficulties by both UNHCR and outside observers to the programme. As the office opened in 1987 the first civilian government in many years was precariously and only partially establishing norms beyond military rule. During the following 12 years of operation, three more presidential administrations were elected, but as no political party was re-elected, UNHCR had to contend with constantly changing policies and the high turnover of government personnel. Human rights abuses linked to state security forces occurred throughout most of this period, several military coups were attempted and one government ended prematurely (in 1993) when the president unsuccessfully attempted to usurp congressional and judicial powers.

In the countryside, refugee return areas coincided with conflict regions which were heavily militarised in some cases and/or left in the hands of local strongmen who acted as proxies for the army. Initially, returning refugees were often harassed, or were forced to participate in non-voluntary civilian militias and in general pressured to keep their opinions to themselves.

UNHCR presence in Guatemala spanned three main periods, identified in retrospect through a team discussion evaluating protection issues. The first period (1987-1992) may be termed "return under conflict without constitutional guarantees" and was characterised by militarisation in the countryside and limitations on returnees' civil rights in general. The second period (1993-1996) was a transitional period wherein more legal and other protection instruments were in place and yet returnees still faced different kinds of discrimination and difficulties. The third period (1997-1999), after the signing of the peace agreements, saw new kinds of difficulties characteristic of post-conflict societies including violence within returnee communities caused by political differences. Accordingly, at each stage, UNHCR was able to promote different kinds of solutions and respond less or more to the needs of the returnees. The following discussion focuses on the second and third periods referred to, which coincided with the onset of UNHCR's expanded presence in Guatemala in 1992.

Activities broadly defined as part of UNHCR's protection mandate in Guatemala can be grouped into three main categories:



1. use of mediation and/or good offices to ease conflicts and differences between returnees and the government or returnees and their neighbours in part as a strategy of prevention against future displacements;
2. promotion of the exercise of other basic civil rights through personal and land documentation;
3. prevention of human rights violations, monitoring of human rights cases and subsequent follow-up.

#### ***b. Mediation experiences***

UNHCR intervention/experience occurred on three levels:

**Firstly**, UNHCR was most frequently involved in negotiating between refugees/returnees and government entities, including the army. Although UNHCR often was involved bilaterally as an informal mediator, especially over incidents occurring in the communities or *en route* from Mexico, its formal mediator role was as part of a formal Mediating Group with other actors (detailed below). Not only did the Mediating Group negotiation process generate the October 8th Accords that permitted large-scale collective movements, it also resulted in numerous minor agreements regarding different return movements, land problems and overall difficulties in the return process.

The most frequent issues necessitating mediation between the refugees and respective state authorities were:

- Unsolicited army presence in returnee communities (permanent or transitory);
- Land recovery by refugees or, alternatively, fair compensation for land not recovered;
- Problems arising from the complex process of identifying new land for settlement and the negotiation of land acquisition with the government;
- Mechanisms for determining operational matters for collective returns;
- Land tenure security for returnees.

UNHCR also offered its good offices assisting other co-ordination bodies between the refugee/returnee organisations and the government (for example, the Technical Commission for the Implementation of the Accord for the Resettlement of Population Displaced by the Armed Conflict--CTEAR).

**Secondly**, UNHCR as part of the Mediating Group and other ad hoc groupings was involved in mediating problems between returning refugees and hosting or neighbouring communities (of which some were repatriate communities). The conflicts were mostly focused on disputes over the land or resources, sometimes with ideological and political overtones to the dispute.

**Thirdly**, most recently (1995 to 1999), UNHCR was called upon to aid other organisations in mediating in conflicts between members of the same community (often returnees versus returnees) where political and strategic differences have erupted in often violent power struggles.

