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**Recent developments in international resettlement policy:
implications for the UK programme**

Introduction

The focus of this paper is international resettlement policy. This policy has developed since 1995 through various tripartite forums, involving resettlement countries, non-governmental organisations (NGOs), and the Office of the United Nations High Commissioner for Refugees (UNHCR). It has been most clearly articulated during the recent Global Consultations on International Protection¹⁵ and figures prominently in the Agenda for Protection¹⁶ and in the 2001 Conclusion on International Protection of the Executive Committee of the High Commissioner's Programme (EXCOM).¹⁷

These discussions and conclusions have consistently highlighted the three functions of resettlement: as a tool of international protection; as a durable solution; and, as an expression of international solidarity with countries of first asylum. The goal of this paper is to outline the elements of this developing body of policy centred on these three functions, and to argue that these policies could effectively inform the future direction of the UK resettlement programme.

The paper begins by providing a brief historical overview of international resettlement efforts from the end of World War II. Focusing on the successes and failures of the Comprehensive Plan of Action (CPA) for Indochinese refugees, the paper will outline structural changes in the organisation and co-ordination of international resettlement efforts in the mid-1990s, which provided the forum for the development of international resettlement policy.

14 The argument of this paper is based on the author's experience as a Resettlement Consultant with the UNHCR and drawn from research conducted as part of a trans-Atlantic research project between the European Council on Refugees and Exiles (ECRE) and the US Committee for Refugees, funded by the German Marshall Fund, on the feasibility of joint EU resettlement and asylum processing in the regions of origin. See: ECRE and USCR, Responding to the Asylum and Access Challenge: an agenda for comprehensive engagement in protracted refugee situations, April 2003.

15 See: UNHCR, Executive Committee of the High Commissioner's Programme (EXCOM), Global Consultations on International Protection: Report of the Fourth Meeting in the Third Track (22 – 24 May 2002), Standing Committee, 24th Meeting, EC/GC/02/10, 14 June 2002; UNHCR, Strengthening and Expanding Resettlement Today: Dilemmas, Challenges and Opportunities, Global Consultations on International Protection, Third Track, Fourth Meeting, EC/GC/02/7, 25 April 2002; UNHCR, Nordic Regional Meeting 'Resettlement as a Multi-Faceted Protection Tool and its Relationship to Migration', Oslo (6–7 November 2001), Global Consultations on International Protection, 4th Regional Meeting.

16 UNHCR, EXCOM, Agenda for Protection, Standing Committee, 24th Meeting, EC/52/SC/CRP.9, 11 June 2002.

17 UNHCR, EXCOM, Conclusion on International Protection. No. 90 (LII), 2001.

The paper will then turn to the three functions of resettlement, and lessons for the UK resettlement programme. Special attention will be paid to the international solidarity and burden-sharing function of resettlement. Here, the importance of working within the tripartite resettlement structure will be identified as the most effective way of maximising the protection benefits of the UK's limited resettlement quota. Given the intended reliance of the UK programme on UNHCR to identify and refer resettlement cases, the paper will also outline constraints currently limiting UNHCR's resettlement activities in the field. It will be argued that if the UK is to rely on UNHCR to play a crucial identification role in its resettlement programme, then serious attention must be paid to the constraints currently faced by the organisation.

Finally, the paper will turn to a consideration of what resettlement is not, and examine the relationship between resettlement and asylum programmes. Drawing on UNHCR briefing papers, this paper will argue that resettlement is not a migration management tool and that resettlement is a compliment to asylum, not a substitute.

Overview of early international resettlement efforts

To understand the significance and focus of recent international resettlement policy, it is important to remember that resettlement played a prominent role in the international response to refugee movements from the end of World War II through to the implementation of the Comprehensive Plan of Action (CPA) for Indochinese refugees. The course and development of these programmes laid an important foundation for future resettlement discussions.

Resettlement has been a feature of the international response to a number of refugee crises since the emergence of the international refugee regime. In 1947, the International Refugee Organisation (IRO) was founded to find solutions for those refugees remaining in Europe after World War II. Motivated by the objective of ensuring peace and stability in Europe in the aftermath of the war, and concerned with the prospects of returning displaced persons to Communist regimes, overseas resettlement was identified by the Western powers as the preferable solution. During the next four years, the IRO facilitated the resettlement of over a million people, primarily to countries outside Europe, while repatriating only 73,000.¹⁸

Resettlement evolved and expanded considerably in the context of the Cold War. Western governments, led by the United States, used resettlement not only as a tool of protection for those in need, but also as a means of highlighting the failures of Communist regimes.¹⁹ In this way, motivations to engage in large-scale resettlement tended to be focused on particular groups of people and were motivated by the foreign policy of Western states.²⁰

Such considerations were particularly evident in the Western response to the estimated 200,000 refugees who fled to Austria and Yugoslavia following the Soviet invasion of Hungary in 1956. As later reported by UNHCR, "there was a feeling of revulsion throughout the Western world at the turn of events in Hungary and considerable guilt that more had not been done to assist the Hungarian people in their struggle for democracy."²¹ By the end of 1958, over 15 countries had offered resettlement places to Hungarian refugees. Nearly 200,000 Hungarian refugees were eventually resettled in third countries at a global cost of \$100 million.

