ABSTRACT
This article seeks to contribute to an understanding of issues related to housing and property restitution for refugee and IDP returnees in Tajikistan, taking into account Tajikistan's unique background prior to Independence in 1991, when a centrally controlled government system with state-owned property prevailed. It reviews the Civil War of 1992, as well as the causes and implications of the internal and external displacement of approximately 900,000 Tajiks. The article then reviews how international and regional organizations contributed to a resolution with a pioneering, proactive approach. The role of UNHCR in creating "humanitarian space" for returnees' housing and property restitution is the analysed in depth. The Tajik "General Agreement and Protocol on Refugees of 1997" and the national framework for its implementation, which codified and consolidated progress made during the peace process and the return of refugees, are also discussed.

I. Introduction
Six months after the break up of the Soviet Union and subsequent independence of Tajikistan, the Civil War of May - December 1992 caused an estimated US$ 7 billion of destruction, while creating some 600,000 internally displaced persons (IDPs). An estimated 60,000 refugees also crossed into Afghanistan, and a substantial number fled to Central Asian countries and Russia (an estimated 200,000 persons, although no precise registration or other data is available). At 143,000 sq. km, Tajikistan is the smallest of the five countries in Central Asia, with some 5.5 million inhabitants situated at the crossroads of Asia, in the midst of several larger regional powers concerned with regional stability.

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The war involved political, "ethnic"/"clan" and, to a lesser extent, ideological elements. Certain clan, ethnic and regional groups which traditionally held political or economic power (such as the Khojandi and Kulyabi) were perceived as more "Russified", while other (including the Garmi and Pamiri) were systematically excluded from government positions. These latter groups also formed the bulk of the refugees and the IDPs.

The presence, since 1992/93, and interventions of international and regional humanitarian actors contributed to establishing some degree of political stability. The International Committee of the Red Cross (ICRC), with a mandate for victims of armed conflicts, had arrived before and worked on behalf of IDPs in the areas of conflict and displacement. The United Nations High Commission for Refugees (UNHCR) opened an office in early 1992 and immediately offered returnees, both from within Tajikistan and from Afghanistan, protection and assistance without discrimination. Most significantly, UNHCR mediated at all levels to help ensure that both local and national authorities took responsibility for the reintegration and national protection of the returnees. UNHCR facilitated the return of the bulk of the refugees (59,000 of the 60,000) and almost 100% of the 600,000 IDPs between early 1993 and late 1995. Subsequently, UNHCR continued to support return during the consolidation and phase-out stages of its operations and within the context of broader international support for peace and reconciliation in Tajikistan. UNHCR's total budget is estimated to have been US$ 31.5 million.

UNHCR actively engaged in human rights field monitoring and direct interventions, conducting case by case investigations of reports of serious human rights violations while also assisting in the resolution of disputes concerning unlawful occupation of homes and property. These interventions occurred at an early stage, before individual incidents degenerated into larger conflicts. UNHCR thus helped to ensure successful linkages between individual returnees and the national authorities. This process consolidated and encouraged the return of more refugees and contributed to public confidence building, using rights-based criteria which were gradually developed and accepted by those involved in the return and the monitoring process. Despite numerous difficulties, the process remained open and transparent throughout.

Legal institution building, judicial assistance programs for advising and building an independent judiciary and active human rights monitoring by UNHCR and the Organization for Security and Cooperation in Europe (OSCE), are now considered precedent setting activities. UNHCR and others played an active role in strongly encouraging judicial and executive authorities to satisfy an estimated 19,800 housing restitution claims. These efforts, together with UNHCR's support for the reconstruction of some 20,000 destroyed houses (driven by protection and prevention needs), helped to prevent further violence, protected returning IDPs and refugees and helped to stabilize the entire community.
II. Background

The Republic of Tajikistan is a landlocked country in Central Asia bordering China (to the east), Uzbekistan (to the west and the north), Kyrgyzstan (to the north) and Afghanistan (to the south). Seventy percent of the population reside in rural areas. The population is divided among several ethnic groups, including Tajiks (65 percent), Uzbeks (25 percent), Russians (5 percent) and additional smaller numbers of Tartars and Kyrgyz. Russian is widely used as a language for inter-ethnic communication. Tajikistan is a Persian-speaking enclave in a Turkic language area of the former Soviet Union. The issue of language thus lies at the heart of the foundation of the Tajik State.

