

# Resettlement:

## a valuable tool in protecting refugee, internally displaced and trafficked women and girls

by Alice Edwards

*‘Resettlement’ refers to the relocation to other countries of refugees who have sought refuge in a country where they continue to face risks to their “life, liberty, safety, health or other fundamental human rights”.*

It provides individuals with the opportunity to restart and re-build their lives. It has been used successfully to resettle refugee women and girls who have been victims<sup>2</sup> of sexual or gender-related violence, including rape. This article outlines the grounds upon which resettlement is granted, noting the very individual nature of a claim but recognising its use in protecting refugee women and girls in general. It also considers resettlement-type solutions for

internally displaced victims of gender violence, and trafficked women.

### Resettlement of refugee women and girls

Imagine the circumstances within the confines of overcrowded and tense Kosovo Albanian and Roma refugee camps on the outskirts of Sarajevo, Bosnia and Herzegovina. As well as the tensions related to the situation, a

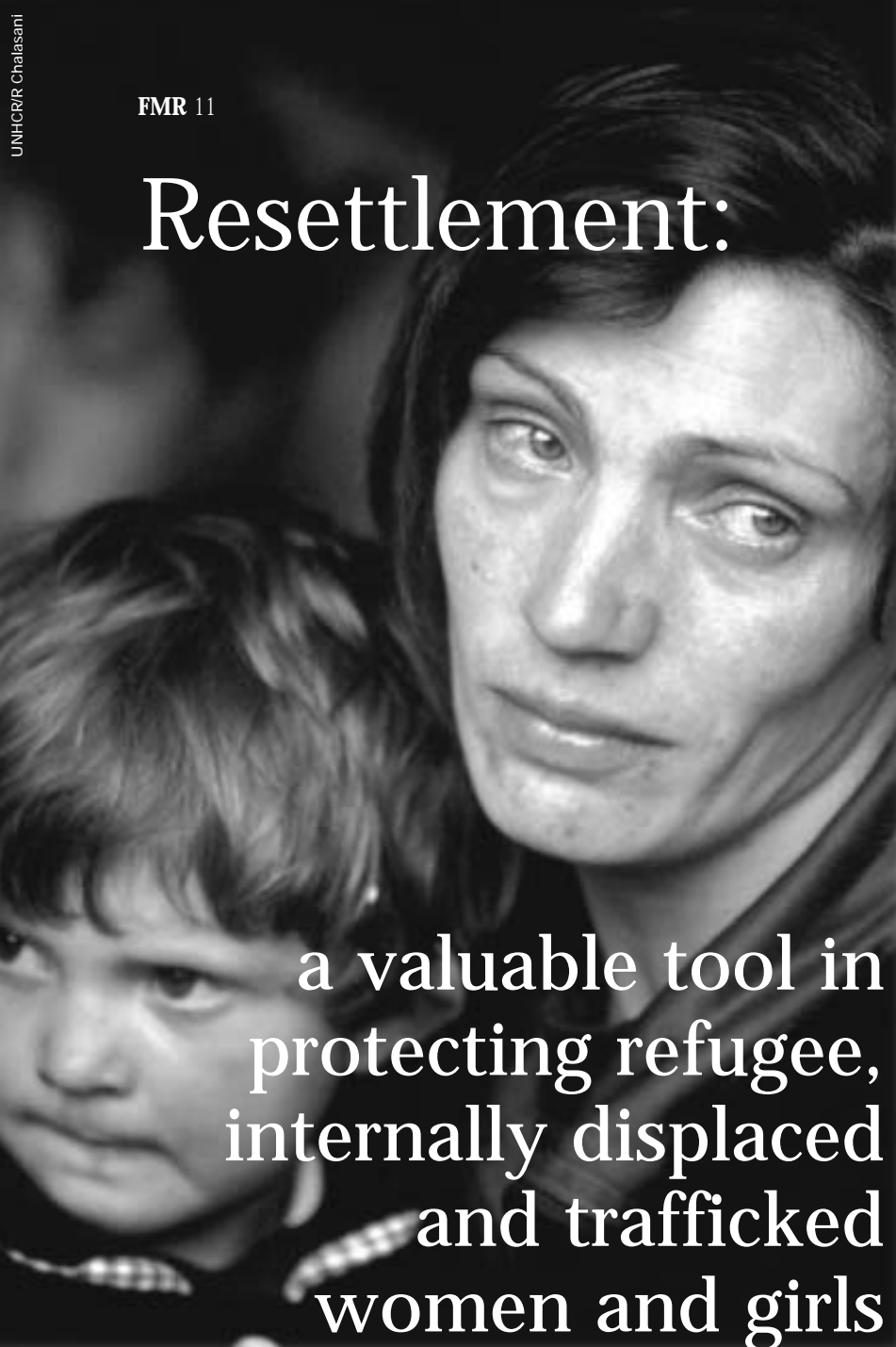
significant number of women and girls<sup>3</sup> must additionally deal with the trauma of having been subjected to sexual assault, rape or torture, in their home villages, while fleeing towards Bosnia or after arrival in the host country. In most cases, they endure their emotional suffering alone. It is nearly impossible to identify these specific types of trauma sufferers, as so many of the refugees show the strain of having survived the refugee ordeal. The agencies offering assistance are often too under-resourced to even attempt to do so.