18 See: Gil Loescher, *The UNHCR and World Politics: A Perilous Path*, Oxford: Oxford University Press, 2001, 39-43.

19 This 'exile-oriented' solution to refugee problems came to dominate both government and UNHCR responses during the Cold War. See: Gervase Coles, *Approaches to the refugee problem today* in Gil Loescher and Liala Monahan (eds.), *Refugees in International Relations*, Oxford: Oxford University Press, 1989.

20 See: Gil Loescher and John Scanlan, *Calculated Kindness: Refugees and America's Half-open Door*, New York: The Free Press, 1986.

21 UNHCR, *State of the World's Refugees: Fifty years of humanitarian service*, Oxford: Oxford University Press, 2000, 32.

The generous and rapid response of the international community to the Hungarian exodus stood in marked contrast to the attitude of governments towards the residual caseload of tens of thousands of displaced people within Europe after World War II still in need of a solution towards the end of the 1950s. In response to this protracted refugee situation, British refugee advocates, backed by NGOs and UNHCR, called for international action.²² This pressure resulted in 1959 being declared 'World Refugee Year' by the United Nations, and the initiation of a comprehensive response to those remaining both in camps and outside of camps. UNHCR appealed to resettlement governments to provide both funds and resettlement quotas, following this the protracted refugee problem was finally resolved by the mid-1960s.²³

By the early 1970s, the international community's increasing focus on human rights led to a motivation to "rescue" the "innocent victims" of repressive regimes beyond the front-lines of the Cold War. These sentiments underlay the motivations for resettling over 40,000 Ugandan Asians facing expulsion by Idi Amin in 1972 and of over 5,000 Latin American refugees following threats of refoulement by the military regime in Chile in September 1973. While the total number of refugees resettled from Uganda and Chile are not on the same scale as the response to Hungary, the way in which the refugees were processed for resettlement, especially in Uganda, created an important precedent. UNHCR, the International Organization for Migration (IOM) and the International Committee of the Red Cross (ICRC) cooperated to establish "safe-havens" inside Uganda for the sheltering of those under expulsion and pending their resettlement.

By far the "largest and most dramatic example of resettlement in modern times"²⁴ involved the international response to the Indo-Chinese refugee crisis in south-east Asia. The consolidation of communist south-east Asian regimes in 1975 resulted in an estimated three million people fleeing Vietnam, Cambodia, and Laos in the following two decades. Most fled in small boats, and many died in shipwrecks or were targeted by pirates. Humanitarianism, coupled with the geopolitical interests of the United States, motivated Western states to recognise the 'boat people' as refugees *prima facie* and to resettle them. More than 550,000 Indo-Chinese sought asylum in south-east Asia between 1975 and 1979, of which 200,000 were resettled.²⁵

As arrivals continued to exceed resettlement quotas, regional states declared in June 1979 that they had "reached the limit of their endurance and decided that they would not accept new arrivals."²⁶ This reluctance, and reports of regional states pushing boats carrying asylum seekers away from their shores, led to an International Conference on Indo-Chinese Refugees in July 1979. States agreed that worldwide resettlement quotas would be doubled, that the boat people would be recognised as refugees *prima facie*, that illegal departures would be prevented, and that regional processing centres would be established. The result was a formalized *quid pro quo*: resettlement to Western states in exchange for assurances of first asylum in the region.

The immediate results were positive: resettlement increased, 'push-backs' ended and arrival rates fell dramatically as heavy penalties were imposed on clandestine departures. By 1988, however, the number of asylum seekers began to rise dramatically as promises of resettlement resulted in a dramatic pull factor. Believing that these new arrivals no longer warranted automatic refugee status, Western countries introduced selective criteria and reduced resettlement quotas. In response, regional asylum countries returned to earlier policies of preventing arrivals, including push-backs.

22 Yéfime Zarjevski, *A Future Preserved: International Assistance to Refugees*, Oxford: Pergamon Press for the Office of the United Nations High Commissioner for Refugees, 1988, p. 88-90.

23 This response to the residual groups "left behind after successive selection missions have picked those people who were young and healthy and met rigid resettlement criteria" (UN High Commissioner for Refugee, 28 October 1958), motivated by humanitarian concern, illustrates the potential of a comprehensive resettlement effort to address the needs of protracted and neglected refugee caseloads. This program is an often-forgotten precedent for addressing the durable solution and protection needs of refugees for whom neither local integration nor repatriation are viable options.

24 UNHCR Resettlement Handbook (July 1997), 1/5.

25 UNHCR, *State of the World's Refugees*, 2000, 84.

26 *Ibid*, 83.

In light of this new reality, the Second International Conference on Indo-Chinese refugees was convened in June 1989 and concluded by adopting the CPA. The CPA contained five mechanisms through which the countries of origin, countries of first asylum, and resettlement countries cooperated to resolve the refugee crisis in south-east Asia: an Orderly Departure Program (ODP) to prevent clandestine departures, guaranteed temporary asylum by countries in the region, individual refugee status determination for all new arrivals, resettlement to third countries for those recognised as refugees, and facilitated return for rejected claimants.²⁷ As such, resettlement was used as part of a comprehensive response to a complex refugee situation.