Although a country rich in potential mineral resources, the economy in Tajikistan produces few products; mostly cotton, aluminium, fruits and vegetables. The Soviet system had strongly encouraged the development of vast kokhozes and sovhozes for cotton production, largely at the expense of foodcrops. When the Soviet economy and support mechanisms collapsed, this history of monocropping left a newly independent nation without immediate food self-sufficiency. The break-up of the Soviet Union and subsequent civil war in Tajikistan brought the economy of the country to the verge of bankruptcy, with material destruction estimated at US$ 7 billion.

Today, the lack of sound fiscal policy and an inadequate current budget make it extremely difficult for the government to pay even public sector salaries. These difficult economic conditions (including a lack of foreign investor confidence in a lingering civil war environment) have not been conducive to privatisation and employment generation. According to recent government statistics, the average teacher salary is US$ 4.70 per month. As a result of displacement and migration, there are about 16,000 vacant teaching posts in the education sector. The general average monthly salary is US$ 9.60 per month, and purchasing power is very weak. About 200,000 skilled and other professionals left the country during the war, migrating to Central Asia, the CIS and Russia in search of lucrative jobs. Many have still not returned. Less than one third of the population have access to clean water and food security is fragile. The food requirement for the country is 750,000 MT, however annual production is reported to be only 250,000 MT - leaving a deficit of 500,000 MT.


2 See Briefing Note - UNHCR Tajikistan (UNHCR, March 2000) (“Briefing Note”) (the Briefing Note was prepared by, drawn from and based on discussions with Pierre Francois Pirlot, UNHCR Regional Co-ordinator in Tajikistan from January 1993 through Spring 1997. The Briefing Note has been updated by UNHCR colleagues in Dushanbe, namely: Gregory Balke, Acting Sr. Liaison Officer, UNHCR Dushanbe, January to November 1996; Gang Li, Sr. Liaison Officer/Head of UNHCR Dushanbe, 1997 through January 2000; George Labor, Sr. Program Officer, late 1997 through May 2000; and Yuka Hasegawa, Associate Field Officer, March 1998 through February 2000).

III. International and Regional Organizations' Pioneering, Proactive Outreach in Tajikistan

As in other post-conflict situations, many returnees found their homes either occupied by other persons or destroyed. Where homes were occupied, they were most often taken over by members of the "opposing" ethnic group—persons who may have actively driven the resident away during the original displacement crisis. Clearly, UNHCR could not simply transport persons to their home villages and then depart. Instead, a sensitive and sustained UNHCR field presence was required.

Proactive field monitoring, first by UNHCR and from the mid 1990s by OSCE, in the return process played a crucial role in solving practical problems concerning return, reintegration and restitution of houses. Most of the 600,000 IDPs who returned to their various places of origin, and the bulk of the 60,000 refugees who came back from Northern Afghanistan and Central Asia between 1993 and late 1995, benefited directly or indirectly from an active field presence monitoring the organised voluntary repatriation. UNHCR's pioneering outreach also consisted of helping the Tajik authorities with reconstruction of about 20,000 homes—all in close cooperation with the returnees themselves, as well as with some assistance from UNOPS' private sub-contractors. NGO implementing partners (Acted, Shelter Now International (SNI), Save the Children Fund - US (SCF-US)) also played a large role. Although at times questioned with doubts on occupancy rates and control over use of material, a joint evaluation arrived at a positive global appraisal of the housing initiatives.

In many cases, it was the destruction of houses that kept primary occupancy rates low. As field reports indicate, other reasons for not occupying houses included financial constraints. Beneficiaries often did not have the financial resources to purchase windows and doors and, therefore, could not move in during the winter time even though the roofing might have been completed. UNHCR and its partners, the ICRC as well as the before mentioned NGOs, have been co-operating in rebuilding communal facilities and homes/roofing in addition to providing other assistance like plastic sheeting and blankets.