### Three sexual violence resettlement cases

The husband of a middle-aged woman of Roma ethnicity approaches UNHCR in one of the camps. Clearly distressed, he speaks of his wife who was gang-raped by armed Serbian militia in Kosovo, while she was hiding in their basement with their two small children. An interview with the woman reveals that she is not the only victim; the children were beaten and forced to watch the sexual torture. Counselling is offered to the family, while other options are considered.<sup>4</sup>

UNHCR hears of another woman of Kosovo Albanian ethnicity after a complaint is made that she has been beating her children. The young woman is unable to explain her actions, hides her face while speaking and often breaks down in tears. She says that she was captured by the Serb Army as she was trying to flee towards the border; she was taken into the mountains where soldiers repeatedly subjected her to rape over a three-week period. There were 12 other women with her. She is so ashamed that she is unable to tell her husband. Her aggression towards her children is based on her trauma and exacerbated by the poor camp conditions. Counselling is offered to the victim and her family but she rejects it, later denying, out of an intense shame, that anything ever happened to her. Solutions are sought.

A third case involves a slightly mentally handicapped Kosovo Albanian girl who has been raped outside the refugee camp. She was lured into the surrounding hills by four local youths and brutally gang-raped before the alarm was raised that she was missing. The refugees themselves orchestrate a search and stumble



upon her, naked from the waist down, still lying motionless on the wet ground. UNHCR is alerted and she is taken to hospital where a full medical examination is conducted. The local police are notified. When she is interviewed the next morning, due to the trauma she can neither sit still nor respond to any questions posed. The

### *The victim may face severe ostracism and possible rejection from her community.*

bruising and cuts on her legs and arms are clearly evident. She is transferred for counselling. UNHCR staff chase up the local police to ensure that witness statements are taken and that the youths who were identified as fleeing the forest are interviewed. The local police refuse to act, stating there is too little evidence. No attempt is made by the police to take a statement from the girl. After weeks of effort in pushing the local police to investigate the case, alternative durable solutions are sought.

It is for these types of women that durable solutions are urgently needed, and for whom resettlement to other countries needs to be actively promoted.<sup>5</sup>

Resettlement is considered by UNHCR to be one of three key durable solutions available to refugees worldwide. The other two solutions are **voluntary repatriation** and **local integration**. By offering resettlement as a solution, one has *ipso facto* ruled out voluntary repatriation or local integration as solutions in an individual case. This is not to say that resettlement should be used as a solution of 'last resort'. Resettlement should be considered when "it is the best, or perhaps *only*, solution"<sup>6</sup> in an individual case.

For example, it may be foreseen that eventual voluntary repatriation will be possible for a particular refugee case-load. However, realistically, such repatriation may take several years. In such circumstances, voluntary repatriation is not always the best solution for an individual victim of gender-related violence. Due to the unsatisfactory situation in the host country, a refugee may even 'choose' to return home prematurely, rather than remain there. This simply places a refugee in an even more precarious situation. Resettlement should be used to avoid such situations.

### **The resettlement criteria**

Before resettlement can be considered, a positive refugee status determination is normally made, on any one or more of the grounds listed in the 1951 Convention Relating to the Status of Refugees.<sup>7</sup> For the cases described above, the victims' refugee

claims would most likely be based on the ground of ethnicity (nationality), as they all belonged to an ethnic group subjected to persecution in their home country. The act of sexual violence in the first two cases is a manifestation of that ethnic persecution. It has been used as a tool of persecution, perpetrated by state or quasi-state actors. The state itself has done nothing to stop it and may have sponsored it. In the third case, the sexual act has occurred in the country of refuge and is used not in terms of her refugee claim but as part of her need for resettlement.

After a positive refugee status determination is made, the criteria for resettlement are applied against the background of each individual case. The two basic tenets are that (a) the refugee is considered unable to return to her country of origin in the short or long term and (b) the refugee is unable to remain in the country of refuge in the long term, although individual resettlement countries apply a wide range of different resettlement criteria. Unfortunately a plethora of criteria can work against women in need of resettlement. It would be preferable, therefore, if the UNHCR criteria could be applied fully by resettlement countries.

The first tenet establishing why a refugee is unable to return to her country of origin, in the short or long term, will differ in individual cases. Even if it is considered safe for the refugee group to return to its country of origin, other considerations must be given to victims of sexual or gender-related violence. The victim may face severe ostracism and possible rejection from her community; she may be verbally or even physically insulted by her neighbours or sometimes by family members. This is especially true in very traditional

societies. Upon return, she may be haunted by the events that occurred and the likelihood of re-traumatisation in such cases may be very real. In addition, in some circumstances, she may know or be known to the perpetrators and her physical safety could be threatened if returned. One or more of these circumstances provides a sound basis upon which a resettlement case could be brought. Determining that a refugee is **unable to remain in the country of refuge** in the long term recognises the fact that many refuge countries may not be able to offer the level of refugee protection required.