Notwithstanding a number of criticisms,²⁸ the CPA is seen to have generally achieved its objectives of reducing the number of clandestine departures, managing the flow of migrants from Indo-China and of finding extra-regional durable solutions for recognised refugees. In 1989, roughly 70,000 Vietnamese sought asylum in south-east Asia. By 1992, this number had fallen to 41.²⁹ At the same time, over 1,950,000 refugees had been resettled by the end of the CPA in 1995; 1,250,000 to the United States alone. On this basis, the CPA is seen by many as a success, and a dramatic example of the possibilities of burden sharing arrangements to address refugee crises.

Recent developments in resettlement policy and practice

While the CPA was arguably the greatest example of resettlement, it was also a source of its undoing. As part of a comprehensive review of its global resettlement activities, UNHCR noted in 1994 that "the disenchantment with resettlement" which followed the Indo-Chinese experience "has had a negative effect on UNHCR's capacity to effectively perform resettlement functions."³⁰ This 'disenchantment with resettlement', on the part of traditional resettlement countries and UNHCR, resulted in the reduction in resettlement quotas and a renewed emphasis on return and reintegration as the preferred durable solution.³¹

This characterization of the 'end of the era of resettlement' proved, however, to be an exaggeration. Significant developments have occurred in the area of resettlement since UNHCR's 1995 Evaluation Report on Resettlement Activities. Highlighting the "need to improve the dialogue and cooperation between UNHCR and all partners involved in resettlement", including resettlement countries, NGOs and IOM, the report called upon UNHCR to "establish formal mechanisms of systematic consultation with partners". In June 1995, a Working Group on Resettlement was established, involving ten traditional resettlement countries³² and with discussion focusing on annual resettlement quotas. At roughly the same time, consultations with NGOs were organised in North America and Europe to ensure that valuable NGO contributions to the resettlement process would be maintained.

27 See: UNHCR, International Conference on Indo-Chinese Refugees. Report of the Secretary General [Annex: Declaration and Comprehensive Plan of Action (CPA)], <http://www.unhcr.ch> (cited 1 March 2002).

28 The CPA has been criticized for a number of reasons. First, RSD procedures in the region varied considerably, were often inadequate and were premised on the assumption that the 'boat people' were predominantly economic migrants, not refugees. Second, the low standards of care and maintenance in asylum centres were reported to frequently violate international standards, motivated by a desire to deter future asylum seekers. Third, scholars have argued that the conditionality of asylum for resettlement runs contrary to the principles of international law. Fourth, incidences of forced return of failed asylum seekers were frequently denounced by human rights organisations. Finally, it has been argued that the CPA created a 'market system' where immigration and political considerations overshadowed asylum considerations and which was dominated by US geopolitical interests. See: Shamsul Bari, Refugee Status Determination under the Comprehensive Plan of Action (CPA): A Personal Assessment, *International Journal of Refugee Law*, Vol. 4, no. 4, 1992; W. Courtland Robinson, *Terms of Refuge: The Indochinese Exodus and the International Response*, London: Zed Books, 1998; Astri Shurke, Burden Sharing during Refugee Emergencies: The Logic of Collective versus National Action, *Journal of Refugee Studies*, Vol. 11, no. 4, 1998.

29 UNHCR, *State of the World's refugees*, 2000, 84.

30 UNHCR, *Resettlement in the 1990s: A Review of Policy and Practice*, October 1994, 1.

31 See: B.S. Chinni, From resettlement to involuntary repatriation: towards a critical history of durable solutions to refugee problems, *New Issues in Refugee Research*, Working Paper No. 2, UNHCR, May 1999.

32 US, Canada, Australia, New Zealand, Finland, Sweden, Norway, Denmark, Switzerland and the Netherlands.

These two tracks were brought together in Geneva in October 1995 during the first formal Consultations with Governments and NGOs. These Consultations have subsequently been convened on an annual basis, and have come to be known as the Annual Tripartite Consultations on Resettlement (ATC). This annual event has proven to be a valuable forum for enhancing partnerships, developing joint strategies for addressing resettlement needs, information sharing, and the development of a more harmonised approach to resettlement.

It was through this process of consultation that UNHCR was able to develop and issue the Resettlement Handbook in July 1997, now used by all UNHCR field offices in the process of identifying and processing refugees in need of resettlement. Through on-going consultation and the development of partnerships, resettlement has developed into a global tool of international protection in recent years as the number of resettlement countries and resettled nationalities have continued to increase.³³ A total of 17 countries now cooperate with UNHCR's resettlement efforts by making available an annual resettlement quota of almost 100,000 refugees a year from all regions of the world.³⁴

The functions of resettlement

The Tripartite process has also facilitated the progressive development of resettlement policy in recent years, focusing on the function of resettlement:

1. as a tool of international protection for individual refugees;
2. as a durable solution for protracted refugee situations; and
3. as an expression of international solidarity with countries of first asylum.

These three functions have been central to recent discussions of international resettlement efforts, especially through the Global Consultations on International Protection and the resulting Agenda for Protection. These functions have been endorsed by a wide range of governments, both resettlement countries and non-resettlement countries. While not binding on the UK, allowing these three functions to guide the development of the UK resettlement programme would help ensure that the programme is in-line with international standards, benefits from the lessons of other resettlement countries, and maximises the protection benefits of a limited resettlement quota by cooperating in global resettlement efforts.

