

What role have joint commissions played in facilitating refugee returns as part of peace processes?

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Question

What role have joint commissions played in facilitating refugee returns as part of peace processes? Please provide evidence on the following issues:

- *How were such commissions structured, who participated, what were the wider and/or institutional politics of what worked/did not work and why?*
- *What was the role of such commissions (and of managed refugee return in general) in peace processes/agreements? Did they help achieve peace?*
- *What were specific considerations or challenges of refugee return in situations of ongoing conflict?*

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The K4D helpdesk service provides brief summaries of current research, evidence, and lessons learned. Helpdesk reports are not rigorous or systematic reviews; they are intended to provide an introduction to the most important evidence related to a research question. They draw on a rapid desk-based review of published literature and consultation with subject specialists.

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1. Summary

Joint commissions have often been central to facilitating refugee returns, although they are not always integrated into peace processes. Commissions are often set up as standalone arrangements, with little detail given in peace agreements about how they should operate. Separating refugee return commissions from peace agreements is sometimes seen as a core problem with peace agreements. Joint commissions almost always have the involvement of UNHCR, usually as a high-level leader. Commissions can be strongly affected by national and international politics, bilateral donors' strategic interests, and other political issues, making them contested spaces which do not always contribute to peacebuilding.

“Joint commissions” are understood here as any institutional arrangement between the state of origin and at least one neighbouring state, usually with the involvement of one or more third party (e.g. UNHCR, a third country). They could be formal peace agreements which include refugee returns, or standalone refugee return processes, or other cross-border agreements. This rapid review only looks at such commissions that involve national governments, not ones primarily between non-governmental organisations (NGOs) or other development actors.

The literature provides some key recommendations on what makes successful refugee return processes through joint commissions:

- National government ownership, as opposed to UN-led or humanitarian-driven agencies.
- A long-term view, including development thinking rather than humanitarian thinking.
- Integration of refugee return issues into peace agreements, rather than standalone arrangements.

Joint commissions are usually headed by UNHCR, whether it takes a leadership or facilitation role. There is usually a high-level steering committee or management team, with specific responsibilities delegated to different partners. Coordination across partners and with other UN agencies and peacebuilding strategies remains an ongoing problem for commissions, particularly in bridging the ‘humanitarian-development gap’ to create longer-lasting solutions. International political considerations may stop joint commissions from even being formed, and political interests have sometimes caused commissions to fail. The literature shows that refugee returns could contribute to peace processes and peacebuilding, but are as likely to be used as a political tool to create an appearance of security and a return to normality. Refugees have sometimes found that returning in this way means returning to a situation of conflict, and their presence can sometimes cause increased tension and conflict, rather than contributing to peace.

There is very little evidence or literature on the specific nexus between peace agreements, refugee returns, and the management of such processes through joint commissions. For example, a search of the Peace Agreements Database (<https://www.peaceagreements.org/>) for “refugee return” only revealed three peace agreements which included the phrase. The working practices of joint commissions sometimes have public evaluations, but much of this information is sensitive and not publicly available. Most of the literature on processes of refugee return looks at who returned and why, their agency, their reintegration, and, to some extent, evaluations of the success of programmes – but these do not usually contain much review of internal or institutional politics.

Some of the literature on refugee returns takes gender into account, usually considering the different needs of men and women returnees, but not on the gender composition of joint committees. No literature was found on disability.

2. Structure and participation in joint commissions

Peace agreements sometimes contain a high-level, broad reference to refugee return. Many refugee returns processes have been managed through a separate commission set up to implement the actual mechanics of return processes. **Quite often, this has been a tripartite agreement between the host country and country of origin, supported by UNHCR** (Norwegian Refugee Council, 2017).