Some characteristics of the majority of such cases where UNHCR intervened include the fact that UNHCR often chose not to stand alone as a mediator. For the most part, it was considered more strategic to work alongside other institutions (normally representatives of the Catholic Church, the Human Rights Ombudsman's office and other international institutions, including the UN Verification Mission--MINUGUA). UNHCR also assisted government institutions as they negotiated between two communities or community groups. In the same sense, UNHCR was often a "behind-the-scenes" facilitator instead of a formal mediator or moderator in that a UNHCR staff person would be present as an observer but limited interventions to facilitating solutions away from the negotiating table in preparation for formal agreements and/or aiding the entities formally guiding the negotiation.

The resulting successful experiences where UNHCR most contributed were often a hybrid between the formal negotiating styles most commonly used in the Guatemalan context and other negotiating techniques introduced by the outside actors (including UNHCR). One result was an indirect form of capacity building, as a collateral but crucial by-product of "accompanying" the national (and permanent actors) involved.

#### ***c. Joint mediation efforts between international and national counterparts***

In 1990, refugee representatives of the CCEP requested UNHCR-Guatemala to participate in a "Mediation Group" (Instancia Mediadora) along with three Guatemalan entities -- the Catholic Church through its Bishops' conference, the newly created Human Rights Ombudsman's office

and a human rights organisation formed by Guatemalans in exile. Shortly after, an international support group (known as "GRICAR") made up of four embassy representatives (Sweden, Canada, Mexico and France) and one international NGO (ICVA), was created to help the "Mediation Group" in its efforts. A sixth member of GRICAR, the World Council of Churches, was eventually added.

The work of this Mediation Group and the international support group (herein referred together as IM/GRICAR for their Spanish acronyms) was deemed unique because of the combination of national and international entities involved. The undisputed credibility of some members (for example, a Catholic Bishop) or the respect engendered by their presence (for example, embassy representatives) were key to initial breakthroughs in getting certain actors to sit down at the negotiating table. In general, meetings with both parties were the norm but sometimes 'pendulum' or bilateral meetings with each party were necessary to generate agreement. Close co-ordination and co-operation with the Mexican government also proved crucial to the success of many aspects of the return process. Routine tripartite meetings (31 total over 12 years) involving the relevant institutions from the Mexican and Guatemalan governments and UNHCR from both sides of the border became a periodic opportunity through which the Mexican government exerted political pressure to unblock bottlenecks created on the Guatemalan side of the operation. After 1992, refugee organisations were frequently invited to participate in some sessions of the tripartite meetings. Given other bilateral issues of importance between the two bordering countries (such as trade relations, migration, border security etc.), the refugee issue was seen as one in which Guatemala would have to appease Mexico as much as possible in order to gain co-operation in other areas. The Mexican embassy in Guatemala also remained an observer to the refugee-government negotiation process through its membership in GRICAR.

#### **Lessons learned: mediation**

- UNHCR made a special contribution through its specific knowledge, not always in terms of UNHCR's traditional expertise, but as individuals directly involved with the population in question (including direct knowledge of the geographical areas and their complexity and direct access to updated information via field offices and Mexican Sub Offices). Therefore, continuity and institutional memory among staff was a critical element.
- UNHCR and the other institutions involved in joint mediation efforts found that accompanying and visiting refugees, returnees and return movements to gain familiarity with the topics under discussion was crucial. Thus likely conflicts were anticipated and mediators could be on-hand to present their escalation.
- While creative ideas and possible solutions were frequently given by UNHCR as outsiders with a fresh perspective on certain problems, often such ideas were more effective when channelled through a person of moral weight and credibility for those negotiating (i.e. a Guatemalan Bishop) than were they to come straight from UNHCR.
- In the same way, co-ordinated efforts with diplomats or members with similar stature to lobby the government at the presidential level was more effective than UNHCR's efforts alone.
- Respect for the particular dynamics of Guatemalan culture(s) (both the formal setting of Guatemalan institutional protocol and the nature of different indigenous communities) was crucial for timing and reformulating any proposed solution; many processes cannot be rushed and certain rituals regarding decision-making cannot be broken if a lasting result is to be achieved.
- In this sense, maintaining a degree of formality in most settings and often generating formal written agreements signed by each party was helpful for later monitoring and follow-up. At the same time, lack of formal mechanisms to enforce the different agreements led to uneven compliance. In retrospect, agreements converted into legislation and/or previously defined penalties for failure to comply by both parties might have avoided some of these problems.