Resettlement is a tool of international protection for individual refugees

Resettlement is, first and foremost, a tool for meeting the special needs of refugees whose life, liberty, safety, health or other fundamental human rights are at risk in the country where they sought refuge.³⁵ It is generally recognised by all resettlement countries that protection is, and should be, at the core of any resettlement programme, and that resettlement decisions should be motivated by the protection needs of refugees.

There are both qualitative and quantitative challenges relating to the protection function of resettlement. Not only is there a challenge to ensure that there are sufficient resettlement opportunities available for those refugees requiring resettlement as a means of protection, but systems and procedures need to be responsive, especially to urgent and special protection needs. To this end, UNHCR has argued that "the integrity of the

33 See: Internationalizing Resettlement in Opening Remarks by the Assistant High Commissioner for Refugees, Mr. Soren Jessen-Petersen, Annual Tripartite Consultations on Resettlement, Geneva, 20 June 2001.

34 In 2001, those countries (with their quotas) were: Australia (4,000), Benin (240 over 2 years), Brazil (30), Burkina Faso (100), Canada (7,300), Chile (65), Denmark (517), Finland (750), Iceland (23), Ireland (10 cases), the Netherlands (500), Norway (1,500), New Zealand (750), Spain (no specific quota), Sweden (1,375), Switzerland (no specific quota), US (80,000).

35 UNHCR Resettlement Handbook (July 1997), 1/1.

[resettlement] process depends upon how the cases are profiled and how rapidly they can be accepted. The system has to be capable of responding both to special needs and to the urgency of the required response".³⁶

In the context of the proposed workings of the UK resettlement programme,³⁷ two important questions must be asked to ensure that this protection function can be effectively realised. Firstly, how can this protection be extended quickly, and secondly, how should the status of individuals be balanced against their need for resettlement?³⁸

The first question relates to ensuring that a resettlement programme is responsive to more urgent protection needs. According to UNHCR's procedures, there are three prioritisations for resettlement: Emergency – where a refugee's condition requires resettlement in five days; Urgent – where a refugee's condition requires attention before non-urgent cases; and Normal.³⁹

Significant effort has been invested in recent years, especially by the United States and Canada, on the development of more responsive emergency resettlement procedures. One reason why the United States and Canada may have taken the lead on this question is because their programmes have previously been criticised for being unresponsive to emergency resettlement needs for a single structural reason.

Given the requirement of adjudication by an official pursuant to a direct interview, the United States, Canada, and Australia must conduct resettlement selection missions to countries of asylum. This creates two difficulties. First, resettlement missions are not responsive to urgent resettlement need as they occur infrequently. Second, for security reasons, selection missions often cannot travel to remote and insecure regions. As a result, refugees in accessible and secure locations are typically favoured. In comparison, European resettlement countries select resettlement candidates through both resettlement missions and on the basis of dossier considerations. Through dossier selection procedures, the urgent resettlement needs of refugees, especially those located in insecure locations inaccessible to selection missions, can be more easily addressed.

The working solution being considered by the United States and Canada for emergency cases, especially in Africa, is the possibility of evacuating the resettlement candidate to a safe house or regional processing centre where the refugee can be accessed by a visa officer, and remain safely until a decision is taken. The implementation of these programmes has, however, been problematic.

The Home Office background paper states that the UK intends to interview all applicants for resettlement, rather than consider applications on a dossier basis.⁴⁰ This has a number of benefits, most importantly the development of a greater familiarity with individual cases, which would facilitate the eventual process of reception and integration. In the interest of ensuring that resettlement is an effective and responsive tool of protection, however, provisions should be made in the UK programme to rapidly and effectively respond to emergency and urgent resettlement need. To best ensure that the protection function of resettlement is met, and within the context of the options presented in the Home Office background paper, the permanent secondment of staff to a "hub area" would be one possible way of ensuring that urgent resettlement needs are effectively addressed.⁴¹

36 UNHCR, New Directions for Resettlement Policy and Practice, Standing Committee 21st Meeting, EC/51/SC/INF.2, 14 June 2001, paragraph 10.

37 Home Office Research and Statistics Directorate, Background Paper on UK Quota Resettlement Programme, prepared for Listening to the evidence: the future of UK resettlement Policy, London, 6 February 2003.

38 For a more detailed discussion of these questions, see: UNHCR, Resettlement Section, Report: Regional Resettlement Workshop, Addis Ababa, Ethiopia, 27 February–2 March 2001.

39 UNHCR Resettlement Handbook (updated July 2002), V/33.

40 Home Office Research and Statistics Directorate, Background Paper, February 2003, paragraph 18.

41 Ibid.

The second question that needs to be considered under the protection function of resettlement is, how should the status of individuals be balanced against their need for resettlement?

The core protection function of resettlement may be difficult to achieve in cases of mass influx, in situations where refugees benefit from only prima facie refugee status, or where a refugee is recognised only under the Mandate of UNHCR.⁴² There are currently two elements to identifying a refugee in need of resettlement. The first is the identification of that individual as a refugee and in need of international protection, as described in Chapter 3 of the Resettlement Handbook. The second is the identification of that refugee as being in need of resettlement according to the criteria outlined in Chapter 4 of the Handbook.