Especially in rural areas, where the majority of the returnee population is dealing with agricultural production, the project endeavored to ensure that returnees could lease or be provided land. Returnees were, however, often discriminated against either by being refused land plots, being provided plots from non-agricultural land and being given plots previously given to others (including other returnees). In most cases, through the intervention either by the Central Migration Service or active UNHCR or OSCE field monitoring, the situation could be rectified.

Ongoing conflicts and the post-conflict situation have also made implementation very difficult. For example, according to reports from the Tajik Government and the National Red Crescent Society of Tajikistan, about 6-10,000 Tajik returnees from various CIS countries, Pakistan, Iran and Northern Afghanistan came home spontaneously and without UN assistance. Many returned to areas like the Garm and Karategin valley, which are not accessible to the UN because of the unsatisfactory security situation. Nevertheless, returnees in other areas (like the Khatlon Province) benefited from UNHCR's assistance in securing housing, water, sanitation and income generating projects.

Early 1996 UNHCR handed over protection and security related tasks to the OSCE and reintegration projects were handed over to UN Development Program (UNDP). The World Bank and later also the Asian Development Bank significantly helped in the funding and implementing the material aspects. As the situation in Tajikistan shows, however, promoting confidence and building social stability were the two important features of UNHCR's efforts to meet, despite less than ideal conditions, the returnees' desire to return. All these efforts and achievements contributed directly to the peace process in terms of confidence building, political mediation and helped to prevent more violence, protect returnees and to stabilise the whole community. Considering the increasing number of repatriations into conflict and post-conflict situations, as in Tajikistan, securing housing for and property restitution to returning IDPs and refugees has and should continue to constitute a concern which will take an increasingly prominent place in UNHCR's work on the ground in the 1990s and beyond.

IV. UNHCR's Role in Creating "Humanitarian Space" for Returnee Housing and Property Restitution

The overall strategy and objective of UNHCR's intervention in Tajikistan has been to help prevent an escalation of population displacement, which by extension could also generate refugee flows to neighbouring countries in the region. As shown above, UNHCR's early intervention helped to create humanitarian space, in an often very tense situation, for both voluntary repatriation and the restitution of housing and property. The focus of the office has been to assist the Tajik Government create an atmosphere conducive to peace and reconciliation while building the required absorption and reintegration capacity of returnee areas. This involves, inter

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6 See Note (discussion with Gang LA, previous Snr, Liaison Office Head of UNHCR Dushanbe) (28 April 2000) (on file with the author).

7 The cumulative budget for this operation will have been some US$ 31.5 million, broken down as follows: 1993-1997: US$ 22.0 million; 1998: US$ 7.0 million; 1999: US$ 1.5 million; 2000: US$ 1.0 million. Total = US$ 31.5 million (not including about US$ 2.0 million for care and maintenance and administrative activities some of which indirectly benefited the returnees return and reintegration). See Briefing Note, p. 3.
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alia, assisting in ensuring the protection of returnee rights, as well as assisting with food production and rehabilitation of some social infrastructure such as houses, schools, clinics and water facilities. UNHCR is also assisting in promoting economic reintegration of the returnees by promoting small business. In this regard, micro-credit/finance and micro-enterprise projects are considered pioneering activities. The UNHCR has also provided grant assistance to the most needy persons, including single women headed families. These and other quick impact projects designed to create a bridge towards economic and financial independence played a central role in the implementation of the emergency assistance program.

V. General Agreement and Protocol on Refugees of 1997

UNHCR was instrumental in assisting in the conclusion of the 1997 General Agreement on the Establishment of Peace and National Reconciliation in Tajikistan (General Agreement) and the related Protocol on Refugees (Protocol). Parties to the General Agreement and Protocol, finally signed in Moscow on 27 June 1997, include the President of the Republic of Tajikistan, E. Rakhmonov, the leader of the United Tajik Opposition, A. Nuri, and the Special Representative of the Secretary-General of the United Nations G. Merrem (hereinafter referred to as Parties). The General Agreement and Protocol codified and consolidated the pragmatic progress concerning returnee issues made in the years before. The General Agreement consists of several documents and outlines, in paragraph 2 of the Protocol, a plan as follows:

The government of the Republic of Tajikistan assumes the obligation to reintegrate returning refugees and displaced persons into the social and economic life of the country, which includes the provision to them of humanitarian and financial aid, assistance in

8 See International Support to Peace and Reconciliation in Tajikistan, (United Nations, September 1997) (with a Preamble signed by Emomali Rakhmonov, President of Tajikistan, and Said Abdullo Nuri, Chairman of the Commission on National Reconciliation). The text contains the following documents:

- The Protocol on the Fundamental Principles for Establishing Peace and National Accord in Tajikistan (17 August 1995);
- The Protocol on Military Issues;
- The Protocol on Refugees (13 January 1997); and
finding employment and housing and the restoration of all their rights as citizens of the Republic of Tajikistan (including the return to them of dwellings and property and guaranteed uninterrupted service)....

The Protocol provided the foundation to step up mutual efforts to ensure the voluntary return of all remaining refugees and displaced persons to their homes within 12 to 18 months from the date of its signature. The Parties called upon the United Nations, the OSCE and UNHCR to provide assistance in order to ensure the safety of returning refugees and displaced persons and to establish and expand their presence at places where such persons were living. In paragraph 3, the Parties confirmed their decision to resume the work of the Joint Commission on Refugees (Joint Commission) (created in 1994 and interrupted its work) on problems relating to refugees and, within one month from the date of its signature and with the assistance of UNHCR, to draw up the statute of the Joint Commission.

In order to facilitate implementation of this work, the Parties decided to instruct the Joint Commission, with the participation of representatives of local hukumats (executive committees) and the United Tajik Opposition, to visit Tajik refugee camps in Afghanistan and the CIS. Visits to districts in Tajikistan where refugees and IDPs were likely to return were also requested. This provided retroactively the overall political and legal framework for return from Afghanistan and, starting in 1999, from Kazakhstan and other countries.

The building of a national framework for the implementation of the 1997 General Agreement started early on in the process when it was determined that the return of refugees and IDPs was a priority. Other refugee/IDP issues of priority included ensuring personal security in places of residence and safeguarding social and economic rights, such as housing and property rights. However, in the absence of an effective national authority for the implementation of these plans, UNHCR took this role in early 1993 and helped to develop a legal and administrative framework. At the end of 1994, based on national legislation on refugees and forced migrants (internal displaced persons IDPs and Tajik refugees in neighboring countries), the Central Department for Refugees and Forced Migrants (CDRFM), a specialized agency, was established within the Ministry of Labor and Population Employment (MLPE). The CDRFM became the central competent authority for these matters, and UNHCR's main partner in charge of returning IDPs and Tajik refugees from abroad as well as the national entity responsible for refugee/IDP housing and property issues.


10 See Note (on discussion with Mr. Pirlot, UNHCR Regional Co-ordinator in Central Asia from January 1993 through April 1997, based in Tajikistan) (on file with the author).
In 1997, the CDRFM was reorganized into the Central Migration Service (CMS), still under the MLPE, but with structural autonomy, a separate bank account and larger staff. UNHCR had been providing assistance to the MLPE since 1992 to deal with these tasks. According to the General Agreement, the main mechanism for implementation - the Commission for National Reconciliation (CNR) - was established and commenced its work in July 1997. The CNR was a provisional body created for the transitional period before the convening of a new Parliament and the formation of the latter's governing bodies. The CNR has four sub-commissions, which have been dealing with the specific areas of the implementation of the General Agreement including the Joint Commission. The Joint Commission was composed of three government members and three opposition members.

Emomali Rakhmanov, who had been heading the government since the beginning of independence, was confirmed in office as President in 1994 following the adoption of a constitution by referendum and the ever first presidential election in an independent Tajikistan. Parliamentary elections were held in February 1995, resulting in the election of 181 deputies in the Parliament - the "Majlisy Oliy". The first Speaker of the new Parliament was Mr. Abdulmajid Dostiev. A referendum to change the Constitution (providing for the establishment of religious parties and extending the term of President to 7 years) was held on 26 September 1999, followed by another Presidential election in November 1999 and parliamentary elections in 2000.