UNHCR has usually taken the lead at coordinating and managing the process. Currently, **it may be moving away from leadership and control over such agreements, and reframing itself as a facilitator** (Harild, 2020). Facilitation rather than leadership would enable a move away from UN humanitarian-driven concerns, towards a national government-led, development-driven approach (Harild, 2020). Nonetheless, UNHCR itself acknowledges that its role can be highly varied across different contexts. An independent evaluation finds that UNHCR is often called on to take a leadership role where governments are reluctant to do so, while broader political issues like financing and donor strategic interests can dictate the direction that agreements go in (Collinson & Schenkenberg, 2019). Donors' strategic interests can have decisive impacts on who leads and coordinates responses, with bilaterals sometimes wanting a greater or lesser role for themselves (Collinson & Schenkenberg, 2019). UNHCR therefore has variable levels of authority and leadership depending on a number of context-specific factors.

The Solutions Strategy for Afghan Refugees (SSAR) is a collaborative process between the governments of **Afghanistan, Iran, and Pakistan**, and the **UNHCR**. It was initiated in 2011 to implement long-term solutions for Afghan refugees in the region, including voluntary return, and repatriation (UNHCR, 2018). It has a high-level Steering Committee which meets roughly once a year (UNHCR, 2018). The Steering Committee has responsibility for communicating and networking across a broad range of stakeholders, including donors, development actors, governments and international financial institutions (UNHCR, 2018). Further, the three governments have participated in UNHCR's regular meetings on Afghanistan (UNHCR, 2018).

The tripartite agreement between **Kenya, Somalia, and UNHCR** gave specific duties to the two countries (Norwegian Refugee Council, 2017). Kenya was responsible for providing security agents and exempting refugee goods from customs duties. Somalia was responsible for establishing appropriate administrative and judicial processes for return.

In **Bosnia** in early 1997, a taskforce was created to manage refugee returns (Dahlman & Ó Tuathail, 2005a), separately from the NATO-led peacekeeping force, which had refused to engage with issues of return (Dahlman & Ó Tuathail, 2005b). **The Office of the High Representative (OHR)** was a non-military administration unit to implement the civic parts of the Dayton Peace Accords, headed by a series of European diplomats (Dahlman & Ó Tuathail, 2005b).

Long (2013) reviews UNHCR's reluctance to include refugee representation in repatriation processes. Firstly, refugees may make demands that UNHCR is unable to provide. Secondly, refugees may be reluctant to return, and this might disrupt UNHCR's strategy; or, they may be keen to return even if UNHCR deems it unsafe. This may lead to a loss of UNHCR's power and

authority. Thirdly, UNHCR has at times felt that it ‘knows better’ than refugees, including times when refugees are being manipulated by political elites for non-humanitarian interests. For all these reasons, **UNHCR has been unwilling to include refugee representation in joint commissions** (Long, 2013).

3. The politics of what worked and did not work

Coordination and integration

The complexity of coordinating across UN organisations, national governments, bilateral donors, NGOs, and other development actors make **coordination a perennial concern**. Even UNHCR, which has been involved in most refugee agreements and has much experience and authority, has found it difficult to coordinate across organisations (Collinson & Schenkenberg, 2019).

Donor coordination was perceived to be weak in **South Sudan, as donors only shared information rather than working through a joint approach** (Harild, Christensen, & Zetter, 2015, p.21). Poor coordination across multilateral funds and programmes meant that many donors bypassed these mechanisms, choosing to operate bilaterally instead for ease (Harild, Christensen, & Zetter, 2015, p.21).

Short-termism

Harild, Christensen, and Zetter (2015) highlight that **a short ‘attention span’ of donors has often been a problem in refugee return programmes**. For example, support in Liberia was already being phased out by the time second and third waves of returnees arrived (p.22). **Poor sustainability and lack of long-term approaches appear to be chronic problems** in the eight case studies in this paper, and in other literature. Turton and Marsden (2002) suggest that the conceptual gap between relief and development resulted in poor outcomes in Afghanistan in 2002. This problem is in line with the ‘relief-development gap’ between short-term humanitarian aid and long-term development programmes (Harild, Christensen, & Zetter, 2015, p.31).

The tripartite agreement between Kenya, Somalia, and UNHCR was not significantly successful (Norwegian Refugee Council, 2017). It did not have sufficient funding nor political commitment, and was left to expire in 2016 (Norwegian Refugee Council, 2017). Similarly, the SSAR in Afghanistan does not address financial and operational barriers to successful return and reintegration (Norwegian Refugee Council, 2017). Nonetheless, the Norwegian Refugee Council (2017) concludes that Tripartite Agreements are important frameworks for accountability, and outcomes compare favourably to contexts which have not had such agreements (for example, Colombia).