The primary focus of resettlement should be to address the protection needs of vulnerable refugees who – as a result of threats to their life, liberty, and personal security – cannot remain in their country of first asylum and cannot return to their country of origin. Both aspects must be taken into consideration. But not all refugees in need of resettlement will meet the strict refugee definition of the 1951 Refugee Convention. This is especially true in the African context where refugee status may be granted according to the broader parameters of the OAU Convention,⁴³ and where refugees may have fled a situation of generalised violence, not individual persecution. In such cases, the strength of the refugee claim should be balanced against vulnerability to determine resettlement eligibility and need.

An alarming number of vulnerable refugees have been found not to be eligible for resettlement because they could not demonstrate an individual fear of persecution, but who faced threats to their life and liberty in their country of asylum, and who would face similar threats if returned to their country of origin. In response to this situation, UNHCR has argued that a flexible and protection-based approach to resettlement is “particularly important for refugees who have been in limbo for many years, or for refugees from within prima facie populations who have particularly pressing protection needs in the country of asylum even while they may not, at that point in time, fulfill all the requirements of the 1951 Convention definition”.⁴⁴

This balance is especially important when considering the eligibility for resettlement of refugee women-at-risk. Under US law, for example, officers of the Immigration and Naturalization Service (INS) are required to conduct refugee status determination (RSD) interviews to ensure that applicants meet the 1951 Convention definition and thereby qualify for refugee admission, but are not directed by law to accord any particular weight to conditions in countries of asylum. In many places, refugee women often have difficulty establishing individual refugee claims based on a narrowly interpreted persecution standard. Often, they are part of larger groups fleeing generalised violence in their country of origin. The main reason they are at risk is often because of their high level of vulnerability in the country of first asylum, but the INS officers’ attention is directed away from examining those threats because of their concentration on finding specific and explicit grounding of the underlying refugee claim in political, religious, or ethnic persecution of the individual refugee woman in the country of origin.

For the protection function of resettlement to be effectively realised, considerations of the status of the individuals’ needs to be balanced with their vulnerability in the country of asylum and their need for

42 See: UNHCR Resettlement Handbook (revised July 2002), Chapter 3.

43 Article 1(2) of the 1969 Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa states that in addition to the refugee definition contained in Article 1A(2) of the 1951 Convention relating to the Status of Refugees, “the term ‘refugee’ shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality”.

44 UNHCR, New Directions for Resettlement Policy and Practice, Standing Committee 21st Meeting, EC/51/SC/INF.2, 14 June 2001, paragraph 10.

resettlement. The question of how to strike a balance between these two considerations has been recently addressed by the Resettlement Working Group, and the UK programme should include a provision, highlighting the need to apply flexible criteria in appropriate situations and to place specific emphasis on the protection needs of refugees in their country of first asylum, in addition to their inability to return to their country of origin.

Resettlement is a durable solution for protracted refugee situations

Of all the criteria contained in Chapter 4 of the Resettlement Handbook, the 8th criteria, resettlement for refugees without local integration prospects, is by far the most difficult to operationalise.⁴⁵ Building from the old notion of resettlement for 'long-stayers', this criteria is to be applied for an individual refugee, or groups of refugees, for whom both local integration, in a manner appropriate to their culture, social, religious, or educational backgrounds, and voluntary repatriation are deemed not to be viable durable solutions in the medium- to long-term. In this way, as argued by UNHCR, "resettlement addresses the need to reinstate national protection, to restore basic dignity and safety, and to secure a future where refugees can enjoy life again".⁴⁶

There is a growing recognition within the policy discussions that resettlement is most effective when it is approached not independently, as an act of rescue for an individual refugee, but as part of a broader protection and durable solution strategy. It is generally recognised that resettlement alone can only provide a durable solution for a very limited number of refugees. In contrast, developing the complementary nature of the three durable solutions, and using resettlement as part of a comprehensive response to particular groups and as a means of engaging the country of asylum on the question of local solutions, is seen as the best use of resettlement.⁴⁷

The Background paper from the Home Office outlined that the initial programme would target one or two geographic regions.⁴⁸ If this is the approach the government adopts, it would be most effective to consider how the relatively small annual quota might be used strategically to advance a comprehensive durable solutions strategy for the remaining refugee population. Particular focus could be placed on engaging the country of first asylum on the question of local solutions for those refugees not resettled.⁴⁹

Resettlement is an expression of international solidarity with countries of first asylum

Related to the last point, policy discussions, especially in the past two years, have highlighted the use of resettlement to enhance asylum and protection prospects for those refugees not resettled.⁵⁰ Mindful of the various burdens borne by countries of first asylum, it has been argued, especially by UNHCR, that "resettlement can be a particularly useful responsibility-sharing mechanism where there are groups of refugees whose presence in a country of asylum may pose problems for security or other reasons particular to that country."⁵¹

45 See: UNHCR Resettlement Handbook (revised 2002), IV/31.

46 UNHCR, Background Note for the Agenda Item: The Use of Resettlement to Address Durable Solutions Needs, Annual Tripartite Consultations on Resettlement, Geneva, 20–21 June 2001.