UNHCR having opened its office in Tajikistan in January 1993, immediately started to develop an operational role to respond to emergency needs, opening eight field offices covering the Khatlon and Gorno-Badakhshan provinces staffed with over 15 international and numerous national personnel. Its presence facilitated a broad understanding of the conflict. Appropriate designs of measures to foster reconciliation at both central governmental and local community levels were devised and implemented as feasible. As in other country-of-origin operations, neither protection nor assistance were restricted to refugees, but also included the needs of IDPs. The stability and continuity of Tajik refugee institutions and of their officials have been considered by many familiar with this situation as having played a key role that eventually also helped strengthen regional and sub-regional integration in the field of refugees and migration as a whole.

For example, the "Law of the Republic of Tajikistan on Forced Migrants", 20 July 1994, provided the first national legal references relevant for housing and property issues. This was followed by Resolution

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11 See Note (on discussions with Gang Li, Head of the UNHCR Office in Tajikistan mid 1997 through January 2000) (on file with the author).
12 See Note (on discussion with Mr. Pirlot on 2 June 2000)(on file with the author).
No. 542 of 22 August 1995 on "Additional Measures Facilitating the Return of Refugee-Citizens of the Republic of Tajikistan and Forced Migrants to the Places of Permanent Residence and Their Social and Legal Protection", in addition, the General Agreement and Protocol provided a legal basis for the return and restitution of property.

The Tajik judiciary, strongly supported by UNHCR, also played a crucial role - particularly at the regional and provincial level - by actually enforcing housing and property restitution laws. It has heard about 23 000 cases submitted by returnees from Afghanistan and elsewhere, including cases of destroyed houses or cases of secondary occupancy. Most cases have already been resolved, leaving only a small number of some 200 cases pending at the time of writing this article. Thus, most housing and property conflicts and problems, though having been a challenge in the implementation of the repatriation programs in the post-conflict period in Tajikistan, were solved through amicable proceedings and administrative settlements. Most of the unlawful occupants eventually vacated the homes peacefully. Only in a few instances have there been reports of the need to resort to formal evictions which, in any event, occurred with procedural safeguards, including formal issuance of the court order.

Although Tajikistan has been undergoing transitions since independence in 1991, the legal regime remained largely the same during the period of flight and return. Therefore, legal titles did not and could not revert to anyone other than the original inhabitant.

Tajikistan, in 1993, was among the first CIS countries to ratify implement the 1951 Geneva Convention. As a follow-up to the CIS conference, the government enacted Decree No. 555 on 25 December 1997, re-organising the Central Department for Refugees and Forced Migrants of the Ministry of Labour into a State Migration Service which, under the leadership of Mr. Tabarov, became the central authority competent to handle refugee, IDP, returnee and migration matters in Tajikistan.

VI. Legal Aspects of the Return and Re-Integration of IDPs and Refugees

International human rights instruments such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both of which Tajikistan

14 Some of the most comprehensive programmes undertaken by UNHCR in support of national legal judicial and capacity-building have been in Central Asia. In Tajikistan, UNHCR has been carrying out a judicial assistance programme whose main objective is to provide technical support and training to the judiciary and law enforcement organs. The aim has been to promote their active contribution to the reconciliation and peace-building process in post-conflict areas, especially in the returnee areas. UNHCR has also been directly involved in drafting and promoting the adoption of human rights and refugee legislation. See, e.g., UNHCR’s Role in National and Judicial Capacity-Building, Executive Committee of the High Commissioner’s Programme, (EC/46/SC/CRP.31) (28 May 1996), p. 3.
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has signed\textsuperscript{15}, provide even broader legal protection. These international human rights instruments provide such guarantees equally to all persons without restriction\textsuperscript{16}, while the 1951 Convention only guarantees equality of treatment to refugees with other non-nationals, at least as regards housing rights and social security. Even though international human rights standards, especially in the social and economic field, might be difficult to meet (because they are costly for implementation), they constitute important guidelines for negotiation and contribute to social justice in the areas of housing and property restitution rights.

