A Palestinian Refugee Fact-Finding Visit to Bosnia-Herzegovina: Learning about Return

Between 10-17 June 2002, with the escalation of Israeli military operations against Palestinians in the 1967 occupied territories, Badil Resource Center led a Palestinian fact finding delegation to Bosnia-Herzegovina (BiH) to enable Palestinian refugees to study the Bosnian refugee case, including suitable mechanisms to facilitate the return of refugees and displaced persons, international involvement in BiH, and the remaining obstacles that discourage or block the return process. Generally, the fact-finding trip aimed to discover what lessons Palestinian refugees could learn from the Bosnian experience. Despite the fact that the purpose of the trip did not correlate directly with the day-to-day issues faced by refugees in the occupied territories in the context of the al-Aqsa intifada, it nevertheless had a symbolic connection: Israel’s occupation will never triumph over the basic rights of the Palestinian people. The Palestinian people, two-thirds of whom are refugees, continue to demand implementation of their rights, including the right of return and the right to real property restitution.

The fact-finding delegation consisted of 10 Palestinian refugee activists from most of the Palestinian diaspora, including the 1967 occupied territories (West Bank), Israel, Syria, Lebanon, Jordan, and Europe (Denmark and UK). In addition to BADIL, delegation members represented the Union of Youth Activities Centers in the refugee camps in the West Bank, Al-Awda, the Right of Return Coalition in Europe, the High Committee for the Defense of the Right of Return in Jordan, 'Aidun Group in Syria and Lebanon, and the National Society for the Defense of the Rights of the Internally Displaced in Israel.

On 10 June, amid gray, overcast weather delegation members aboard a flight from Instanbul touched down at the reconstructed international airport on the outskirts of Sarajevo. Driving into the city, which has a population of some 300,000, the impact of the 1992-1995 war in Bosnia is still evident more than six years after signing of the 1995 Dayton

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Bosnian Refugees and Displaced Persons, Facts & Figures

- Number of civilians displaced during the 1992-95 war in Bosnia: 1.2 million or roughly one quarter of the population
- Number of refugees and displaced persons still in need of a durable solution (by place of displacement) (Dec. 2001)
  - Croatia: 18,272
  - Former Yugoslavia: 143,000
  - Former Republic of Macedonia: 50
  - BiH: 438,500 (displaced persons)
- Amount of housing destroyed during the war: approximately 65 percent
- Number of housing units repaired or reconstructed by the international community (as of 2000): c. 30,000
- Number of housing units in urgent need of repair to facilitate refugee return: approximately 15,000
- Implementation of Property Laws in DII (March 2002):
  - Number of claims: 255,612
  - Number of decisions: 177,857 (70 percent)
  - Number of repossessions: 116,881 (46 percent)
  - Implementation ratio: 46 percent (compared to 21 percent in 2000)

Sources: 19 Refugee Survey Quarterly 3 (2000); CRPC, UNHCR

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Peace Agreement. The most striking example is the former parliament building, a bombed out multi-story building that sits astride the main road into the city. Throughout Sarajevo one finds numerous buildings that are nothing more than a façade, with grass sprouting in the windowsills and trees growing up from within. Closer up, many of the buildings still bear the pockmarked bullet-scarred scars of war.

Under a heavy blanket of rain on the first evening, delegation members huddled in a small building on the outskirts of the old central area of the city to meet with the Association of Refugees and Internally Displaced Persons in Bosnia. The multi-ethnic Association, established in 1992, is an umbrella union of organizations working for the rights of refugees in the former Yugoslavia. Welcoming the delegation to Bosnia, one of the Association's fieldworkers stated, "Only those who are outside their homes can understand each other." The Association has 132 branches, staffed primarily by volunteers elected by refugees. In a message that seemed to be directed at the delegation members themselves, Association staff warned members not to allow politicians to deceive them. According to Association staff, the return process in Bosnia had, in many ways, become a commercial enterprise for local politicians. Each level of government in each of Bosnia's two entities (Bosnian-Croat Federation and Republika Srpska) had established a committee dealing with the refugee issue. A lot of resources had been spent on bureaucratic structures rather than the refugees themselves. It was a criticism later repeated by numerous international officials.

The following day revealed a different side of Sarajevo. The bright sunshine, blue skies and green mountains surrounding the city, seemed to soften the harsh reminders of Bosnia's long war during which one quarter of the population had been displaced. Early in the morning, the delegation headed off to meet with officials at the Office of the High Representative (OHR) in Bosnia, the first of several meetings with international agencies involved in facilitating durable solutions for refugees in BiH. The OHR was set up under the 1995 Dayton Peace Agreement to coordinate inter-agency involvement in Bosnia and monitor implementation of the agreement, including Annex 7 on refugees and displaced persons.