47 See: UNHCR, Strengthening and Expanding Resettlement Today: Dilemmas, Challenges and Opportunities, Global Consultations on International Protection, Third Track, Fourth Meeting, EC/GC/02/7, 25 April 2002.

48 Home Office Research and Statistics Directorate, Background Paper, February 2003, paragraph 17.

49 See: John Fredriksson, Revitalizing Resettlement as a Durable Solution in World Refugee Survey 1997, Washington DC: US Committee for Refugees, 1997. While the notion of the complimentary nature of the three durable solutions was central to many discussions during the recent Global Consultations on International Protection, the means of developing such an approach remains unclear. Additional research is urgently required to better understand both how resettlement can serve as part of a comprehensive solution to a refugee situation and how the strategic use of resettlement can enhance asylum.

50 UNHCR, Background Note for the Agenda Item: Strategic Utilisation of Resettlement to Enhance Asylum and Protection Prospects, Annual Tripartite Consultations on Resettlement, Geneva, 20 – 21 June 2001.

51 UNHCR, New Directions for Resettlement Policy and Practice, Standing Committee 21st Meeting, EC/51/SC/INF.2, 14 June 2001, paragraph 8.

Resettlement may be used as a 'safety-valve' to relieve the pressures faced by countries of first asylum. By demonstrating their solidarity with countries of first asylum through the resettlement of refugees, resettlement countries may contribute to ensuring that the principle of asylum is maintained for those refugees not resettled. At the same time, however, any demonstration of solidarity should be both international and genuine. As the British Refugee Council has argued, "the number and type of refugees the UK undertakes to resettle must demonstrate a real commitment to sharing a global responsibility that falls disproportionately on the shoulders of developing countries".⁵²

It is also in this light that the key question facing the development of the UK programme, how to maximise the protection benefits of the limited resources available for resettlement, should be addressed. Approaching resettlement as a question of international solidarity would help ensure that the UK programme could derive maximum protection benefit from the initial quota of 500.

All resettlement programmes should be viewed as part of a global effort to realise the spirit of international solidarity and burden sharing articulated in the preamble of the 1951 Convention. As such, for reasons of principle and pragmatism, the UK would do well not to approach its resettlement programme as an individual effort, but as a component in a larger, global, tripartite resettlement effort.

UNHCR Field Offices are now required to undertake an annual exercise of mapping resettlement need and to identify the resources, both human and material, they require to meet those needs.⁵³ These needs, along with profiles of populations in need of resettlement, will then be reported to the Annual Tripartite Consultations on Resettlement. It is on this basis that, in consultation with other resettlement partners, the UK may determine where its quota of 500 will have the greatest impact. Resettlement priorities set in this way will ensure the maximisation of the protection benefits of a limited quota and ensure that resettlement activities are a true expression of solidarity.

Finally, true involvement in global resettlement efforts should mean that resettlement countries, like the UK, are engaged in all aspects of resettlement and protection work, not simply in the consideration of refugees referred for resettlement. As a committed resettlement partner, it is essential to demonstrate support for the resettlement process by addressing the current constraints at the field level and by understanding the preconditions required for effective resettlement.

There is a prevailing feeling of frustration with resettlement processing in regions of refugee origin where the UK intends to select candidates for resettlement. Refugees are frustrated that the resettlement process remains shrouded in mystery and that there is typically insufficient support from UNHCR to guide them through the process and support them while they await a decision.

NGOs are frustrated at the lack of transparency and support during the UNHCR resettlement-referral process. NGOs feel that they are often unable to guide refugees through the process due to a lack of information on the resettlement process, that they experience difficulties referring needy cases to UNHCR for resettlement consideration, and that UNHCR appears to be consistently unsympathetic to the material needs of asylum seekers awaiting a decision.

Resettlement countries – especially the United States, Canada, and Australia – are frustrated that UNHCR is consistently unable to provide sufficient cases to meet resettlement quotas, and that the quality of the referrals received falls below the minimum standards of the resettlement countries.

52 (British) Refugee Council, *Principles for a UK Resettlement Programme*, London: March 2002.

53 See: UNHCR *Resettlement Handbook* (revised 2002), Chapter 7.

In response to these frustrations, the best way to improve processing is by identifying and addressing two current constraints on processing in the field: programme constraints and resource constraints.⁵⁴

Programme constraints: There is currently a significant discrepancy between the number of refugees eligible for resettlement and the number of resettlement places available. According to the 8th resettlement criteria (outlined above), the overwhelming majority of refugees in protracted refugee situations, numbering millions, would be eligible for resettlement. Yet, under current quotas, less than one per cent of refugees worldwide will be resettled in a given year.

This leads to a tension between eligibility, on the one hand, and prioritisation on the other. While a refugee may be eligible for resettlement, the limited number of resettlement opportunities results in the necessity to prioritise resettlement need. UNHCR's field practices state that resettlement prioritisation should be according to vulnerability, but even this consideration would lead to a pool of refugees eligible for resettlement that far exceeds the resettlement quota. In reality, this leads to the notion of a resettlement queue, and to great emphasis being placed by refugees on their place in the queue.