In this context, the ICESCR specifies "minimum core entitlements" which ECOSOC, in General Comment 3, para 10, describe as the right "to essential foodstuffs, of primary health care, of basic shelter and housing...". General Comment 3, CESCR 5th Session, 14 December 1990, provides important guidance for legal agreements and practical application\textsuperscript{17}. The 1951 Refugee Convention also provides some guidance on property issues\textsuperscript{18}.

One of the most recent UNHCR policy guidelines explaining UNHCR's involvement noted that Tajikistan was an instance when geography and history dictated the flight of some 600,000 persons to other parts of the country and outside, and that in such instances it "makes little sense to base international assistance on location alone"\textsuperscript{19}. There are situations where a distinction between refugees and returnees is difficult\textsuperscript{20}.

A number of practical elements affect returnees' actual ability to enjoy these rights to housing, and for dealing with property issues and access to land, given that land in Tajikistan used to be administered in the framework


\textsuperscript{18} The 1951 Convention, Art. 13, states:

"The Contracting States shall accord to a refugee treatment as favorable as possible and, in any event, not less favorable that that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto and to leases and other contracts relating to movable and immovable property."

The 1951 Convention, Art. 21 on housing rights, states: "As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favorable as possible and, in any event, not less favorable than accorded to aliens generally in the same circumstances."


of state khokhozes and sovkhozes. Even if housing or land is available, ensuring access to returnees may give rise to conflicts. Their houses or land may have been occupied by others, or taken by the government in reform programs. If restitution is unfeasible, compensation and/or other solutions need to be identified, as outlined in the UNHCR Inspection and Evaluation Service's Study of May 1998, which is reviewing these issues and UNHCR's role in supporting restitution rights for returnees in their home countries.

Experts on housing and property issues for refugees and internally displaced persons in the context of return stress that UNHCR should refrain from promoting voluntary repatriation to countries unless housing and property restitution issues are adequately clarified, to a maximum possible extent, prior to return. Though it is recognized that it may not always be possible to arrange mechanisms, procedures and policies designed to secure restitution, every effort should be made to try prioritize and clarify housing and property restitution issues throughout all phases of refugee repatriation.

In many major repatriation operations which UNHCR has carried out in its fifty years of existence, returnees and refugee workers alike are first and foremost concerned about basic and practical issues of housing. If occupied by others or destroyed, rebuilding or securing of shelter and working their land takes precedence over aspiring political and civil rights. If issues of access to housing and property are to be properly treated as basic human rights, housing-related policies and practices need to be treated as protection issues in negotiations before, during and after repatriation. Relevant agreements and national legal texts need to reflect this in order to achieve a sustainable solution. Experience in promoting housing and restitution rights in similar or even larger return operations, as for example in Iraq, Bosnia and Herzegovina and Kosovo, yielded significant results in terms of providing restitution to individuals as well as establishing relevant policies, laws and institutions for this purpose. A number of international references provide guidance for handling housing and property issues, including "Shelter for All", which is the basic framework for housing with a focus on "minimum standards" of various kinds. Also, the Centre on Housing Rights and Evictions (COHRE) has undertaken a wide variety of activities supporting the full realization of housing rights for everyone, everywhere.


22 See Shelter for All: The Potential of Housing Policy in the implementation of the Habitat Agenda, UNCHS (HS/488/97E) (Nairobi, 1997); see also Housing, Urban Planning and Poverty: Problems Faced by Roma/Gypsy Communities with Particular Reference to Central and Eastern Europe, Dr. Vladimir Macura, Assoc. AIA, Council of Europe, MG-S-ROM (99) 1 (Strasbourg, 22 February 1999), Ch. 7, para. 4.