Several years into the implementation process, the international community expanded the powers of the OHR in an attempt to address many of the obstacles blocking the return of refugees and displaced persons, primarily to minority areas of the country. Obstacles included nonimplementation of restitution claims, intimidation of returnees, vandalism by secondary occupants (individuals, often themselves refugees, residing in another refugees' home), and allocation of land by local officials to preserve the post-war ethnic majority of a particular locality. (There are no provisions for 'demographic concerns' in the Dayton agreement)

Expanded powers enabled the OHR to revoke discriminatory legislation, write and impose new laws, and remove elected officials who block the return and restitution of refugees and displaced persons. In August of 2000, for example, the OHR issued a decision annulling the Republika Srpska law on Return of Confiscated Property and Compensation, the Law on Return of Seized Real Property, and the Law on the Return of Seized Land, which had discriminated against refugees. The following month the OHR removed 15 public officials, including a deputy minister, a mayor, along with 13 housing officials for violation of the property laws. In some cases, however, as OHR representatives in Banja Luka in the north of the country explained to the delegation, the removals only resulted in the election of even more obstructionist officials.

The OHR has also actively tried to change public attitudes through press campaigns including television and radio ads. In one campaign concerning housing rights of refugees, for example, Bosnians were daily faced with the same message,
plastered on billboards, in newspapers and on the television and radio: "You can live anywhere you want, except in someone else's home." One of the ongoing problems addressed by OHR officials, and alluded to by nearly everyone, from refugees, to government officials, and international officials, was the issue of sustainable return. It's not just enough to rebuild someone's house. The ability and likelihood that returnees will stay in their homes is dependent on a host of other factors, including access to employment, education, health care, etc.

Legal and procedural issues related to real property restitution were addressed by officials from the Commission for Real Property Claims (CRPC), also established under the 1995 Dayton Agreement. The Commission is mandated to accept and decide upon claims for real estate and all types of real estate rights where property was not voluntary transferred after 1 April 1992 and the individual making the claim is not in possession of that property. Claims can be made for occupied and partially or totally destroyed property. At CRPC regional offices claimants receive information on property rights and procedures for making a real property or apartment claim. Commission staff help claimants to complete a claim form and then enter the information from the claim into a specially designed computer database. Claims are researched and verified by a team of legal experts drawn from a range of ethnic groups and draft decisions are prepared for approval by a panel of Commissioners. At the conclusion of the process, decision certificates are printed and distributed to successful claimants through the Regional Offices. Claimants may submit claims with evidence or if they do not have evidence the claim may be submitted without evidence. The CRPC has about 320 staff working in its Executive Office in Sarajevo and in a network of regional offices as well as mobile outreach teams to reach more isolated areas.

Power of implementation is with local authorities. In cases where implementation of a restitution decision requires the eviction of secondary occupant, the law provides for a series of tests to determine the housing needs of the occupant in the process of eviction. Lack of implementation of CRPC decisions by local authorities was one reason for the expansion of OHR powers as mentioned earlier. In opening comments to the delegation, CRPC officials noted, in response to information provided by delegation members, that in terms of documentation, the Palestinian refugee case is in good shape as far as the technical aspects of property restitution are concerned. In the Bosnian case, a significant amount of evidence was moved or destroyed while the land registry books often contained illegal entries. At the same time officials noted that one can have the best documentation and best mechanisms, but the process will go nowhere without sufficient funds to support it. Significant effort should be invested upfront, they noted, in designing the mechanisms and in ensuring adequate financial support once the restitution process is up and running. Implementation rate of property claims doubled following the expansion of OHR powers enabling the international community to enforce CRPC decisions. In total, approximately 46 percent (255,612) of claims have been implemented. In
1998, it was thought that at the rate of implementation it would take 40-50 years to resolve the property issues. Officials from CRPC, OHR and others are now talking about 4-5 years.