Once this point has been reached, objective criteria become difficult to apply and demand, desperation and uncertainty continue to increase. It is in this environment that the opportunities for the type of fraud and mismanagement experienced in Nairobi multiply⁵⁵ and where all means to 'jump the queue' will be considered by desperate refugees. This lack of opportunity, coupled with desperation, can lead vulnerable refugees who would be eligible for resettlement to seek alternative means of escape. Increasingly, the most common alternative is smuggling.

In this light, delegates to the 2001 Annual Tripartite Consultations on Resettlement encouraged the expansion of resettlement in the European Union, both individually and collectively. UNHCR stated that: "The possibility of creating additional resettlement opportunities, as a particular mechanism to share responsibilities with countries of refuge, should be encouraged and further explored. Resettlement is one of the tools in the arsenal of protection within the whole governance structure for refugees. A fresh look should be taken at the useful role that fair and global resettlement quotas might play in helping to realise a world of law and in giving practical meaning to the need to offer durable solutions to refugees under the UNHCR mandate."⁵⁶

These policy discussions culminated in EXCOM Conclusion on International Protection (No. 90 (LII) – 2001), which specifically highlighted the need to expand resettlement opportunities. While emphasising the fundamental importance of durable solutions and commending States that facilitate these solutions, the Conclusion encouraged "initiatives directed at diversifying resettlement opportunities by increasing the number of resettlement countries, thereby sharing resettlement needs more widely, and meeting increased resettlement needs".⁵⁷

By announcing an annual resettlement quota, the UK has taken a tangible step in addressing the resource constraint. It must, however, be recognised that the proposed quota of 500 is very limited. To more fully address the resource constraint, the UK would do well to consider increasing its annual quota and encourage European non-resettlement states to also develop resettlement programmes.

54 For more consideration on the resource implications of increased resettlement activities, see: Gary Troeller, Opinion: UNHCR Resettlement: Evolution and Future Direction, *International Journal of Refugee Law*, Vol. 14, no. 1, 2002.

55 See: UNHCR Press release: UNHCR receives report on Nairobi investigation, 25 January 2001, <http://www.unhcr.ch>

56 Background Note for the Agenda Item: Strategic Utilization of Resettlement to Enhance Asylum and Protection Prospects, Annual Tripartite Consultations on Resettlement, Geneva, 20 June 2001, paragraph 20.

57 UNHCR, EXCOM, Conclusion on International Protection (No. 90 (LII)-2001).

Resource constraints: The increasing limitation of the essential resources required to identify and process refugees in need of resettlement places a significant constraint on the system as a whole. The identification of refugees in need of resettlement and the preparation of a dossier for submission to a resettlement country is a remarkably time-consuming task. In the absence of early registration and individual refugee status determination, it has been estimated that an average of 8–10 hours is required per resettlement submission. When these time constraints are viewed in light of recent funding cut-backs to UNHCR, which have resulted in the posting of very few UNHCR Resettlement Officers in regions with large and protracted refugee populations, the implications of the resource constraint are clear. There are too few officers with exclusive resettlement responsibilities posted in complex situations facing overwhelming resettlement need.

In response to this acute human resource constraint, UNHCR and resettlement countries have considered a number of short-term and flexible remedies. The Canadian government, for example, agreed to the secondment of two senior immigration officials to UNHCR resettlement activities in East Africa and the Middle East. Recent emphasis has also been placed on developing the UNHCR–ICMC Resettlement Deployment Scheme, a programme to support the interviewing of refugees for resettlement through the deployment of NGO staff to UNHCR offices around the world for periods ranging from three to 12 months. In 2001, the Scheme deployed a total of 50 people to 32 locations in 28 different countries.⁵⁸

While secondees and deployees cannot replace UNHCR Resettlement Officers, such creative means of addressing the human resources constraint must be explored, while also exploring how the on-going resettlement activities of UNHCR may be more effectively and predictably supported by donor countries. If the UK is to rely on UNHCR for the identification and referral of resettlement cases, thought must be given to the human and material support the UNHCR will require to fulfil this function.

The direct consequence of these human and material resource constraints required to conduct processing in the regions is a significant backlog of unexamined cases and long waiting periods for the results of interviews. Lengthy resettlement procedures have left vulnerable refugees stranded in desperate conditions for months on end, often with little or no assistance from UNHCR. Recent funding cut-backs have directly impeded not only UNHCR's ability to exercise its protection mandate in many regions, but have also resulted in a reduction of the levels of assistance provided to asylum seekers and refugees as they await decisions on their asylum or resettlement applications.

Resettlement activities can also lead to high expectations within refugee populations, which places additional strains on resettlement staff, and may result in concerns relating to their personal safety and security. In the absence of reliable, credible and consistent information, refugees not only become frustrated, but susceptible to misinformation and manipulation. Resettlement countries need to be full partners, along with UNHCR and NGOs, in ensuring that they are providing complete and accessible information on resettlement which helps manage resettlement expectations. Information should be provided on the meaning and nature of resettlement, the resettlement process, resettlement criteria, the roles of the various resettlement partners, and whether it is possible to request resettlement.