#### **d. Returnee documentation needs**

The majority of the Guatemalan refugees who fled to Mexico, Honduras and other countries in the early 1980s left without any belongings, let alone documents to prove their identity. Moreover, due to the general exclusion of the Mayan and rural populations by the Guatemala State and its legislation, many refugees, especially women and girls, never were documented to begin with. The internal armed conflict resulted in the destruction of records in approximately

10% of the country's civil registries, making it impossible to verify births, marriages or paternity for many who were once registered. In a society relying on official papers to exercise an array of human and civil rights, lack of personal documentation makes it impossible to have a legally-recognised name and nationality, to legally marry and register births of children, to vote and to be elected. Lack of papers also seriously hinders the right to work, to have access to education and health benefits through the social services system, to the justice system, to credit, and to own and/or inherit land and property.

Conservative estimates consider that between one and two million Guatemalans do not have documents (10-20% of the current population). Major obstacles include very formalistic civil registration legislation and the fact that many rural communities, including the majority of returnee settlements, are geographically very isolated. A trip to the nearest civil registry can entail a journey of a day or more on foot and/or over bad roads and many family members rarely travel at all (another reason that women are less likely to be documented since men tend to travel more and women stay behind with small children).

Given that the first groups of Guatemalan returnees were having problems exercising the aforementioned rights making their reintegration illusory, UNHCR gave early priority to legal reintegration whereby most of the returnees would be registered and in possession of birth certificates and ID cards (*cédulas de vecindad*). While activities of this sort were implemented early on in UNHCR's programme, they were intensified in 1997 and 1998.

In the area of personal documentation, UNHCR-Guatemala initially funded the Guatemalan repatriation counterpart, CEAR, and then shifted support in 1994 to NGOs specialising in documentation issues. Despite UNHCR efforts to follow-up and correct implementation, the documentation project was always characterised by its high cost and delays for beneficiaries. To a large extent, the causes of these problems were intrinsic to the documentation process and beyond the control of the implementation partners. The national and decentralised system of personal documentation, the upheaval during the conflict and displacement (including the burning of civilian registries and refugees' tendency to change their names out of security concerns) and outdated legislation, set the stage for many obstacles. Nevertheless, overall results were deemed positive in that returnees were eventually documented in a very high percentage.

**e. UNHCR's expanded efforts to promote personal documentation**

In the context of the Peace Accords (which emphasised documentation for displaced persons) and an initiative generated by UNHCR Headquarters (in the framework of its capacity building focus), in 1996 UNHCR-Guatemala designed a new and more ambitious programme to address documentation problems focusing on regions affected by war and displacement including, but not limited to, returnee communities.

The main components of the new documentation strategy for 1997 and 1998 were:

- To influence a change in legislation that would result in less cumbersome procedures for birth registration, death certificates and marriages (such a law was approved in October 1997 for a three-year period);
- To provide documents to newly arriving returnees and those who returned previously who were as yet undocumented. In some cases former IDPs would receive direct assistance with documentation needs (if settled with returned refugees for example);
- To conduct an awareness campaign with other actors in order to sensitise the population to the need to be documented and the procedures to be followed. This campaign was aimed at the entire population, but concentrated in areas of displacement in rural areas. Mostly radio messages were used (because much of the population is not literate), broadcast in Spanish and six Mayan languages;
- To train the civil registrars to use the new legislation and to promote a standard application of its provisions. Basic training of "documentation promoters" in each sizeable rural settlement in the areas of return was also provided through a local NGO and UNHCR-employed consultants; and
- To strengthen the civil registries' ability to perform their services, mostly through provision of basic material and equipment.