National and international politics

An evaluation of UNHCR (Collinson & Schenkenberg, 2019) identifies that **UNHCR is subject to the political framings given by other actors**, including national governments and bilateral donors. In particular, national governments may not frame displaced people as refugees, but sometimes migrants (Greece), “guests” (Turkey), or mixed refugee and migrant populations (Collinson & Schenkenberg, 2019). This means that UNHCR may be superseded by the International Organisation for Migration (IOM) or other actors. The political framing of displaced peoples has a strong effect on how joint commissions can work and who might participate.

Politics may sometimes stop joint commissions from even being formed. Turton and Marsden (2002) describe how UNHCR saw itself as 'alone on the dance floor' in Afghanistan in 2002, unable to create partnerships with either the fledgling Afghan government or development organisations to establish concrete return and reintegration programmes. As a solo actor, UNHCR is in a weak position to challenge host or origin country governments' policy on refugees, meaning that it may not be able to act according to best practice, but will likely be swayed by national and international politics (Turton & Marsden, 2002). Dahlman and Ó Tuathail (2005a) agree that UNHCR lacked capacity to challenge local and national power structures in Bosnia. Harild (2020) argues that national governments should be the drivers of displacement policy, not UNHCR, which would preferably act only as a facilitator.

In Syria in 2019, there was no peace agreement or refugee return agreement. Russia started a bilateral initiative with its ally, Bashar al-Assad, but has found that high-level political disagreements with other important actors mean that the initiative has not progressed (Assi, 2019). European officials and governments have been sceptical of Russia's plan, both on technical management grounds, and on the basis that Russia is using refugee return as a political tool to force key actors to accept that Assad has won the war (El-Gamal, 2019). **As a result of ideological differences, European governments have refused to engage with Russia's plan.** Europe's refusal is based on the UNHCR guidelines for safe return, which the Russian plan has not met (El-Gamal, 2019). The clash between Europe and Russia means that no joint commission is likely to be set up soon.

4. Joint commissions' role in peace processes

Large-scale refugee return is highlighted in the literature as **a key way for origin country states to boost their legitimacy and establish authority**, regarding refugee return as a vote of confidence in the government (Turton & Marsden, 2002). This may contribute to stabilisation and peace. However, the literature shows that **refugee return is highly politicised and as likely to cause destabilisation and unrest as contributing to peace**, especially in situations of ongoing conflict.

Bosnian case study

UNHCR was largely responsible for drafting the refugee returns part of the Dayton Peace Accords (DPA) for Bosnia and Herzegovina (Dahlman & Ó Tuathail, 2005b). The DPA were supposed to guarantee the right to return of Bosnians, but Dahlman and Ó Tuathail (2005b) identify a contradiction between the DPA's guarantee of right to return to their area of origin or pre-war home, and the de facto division of Bosnia into mono-ethnic areas. They find that the DPA actually created conflict on the ground, when Bosnians tried to return to homes now under Serbian control, and found local Bosnian Serbs hostile and violent towards them (Dahlman & Ó Tuathail, 2005b). In one village, American and Polish international troops blocked Bosnians from free movement, deciding that implementation of the DPA was up to the local authorities, not themselves (Dahlman & Ó Tuathail, 2005a). Later in the return process, the same paper finds that obstructionist local officials resisted the terms of the DPA to provide housing and support refugee returns, resulting in peace administrators removing officials from their posts. Dahlman & Ó Tuathail (2005b) suggest that **ethnonationalist local authorities and actors opposed Bosnian refugee return into Serb areas, creating a tension between international and local drivers**. Dahlman and Ó Tuathail (2005a) argue that the international community was only effective after a slow process of building capacity and authority necessary to counter

obstructionist local politicians, in order to implement refugee returns successfully and contribute to peace. Examples like this show that **the official agreements may not be enough to guarantee peace and the safety of returnees, and they may contain contradictions** which result in tensions on the ground.