Making such information widely available to refugees would also serve to reduce the instances of fraud and corruption in the resettlement process. Concerns relating to levels of fraud and corruption in the resettlement process have been growing in recent years, especially since the recent corruption scandal in Nairobi.⁵⁹ The

58 For more information on the ICMC–UNHCR Resettlement Deployment Scheme, see: <http://www.icmc.net>

59 See: UNHCR Press Release: "UNHCR receives report on Nairobi investigation", 25 January 2001. Available on-line: <http://www.unhcr.ch>

dramatic growth in resettlement activities in recent years has not been coupled with corresponding increases in staffing or corresponding developments in management and oversight of resettlement activities. As a consequence, resettlement activities in various regions have been plagued by allegations of fraud and mismanagement. To this end, EXCOM Conclusion on International Protection (No. 90 (LII) – 2001) urged “further UNHCR efforts to ensure the integrity of the processing of the resettlement caseload” and encouraged “States and UNHCR to continue to pursue a strategic and systematic approach to the problem of attempted fraud or other abuse.”

In light of these concerns, resettlement countries, NGOs, and UNHCR developed new guidelines on the processing of resettlement cases in field locations and the management of resettlement activities. These guidelines were approved following the 2002 ATC and were incorporated into the Resettlement Handbook as new Chapters 5 (Basic Procedures) and 7 (Management). While these guidelines will help reduce instances of resettlement fraud and add credibility to UNHCR’s resettlement activities, the implementation of these guidelines will place additional demands on resettlement staff in field offices who are already overburdened. Support is therefore required to ensure that the resources are available in every field office engaged in resettlement activities to ensure that effective procedures are in place to reduce the chances of fraud and corruption in the resettlement process.

Finally, many of the concerns about the resource and time-intensive nature of resettlement, in addition to concerns about fraud and corruption in the process, can be addressed by ensuring that certain preconditions for resettlement activities are in place. The most important pre-condition is a full and effective registration process, detailing family composition, undertaken and maintained in a non-resettlement context.

The misuse of resettlement

The central role of resettlement in Australia’s new approach to asylum seekers,⁶⁰ has brought the independence of resettlement into doubt and has, for some, recast resettlement as a tool of migration management and not a tool of international protection. As argued by UNHCR, “while resettlement constitutes a multi-faceted response mechanism, it is certainly not the panacea for all problems besetting asylum systems today, particularly those related to widespread illegal migration”.⁶¹ UNHCR develops this position by arguing that:

Resettlement and asylum are two distinct and separate possibilities. It is therefore critical to the integrity of the international protection system that resettlement processing and the promotion of asylum are pursued in tandem, and not used to work against each other... Resettlement is only one available tool of protection within the whole international refugee protection regime. Using resettlement to further restrict the admission of individual asylum seekers would undermine the right to seek asylum, which is anchored in the Universal Declaration of Human Rights, and is at the very core of the protection regime for refugees. Resettlement must continue to function as a complement to other protection activities and durable solutions. It is not a substitute for the right to seek and enjoy asylum.⁶²

60 See: US Committee for Refugees, *Sea Change: Australia’s new approach to asylum seekers*, February 2002. Available online: <http://www.refugees.org>

61 UNHCR, *New Directions for Resettlement Policy and Practice*, Standing Committee 21st Meeting, EC/51/SC/INF.2, 14 June 2001, paragraph 23.

62 UNHCR, *New Directions for Resettlement Policy and Practice*, Standing Committee 21st Meeting, EC/51/SC/INF.2, 14 June 2001, paragraph 24.

To this end, refugee advocates should be encouraged by the fact that the February 2002 Government White Paper⁶³ clearly states that the resettlement programme will be additional to current asylum procedures. Serious attention should, however, be paid to what a resettlement programme can do for the public perception of refugees. Managed well, a resettlement programme could foster wider public support for all refugees. Managed poorly, a resettlement programme may result in a public perception of asylum seekers as queue-jumpers, as we have seen in Australia.

Conclusion

Resettlement has historically played an important role in comprehensive responses to refugee situations. Highlighted most dramatically by the resettlement efforts associated with the World Refugee Year in 1960 and the CPA, resettlement has been most effective when employed as a strategic complement to other efforts to address the causes of flight, conditions in countries of asylum, and the pursuit of other durable solutions. This recognition has been reinforced by recent discussion between the Tripartite resettlement partners, and has led to the emergence of international resettlement policy.

Managed well, resettlement works. It is a valuable instrument in the international protection tool-box and often the only means of ensuring the protection of refugees who cannot remain in their country of first asylum and cannot return to their country of origin. In such cases, resettlement is not the least preferred solution; it is the only solution. Tens of thousands of refugees, who would otherwise be at risk in their country of first asylum or even refouled to their country of origin, receive international protection through resettlement every year.

Resettlement is a tool of international protection, a durable solution for refugees and an expression of international solidarity with countries of first asylum. Applying these principles, as articulated in recent international resettlement policy discussions, would help ensure the successful implementation and development of the UK resettlement programme.

63 UK Home Office, *Secure Borders, Safe Haven: Integration with Diversity in Modern Britain*, UK Government White Paper, February 2002. See also: Response from (British) Refugee Council. <http://www.refugeecouncil.org.uk/>