Key elements of the implementation strategy included:

- - A coalition formed with 28 governmental and non-governmental, national and international organisations to promote the documentation campaign.
- - With the help of Guatemalan legal experts, UNHCR's direct involvement in drafting more flexible documentation legislation and lobbying Congress for its eventual approval.
- - Local NGOs were selected to document returnees, co-ordinate the radio campaign, design and distribute materials, and to train documentation promoters.
- - The publication of 6,000 booklets on the new documentation law by MINUGUA which also co-operated in dozens of training activities for civil registrars and other civil servants.
- - UNHCR retained the services of a senior legal consultant for training activities, and four documentation officers, all Guatemalans who co-ordinated the activities in all return areas, carrying out surveys and monitoring the work of the NGOs involved in direct documentation efforts and training.
- - Close co-ordination with a European Commission-funded activity focusing on regions with returnee and displaced populations that overlapped somewhat with both UNHCR's geographic focus and the implementation period.

As a result of the campaign and related efforts, UNHCR and other actors estimated that about 42,000 persons were documented including returnees, 'returned' internally displaced, demobilised guerrilla combatants and others. It is hoped, furthermore, that the initiatives served to create heightened awareness among the population at large as to the importance of documentation now and in the future (for children yet to be born, for example) and that the municipalities are better equipped (with knowledge, awareness and infrastructure) to facilitate new documentation for those who need it. Nevertheless, beyond the passage of the law (which eased requirements for documentation only temporarily) and the individualised documentation programmes, there is no way to measure the broader and long-term effects of the campaign and even 42,000 persons may be considered only modest success considering the size of the population in need.

In particular, UNHCR and other actors later analysed that the government's support to the different initiatives was extremely weak. Despite the fact that significant groundwork was laid for ongoing efforts to encourage documentation, both during the period of the temporary law and beyond, new actors and new funds would be needed and are not necessarily forthcoming.

Lessons learned: documentation

- *Documentation as a priority activity and the use of UNHCR resources:* National documentation for individual returnees and influencing documentation procedures is a valid investment of UNHCR resources and may prove especially important where lack of basic ID documents prevent exercise of basic rights.
- Where it is difficult to ensure that all those in need of documentation will arrive to the corresponding government office, outside agencies can make a tremendous difference in funding government registry workers to arrive directly to communities as a more cost-effective and efficient solution. Bringing the documentation system closer to the inhabitants is one of the best ways to facilitate women's documentation given that women are less likely to travel and/or make a special trip solely for the purpose of documentation.
- *Practical provisions for returning refugees:* To the extent that refugee children born in exile can return with their birth certificates in hand (where these are required), a great deal of time and effort is saved as compared to retroactively processing and then distributing the corresponding paperwork. The same is true for foreign nationals accompanying returnees as spouses.
- Where the adult refugee population has used other identities in exile for security purposes, it is difficult to accurately collect data pertinent to new documentation until the refugees have returned and are psychologically ready to recognise their true identities for the sake of issuing or reissuing identity documents.
- *Overcoming obstacles posed by the limitations of Guatemala's temporary documentation law.* When the documentation project was expanded in 1997, there was a lack of reliable data in regard to the number of potential beneficiaries and a lack of clearly defined indicators. This later hindered UNHCR's capability to measure the impact of certain aspects such as the documentation campaign's promotion by radio.

- Given the fact that the documentation law (making documentation procedures flexible) was temporary and restricted to those displaced by the violence, the national problem of lack of documentation independent of the war was scarcely addressed. On the other hand, the law was flexible enough to accept most persons affected directly or indirectly by the conflict as qualifying if the regional civil registrars and local authorities were lobbied to this effect.
- The general invisibility of IDPs in Guatemala (except for a finite number in organised groups) meant that many of these potential and intended beneficiaries were either not comfortable with identifying themselves as such or simply did not think of themselves as "displaced". In municipalities that were overwhelmingly affected by war and displacement, it was more effective to simply target every inhabitant as qualifying for the special documentation procedures under the law (by nature of having lived in a region that was uprooted in social, political and economic terms)