The delegation concluded the second day of meetings with a visit to the office of the Organization for Security and Cooperation in Europe (OSCE). OSCE is mandated to promote and monitor the status of human rights in BiH, including the return process and implementation of property law. During the first years of its work in Bosnia, the OSCE intervened directly with local officials on behalf of individual refugees through its network of 26 offices throughout the country. The Organization, however, is slowly transitioning towards addressing larger systematic issues related to the implementation of the Dayton agreement, including issues of transparency and corruption. The move is part of an overall move by international agencies (referred to as 'streamlining') to reduce institutional redundancies and slowly move towards winding down international operations in Bosnia. The third day of meetings included a mix of both international agencies and local government officials. Officials from the Office of the UN High Commissioner for Refugees (UNHCR) described many of the various obstacles that refugees continue to face and the various types of assistance afforded to them by the UNHCR. In some areas, for example, UNHCR has operated bus lines to minority areas to enable refugees and displaced persons to visit their villages of origin for the day, often repeatedly, in order to assess whether or not they wish to return. UNHCR also operates free legal aid centers across the country to provide legal assistance to refugees.

Officials reiterated concerns about sustainable return already raised by other representatives of other international agencies. Another problem highlighted by UNHCR officials was that of education. In many areas local school systems are not able to provide education that caters to the specific needs of minority children. In places where minority return has happened, Serb and Bosnian (Muslim) children, for example, are studying in the same school but with essentially separace curricula. The problem is especially problematic in the subject of history, where children attending the same school, often on different floors, or in different shifts are learning two completely different versions of the history of the Bosnian war.

Later in the day the delegation took a short walk to the Sarajevo Canton Ministry for Refugees and Displaced Persons where they were hosted by the Minister and Deputy Minister. Sarajevo has a relatively high rate of return and property implementation, in large part related to February 1998 decision by local officials to promote minority return to the city. The city, however, continues to host a large population of displaced persons (60-70,000), primarily consisting of displaced persons from the Republika Srpska who are unable or unwilling to return to their pre-war homes. The two primary obstacles to return identified by ministry officials were lack of local political will and lack of resources to facilitate housing reconstruction. An additional problem identified by government officials was the fact that during the period of the war, many refugees from villages had become accustomed to urban life and had subsequently acquired better paying jobs and were therefore unwilling to return. There were also noticeable economic differences between the two entities that
impacted the return process. In Sarajevo, for example, a teacher makes an average of 700 KM (US $350) per month while in Republica Srpska the same teacher may make just 400 KM per month. For a refugee teacher from Republica Srpska residing in Sarajevo the decision to return home may be influenced not only by family connections and emotional ties but also by economic incentives which push that individual to stay in Sarajevo.

After several days of meetings with grassroots, political, and international officials, members of the delegation were ready to set out on the first of several field visits to see the return and restitution process first hand. On the morning of 13 June delegation members set off in a convoy of several jeeps heading over the mountains surrounding Sarajevo and south to the town of Kupres. The impact of war is perhaps even more pronounced in the countryside. Gutted, burned out homes line the road and dot the hills throughout the country. Places of return are still easily identifiable by new red cinder block, yet unplastered, homes. In total, it is estimated that some 65 percent of the total housing stock in the country was either destroyed or damaged during the war. In some areas one passes entire villages that remain uninhabited.

Just outside of Kupres the delegation met up with staff from the Norwegian Refugee Council (NRC) for a visit to the remote village of Grahovo. During the war, the village was completely emptied and destroyed. Today, the village, which sits on the edge of a vast grassy plain, is still marked by the gutted shells of a once thriving rural village. Through NRC efforts, however, several homes have been rebuilt constituting the nucleus for the first returns. Those who have returned to date, however, are raising some of the same difficult questions posed by international and local officials in Sarajevo. How to make return sustainable. Most of the returnees are middle-aged and/or retired. In order for younger families to return, the villagers noted, jobs are needed as well as proper transportation to the nearby town of Kupres. Nevertheless, returnees proudly showed the delegation the few new homes that have already been rebuilt in the village. Several delegation members joined a local engineer who had come to the village to meet with a prospective returnee family and complete the first draft of a reconstruction plan for their home. Still others meandered off in small groups, engaging in serious discussion with their Bosnian counterparts, occasionally peppered with bursts of laughter and broad smiles.