23 See The first four years, 1992-1996, The Centre on Housing Rights and Evictions (1996) ("the COHRE’s main objectives include ensuring the full enjoyment of human right to adequate housing, halting and preventing forced evictions and other mass displacements, protecting the housing rights and human rights of vulnerable, dis-advantaged and threatened groups and communities throughout the world and promoting popular education and awareness of international housing rights standards...").
When phasing out voluntary repatriation and mainstreaming international protection activities, while still placing an emphasis on completing tasks in the housing and property area for returnees, UNHCR focuses on consolidating progress achieved, implementing preventive oriented activities and promotes refugee law and institutions. As a review of UNHCR's phase-out strategies with case studies in selected countries of origin indicated, the initial lack of implementing partners was also a characteristic of UNHCR's Tajikistan operation. Unlike other major operations, such as in Cambodia, UNHCR's involvement did not follow a peace agreement, but was initially conceived and established as a pre-emptive presence during an ongoing internal conflict, aimed at preventing massive population displacement from becoming a major refugee problem. Due to the absence of suitable implementing partners, whether local or international, UNHCR had to assume an operational role in the early stages, and it took a long time for UNHCR to identify those operational partners willing and able to work in housing/shelter and other activities. The human rights abuses and violence against returnees and IDPs, which were chronic since the early days of the operation and which required UNHCR to focus on convincing national and local authorities to step in, needed to be contained throughout the phasing out period.

In the framework Plan of Action adopted at the Regional Conference to address the problems of refugees, displaced persons, other forms of involuntary displacement and returnees in the countries of the CIS and neighbouring States, activities for strengthening the country's capacity in management of population movement have been continued.

With the objective of helping consolidate the peace and reconciliation process in Tajikistan, UNHCR and its partners continue a number of preventive activities such as the promotion of the rule of law in the area of return through training of local juridical personnel, distribution of new issued laws and various other public awareness activities.

The phasing out of the Tajik repatriation operation, which was expected to be in 2000, including its component on housing and property restitution, is likely to extended to mid 2001 when the last group of Tajik repatriants are scheduled to return.


26 See Contributions of Desk 1 to the speech of the Director, Standing Committee of the EXCOM, (February 2000), p. 1.

27 See Note (on discussion with Mr. Daniel Bellamy, Head of Desk for Central Asia, 30 May 2000) (note on file with the).
VII. Concluding Remarks

Most of the 600,000 IDPs and the 60,000 refugees who returned into conflict and post-conflict situations in Tajikistan have been able to have their housing and property restitution rights respected. Of about 19,800 cases submitted to the local and provincial courts, only a few cases are still reported pending. Co-operation with the different branches of government (legislative, executive and judicial) has been crucial in achieving a relatively smooth reintegration process, considering prevailing conflict and post-conflict difficulties. The pioneering role of the ICRC, the UNHCR, the OSCE and their partners contributed to strengthen confidence among the beneficiaries and the rest of the local population.

The quick impact projects and micro-finance enterprise activities assisted individuals in facing the challenges of rebuilding homes and life despite an almost complete absent of infrastructure and disintegration of the centrally controlled bureaucracy following a civil war that caused some US$ 7 billion worth of destruction. Without the funding provided by the international community, and the active human rights monitoring and direct case by base interventions, it would not have been feasible to deal with human rights matters in addition to housing, land and property restitution issues. This pioneering operation in Tajikistan would also not have been possible without close co-operation among national, regional and international actors, especially in the areas of judicial training, protection of returnees and human rights monitoring by ICRC, UNHCR, the CSCE/OSCE-ODIHR and a number of local and international NGOs partnering with UNHCR.

The government of Tajikistan, as well as outside evaluators of this returnee operation, confirm that the UNHCR housing intervention had a positive impact on the consolidation of peace and stability. Despite the serious potential for conflict, expected clashes between resident population and returnees did not take place. Through its presence and monitoring in areas of return, UNHCR, together with OSCE and other UN agencies as well as the international and national NGOs, played an essential role in this critical reintegration, and contributed positively to stabilise peace and reconciliation in Tajikistan. The input justified the output in that the rebuilding of homes driven by a protection and prevention need, at the end of the day, helped prevent further violence and contributed to protection of returning IDPs and refugees as well as stabilising the entire community.

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UN Declaration on Human Rights, 1948, Article 25: "Every one has the right to a standard of living adequate for the health and well-being of himself and his family..."

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para. 48 (3), (f) Called upon Governments of countries of origin to provide formal guarantees that returning refugees not be penalized for having left their country of origin for reasons giving rise to refugee situations and no. 40 (XXXVI) - 1985 (A/AC/96/673) noted in para 115 (5) (1) that the High Commissioner should be recognized as having a legitimate concern for the consequences of return, particularly where such return has been brought about as a result of an amnesty or other form of guarantee...

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