The Office of the High Representative (OHR), considered here as a joint commission, was arguably not successful in the first few years after the DPA (Dahlman & Ó Tuathail, 2005a, 2005b). However, **once the OHR was granted greater powers, it was more able to influence peace in Bosnia**. For example, when designing and implementing new laws for Bosnian refugees' return in accordance with the DPA, many local politicians resisted. The OHR responded by enforcing the package of laws by fiat. It also removed several local officials from duty for obstructing the DPA, which forced more compliance, or perceived compliance, with the conditions of the DPA (Dahlman & Ó Tuathail, 2005a). Various uniform and statewide new policies created better integration and economic recovery. The process of tightening property administration and accountability established better outcomes for reclaiming property (Dahlman & Ó Tuathail, 2005b). Together with UNHCR, the OHR coordinated international actors into the Reconstruction and Return Task Force. They focused on coordinating support for returns, sharing information on the obstacles to returns, and directing donor aid to sites ready for returns (Dahlman & Ó Tuathail, 2005a). Importantly, **this was a process managed entirely by high-level international actors, without inviting local governmental officials to the meetings**. Locals were informed about the decisions under the expectation that political pressures would force them to show cooperation (Dahlman & Ó Tuathail, 2005a).

Refugee return as a political tool

A World Bank study of eight countries (Afghanistan, Angola, Bosnia-Herzegovina, Burundi, Cambodia, Iraq, Liberia, and South Sudan) suggests that **formal return processes are often politically driven rather than safety or needs driven**, which results in hasty, poorly implemented programmes (Harild, Christensen, & Zetter, 2015). Political drivers, such as returning home in time for a census, as in Sudan, may not meet the needs of returnees (Harild, Christensen, & Zetter, 2015) and may not contribute to peace. In Tanzania, the joint commission agreed to 'accelerate' repatriation from Mtabila camp, which was explicitly linked to the Tanzanian government's interest in closing the camp and removing refugees, rather than peace and security concerns (Long, 2013, p.33).

A counterpoint view may be provided by the situation in Syria, where there is no peace agreement. One commentator (Assi, 2019) suggests that the purpose of the Russian initiative to support returns was to produce media reports and visuals showing Syrian refugees returning, which would work to convince observers that the war was won, by the Assad regime. The author suggests that **the return process was a political tool to bolster the Russian-supported Assad government** (Assi, 2019). As such, it has not necessarily contributed to peace, but has been used as a political tactic (Assi, 2019).

5. Challenges of refugee return during ongoing conflict

Refugee return can be a highly politicised process, with many factors determining how and why it comes about. Jones and Dave (2019, p.39) argue that, fundamentally, states are the only actors which can realistically restore trust, authority, and the rule of law in their countries. Without this trust in the state from refugees, and state commitment to refugee return, donors have found it

hard to achieve refugee reintegration. El-Gamal (2019) suggests that the Assad regime in Syria may not want refugees to return, on the basis that they might support the opposition and could sow dissent. **A reluctance to create safe conditions for return for political reasons can be a challenge.** Similarly, in Bosnia, locations of returns became highly politicised as various parties tried to either maintain or break mono-ethnic voting blocs (Dahlman & Ó Tuathail, 2005b). Jacobsen, Young, and Osman (2008) suggests that refugees themselves can play an important role in supporting or mobilising for peace, but equally, in resisting specific conditions of peace agreements. **Lack of confidence in the origin country state and host states is a perennial challenge for donors and joint commissions.** Harild, Christensen, and Zetter (2015, p.28) recommend that international actors engage with these political economy issues, in a long-term manner, in order to establish successful return and reintegration.

In Syria, where there is currently no peace agreement or joint commission, regional politics play a strong role in determining refugee return issues. Lebanon hosts a large number of Syrian refugees. Some Lebanese politicians support the Assad regime and non-voluntary return of refugees, as a means to normalise relations with Syria and stabilise internal tensions in Lebanon (El-Gamal, 2019). These **political considerations might take precedence over humanitarian ones.**

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Key websites

- UNHCR Research and Evaluation reports: <https://www.unhcr.org/uk/evaluation-and-research.html>

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