Norwegian Refugee Council engineer draws up plans for the reconstruction of another refugee home in Grahovo and counsels the returnees about reconstruction assistance.
The following day, the delegation held another set of meetings with government officials of the Republika Srpska in the capital city of Banja Luka to examine the particular problems related to return in the north of the country. Two particular issues relevant to the north included the reconstruction of religious buildings as an important measure to encourage return (a large number of mosques were destroyed in Banja Luka and surrounding villages during the war) and the problem of refugees from other countries. In the case of the latter, for example, there are a large number of refugees from Croatia currently residing in Banja Luka. Due to the fact that the Dayton Agreement only applies to Bosnia, Croatian refugees living in exile in Bosnia are unable to access similar mechanisms for return and, in particular, real property restitution. The situation is exacerbated by the fact that Croatia's property laws are much more restrictive than those in Bosnia and include discriminatory provisions that militate against minority restitution. In practical terms, this means that while a Bosnian Serb refugee living in Croatia may be able to recover his/her property in the Republika Srpska, a Croatian refugee living in Bosnia is not able to recover his/her property in Croatia, thus creating obvious regional complications to a resolution of the refugee issue in the former Yugoslavia. Numerous officials, including local representatives of the OHR in Banja Luka, which the delegation met with later in the day, raised the importance of addressing return and restitution issues on a regional level to ensure harmonization of laws and procedures and remove, to the extent possible, as many obstacles in the system as possible. A final issue, related to the issue of sustainable return, raised during the meeting with local government officials in Banja Luka was the issue of donor funding - i.e., lack of resources several years into the return and restitution process. In many cases, refugees and displaced persons had decided to wait and see how the political situation would develop before deciding to return to their villages and towns of origin. By the time they had decided to return, however, donor funding had begun to decline so that while before many refugees had argued that they did not want all of their entire home rebuilt, now they would simply be happy for basic building materials.

The final part of the fifth day of the fact-finding trip was spent visiting with local lawyers and returnees at the local office of the Norwegian Refugee Council. Members of the delegation broke into small groups for one on one discussions with returnees about the circumstances of their displacement, the process of return, and what they had learned during the process. A few members of the delegation were invited to visit the temporary homes of refugees still waiting to go home, where they were flooded with images of the familiar - photographs, land titles, and other symbols of home. When asked about the most important personal lesson about return, one elderly refugee woman who had recently repossessed her home in Banja Luka, replied, "Persistence. You must be persistent. If I hadn't been persistent, I would never have returned to my home. I still have lots of problems. My house needs repairs and the secondary occupants stole all my possessions.... But I am home. I have my freedom."

Reconstruction begins on one of many mosques being rebuilt in the Banja Luka area to assist in the return of refugees

By this point in the trip, a set of common themes had begun to emerge through the various meetings, discussions and field visits. These included: the importance of addressing minority returns; procedures and mechanisms for dealing with secondary occupation of refugee homes; the importance of addressing sustainable return from the outset of the process encompassing factors such as access to employment, education, health etc.; the importance of building international political will to implement a peace agreement; guarantees for sufficient resources to implement all aspects of an agreement including housing reconstruction; and, individual and community persistence in the face of various obstacles that temporarily delay or block return and restitution.

30 June 2002
Before returning to Sarajevo on 16 June, the delegation made a short stop over in the town of Kozarac north of Banja Luka. Kozarac provides a living example of what is possible when international will, sufficient resources, and local ingenuity combine to make return a possibility. During the war, the area of Prijedor where Kozarac is situated was the site of some of the worst atrocities. Kozarac itself was completely leveled. Despite continued political and economic challenges facing Bosnia generally, the town of Kozarac has all the appearances of a thriving bustling community. The town has been completely rebuilt, with significant investment by residents themselves, along with a school, local businesses and the mosques and a church that were destroyed during the war.

Discussions without local residents reveal still lingering concerns, anxieties, and some fears, but these are outweighed by a realistic sense of hope manifested in ongoing reconstruction and return to the town. While Bosnia has a way to go yet in terms of facilitating durable solutions for all of its refugees, progress to date provides clear evidence that the return of refugees, though difficult, is both practical and possible, and vital component for reconciliation.

Throughout the weeklong fact-finding trip, the delegation felt a genuine sense of interest and concern among international officials for issues raised by delegation members about the Palestinian refugee case. Bosnian refugees and returnees, Bosnian, Serb and Croat alike, moreover, expressed heartfelt and strong support for the Palestinian struggle for independence and self-determination. They called upon Palestinian refugees not to give up the struggle to return to their homes of origin. For their part, and in addition to the lessons learned in the Bosnia refugee case, delegation members emphasized the importance for Palestinian refugees of learning from other refugee cases, and making the campaign for Palestinian refugee rights a more global campaign.

A video documentary (Arabic language) of the return and restitution process in Bosnia through the eyes of the delegation as well as a more substantive report on the fact-finding trip will be available later in 2002. ■

Bosnian and Palestinian refugees share experiences of exile and learning about return