#### ***f. Monitoring of basic rights for returnees***

One of the tenets of the Guatemalan return programme was the fact that UNHCR's presence in the war-torn and militarised areas of return was a form of prevention and protection. Donor countries concerned with the lack of humanitarian "space" in these regions of Guatemala were aware that part of the high price tag of the Guatemalan operation was paying for staff to be present even before substantial numbers of returnees arrived. Of the four sites where UNHCR initiated field offices, only one had any UN presence previously; government institutional work was weak if not absent altogether; and NGO presence consisted solely of a handful of pioneering international medical NGOs in two of the regions targeted by UNHCR. The rationale, therefore, was to open the way for other actors by example and simultaneously to deter human rights abuses or discriminatory practices aimed at returnees.

Given the absence of overall institutional guidelines and, in general, lack of specific guidance from UNHCR Headquarters, many activities carried out by UNHCR-Guatemala were considered legitimate as part of a broad protection mandate. Most of these activities were deemed positive by office staff, the beneficiary population, donor representatives and counterparts, but their application (or lack thereof) was often arbitrary, dependent on the criteria of the individuals carrying out management or protection activities. One obvious drawback to this approach is that not all activities were applied equally in the different areas of UNHCR operations in the countryside and not all received appropriate follow-up in the case of staff turnover. Although always in co-ordination with the protection officer, most of the professional staff were involved in protection issues at one time or another given their broad definition as applied in Guatemala and the relatively small number of persons assigned exclusively to the protection unit. In the area of human rights, UNHCR-Guatemala, along with many other national and international actors, sought to monitor the well-being of returnees in the polarised and often militarised context described. UNHCR-Guatemala supported the efforts of national institutions charged with human rights protection, especially the national Human Rights Ombudsman's office through selected financing of their programmes and general co-operation at the field level. UNHCR also conducted workshops with local military personnel. This aided in normalising contact with the army, still greatly feared by returnees, and in demystifying for the army both the returnees (historically labelled as guerrilla supporters) and the international institutions working with them (like UNHCR). Once MINUGUA was in place in late 1994, charged with monitoring compliance of the human rights agreement between the guerrilla and the government, many of these activities could be co-ordinated with or ceded to MINUGUA staff.

The presence or proximity of army outposts on land belonging to refugees was a great concern for those returning between 1993 and 1995. These cases were resolved through protracted negotiations with army officials, over whom even the civilian government had little sway. Although the army made clear that relocation would take place at a pace they would determine, they did, in fact, withdraw in due time. Much effort was invested by field staff in investigating returnee denunciations of army incursions or what they termed intimidation tactics such as low over-flights of army aircraft. Creating physical distance between army units and the returnees was considered prudent to avoid unnecessary confrontation. Nevertheless, direct targeting of returnees was not anticipated.

Serious human rights violations did occur, even when the worst of the war seemed to be winding down. The worst incidents included the already cited gunning down of returnees in October 1995 in the community known as Xaman; the sniper-like assassination of a repatriate girl in a temporary returnee settlement in December 1995; and the detention of UN (including

UNHCR) and international NGO workers in a geographically isolated and armed community opposed to the return of refugees (also in 1995). In these cases, UNHCR observed and sometimes aided initial investigations and follow-up on consequent legal actions. Ultimately, however, most follow-up was left to MINUGUA and national entities.

Protection measures also were taken in regard to the physical risk of explosive artefacts in some returnee regions. Unexploded bombs previously dropped from planes, combined with grenades left behind in army outposts or campsites, posed a larger risk than land-mines, which had mostly been used defensively in the Guatemalan conflict and subsequently removed. UNHCR was the first international agency in Guatemala to take an active interest in the problem and sought international funding and an executing agency for a preventative mine-awareness campaign and selected clearing of urban areas to reduce risks. When artefacts were detected, specialised army personnel would detonate or remove them with the full co-operation of the returnees. The programme was successfully refunded independent of UNHCR intervention and expanded to additional geographical areas through a national entity later on, under the guidance of the Organisation of American States (OAS).

- "Los acompañantes". protection through physical presence

The October 8th Accords signed between the refugees and the government in 1992 make explicit the government's acceptance of "accompaniment" by international visitors as well as UNHCR, the national Human Rights' Ombudsman's office and others. After contacts between refugee groups and international delegations, the latter set up solidarity networks in their respective countries and agreed to send observers as per the refugees' request. Eventually 16 organisations from as many countries had accompaniment projects with the communities of both returned refugees and displaced populations within Guatemala. Their methodologies differed in terms of training and follow-up provided, skills offered to the host communities (some came as technical co-operants and some as human rights monitors) and time devoted to the communities (ranging from weeks to years). In all, the experience proved useful to the individuals involved (often young people and often linked to a home community or church group interested in following events in Guatemala) and to the communities whose horizons and contacts were expanded.

While UNHCR at first maintained a distant relationship with these international visitors and their organisations (who, in their grassroots support for the refugees, were sometimes sceptical of UNHCR and other "official" institutions), co-ordination was possible. UNHCR offered orientation and training to new participants and relied on those with long-term presence in the communities for insights and information. In general, where an environment of conflict and tension existed, UNHCR co-ordinated with all on-the-ground actors as part of a prevention and early warning strategy.

While it is not possible to quantify if international presence actually prevented protection incidents, there is a sense that the collective efforts of UNHCR, NGOs, the international accompaniment volunteers and all others present did serve as a deterrent for the kinds of problems and abuse of power faced by the first repatriates between 1984 and 1990.

Lessons learned: protection and monitoring of basic rights

- The lack of clear guidelines as to what constitutes UNHCR "protection" issues in a country of origin means that the selection and handling of cases depended upon individual initiative. In addition, the lack of clarity and uniformity caused some issues to be handled by field office or other staff who did not necessarily have the proper training or guidance for certain activities such as conflict resolution.
- In retrospect and in absence of guidelines from UNHCR Headquarters, a cut off point for involvement with returnees after their return in regard to protection issues would have been appropriate. If such a target had been set, more concentrated efforts would have made to strengthen and accompany national protection mechanisms within this time frame. (In the case of Guatemala, short-term protection monitoring for repatriates could have been handed over more completely to MINUGUA once this UN verification mission was operating).
- To the extent possible, sufficient information regarding war torn and/or especially complex regions should be collated before scheduled repatriation operations take place in order to learn more about the socio-economic, political and other aspects affecting return and reintegration. When such investigation cannot be carried out beforehand, it

should be a priority alongside repatriation efforts. The investment in time and human resources may prove more cost-efficient if major problems can be anticipated and averted or conversely, if more durable solutions can be sought.

- In conflict areas, UNHCR has a legitimate interest in promoting demilitarisation as a basic condition previous to, or shortly following, return movements. Additionally or alternatively, it is important to explore the formal establishment of minimal norms that parties in conflict would agree to respect for the benefit of returning refugees.
- Early warning mechanisms that can prevent or mitigate problems in isolated return areas include giving priority to establishing permanent communication infrastructure, networking with other institutions/entities to share information and communication networks and educating returnees themselves on how to document and respond to crisis situations.
- In retrospect, UNHCR in Guatemala, could have given more priority from the very beginning to strengthening other institutional (permanent) actors involved, or potentially involved, in human rights monitoring.
- Some protection issues related to basic rights but not classic "human rights" could have been better defined from the start and appropriate counterparts for rights promotion identified. Two examples of this are land tenure difficulties and problems related to domestic and family violence (regarding the latter, UNHCR-Mexico took them on at the core of its protection programme whereas UNHCR-Guatemala did not).
- Where no other relevant international organisation is present, UNHCR should be prepared to give more active and direct follow-up to legal cases involving returnee human rights