*Many refugees from Kosovo were forced to leave their homes within minutes, often with little more than the clothes they wore.*

Factors which may be considered in deciding whether a particular refugee is unable to remain in the country of refuge include: the country itself may be at war or recovering from war, and may be economically, socially and/or politically fragile; basic infrastructure, resources and psychosocial counselling may be virtually non-existent yet considered essential for the recovery of the victim; a neighbouring host country may be considered too close to the site of the violence for any meaningful rehabilitation; the victim may belong, as in the case studies, to an ethnic minority group in the host country which already suffers ethnic-

based tensions restricting integration and recovery; or there may be a lack of any effective immigration and asylum law or procedure to allow the refugee to be offered asylum for long-term settlement.

Personal circumstances or events may provide additional reasons why a victim is in need of resettlement. For example, the victim may belong to a mixed ethnic or religious marriage in which she or her husband are of the minority group in their divided country of origin or refuge; the victim may be a single mother or otherwise without family; she may have been rejected by her family; she may know the perpetrator(s) who continue to reside in her home neighbourhood; she may be pregnant as a result of rape; or she may have contracted a sexually transmitted disease as a result of rape. The age of the victim can also be a relevant consideration.

resettlement. Women should be counselled in this regard. Resettlement is not, therefore, a solution for all refugee women having suffered sexual or gender-related violence.

### **What impact does resettlement have on due process and successful prosecution of alleged perpetrators?**

Resettlement may have the effect of preventing the prosecution of alleged perpetrators as it essentially removes the key witness from the scene. As in the first two case studies, where the violence was carried out in the country of origin or during flight, possibilities for effective judicial redress are minimal. In contrast, where the violence takes place in a host country, as in the third case study, all necessary steps need to be taken to pursue due process and to encourage local authorities to prose-

## *Flight paths can sometimes be more dangerous than the site of the violence itself.*

It is equally important to recognise that victims of rape, as in the first case study, may also include the psychological victims, such as the children or spouse. After all, rape is often used not only to physically and psychologically terrorise the female victim but also to humiliate and psychologically destroy the male population who may believe that they have 'failed to protect the women'. In some cases, husbands have been forced to violate their own wives under threat of death.

### **The impact of resettlement on individual cases – is it the best solution?**

Careful consideration must be given to the **impact of resettlement** on individual cases. Relocation from one culture to an entirely different one may not always be the best solution; it may even cause additional stress rather than alleviate it. Unfortunately, many refugees assume that their life will be better in a resettlement country without realising the radical new environment and the possible loneliness that awaits them. They may be ill-equipped to be removed from their extended family or community networks. Persons involved in resettlement must keep in mind all these factors as they propose persons for

cut. This must be balanced, however, against the needs of the victim to relocate, as well as her decision whether to assist with any criminal investigation or not.<sup>8</sup> The fact that the host country is unable or fails to investigate these types of crimes can be another example of the lack of available protection in that country.

### **Internally displaced women and girls**

Internally displaced persons may suffer the same level of persecution as refugees, although they may never have left their home country. There are two types of internally displaced: those who are displaced during war or war-like situations, and those who were refugees during war but who have since returned to situations of internal displacement. Being internally displaced means that they do not have access to the same legal regime or resources as refugees; in most cases they have substantially less. A lack of access to areas where the internally displaced live means that few or no international organisations operate in these areas. Persons can remain internally displaced many years after a conflict has ended. In Bosnia and Herzegovina, for example, there are still an estimated 500,000 or more displaced persons within the country.



Does resettlement apply to the internally displaced? Strictly speaking, these persons are not eligible for resettlement as they are not 'outside their country of origin'. Denying resettlement options to internally displaced women, however, fails to recognise that in many cases women are not able to escape persecution or to avail themselves of the protection of a neighbouring country. Flight paths can sometimes be more dangerous than the site of the violence itself. A woman may find herself trapped in a village held by rebel soldiers or detained in a concentration camp. It may be as simple as not having enough money to bribe a border official. There are a myriad of reasons why some persons who would otherwise satisfy the refugee definition are not able to reach relative safety.

In Bosnia, for example, where rape was used as a systematic weapon of war, many victims are still living in their own country; as a consequence, for varying reasons, many continue to live restricted, traumatised and often threatened lives. Sometimes, the simple removal of a victim from the scene of the violence can provide opportunities for meaningful recovery yet, due to the current resettlement criteria as well as the limited mandate of UNHCR, such removal is not available for individual cases, although it is recognised that these women are in need of a solution to their plight.

In order to include such cases, the resettlement criteria would need to be modified. The ultimate question becomes why the victim cannot remain in her home country. Reasons may include: that her recovery may be severely restricted due to the continuing threat of generalised violence or by threats of reprisals from the perpetrators who may still be at large; her psychological trauma may be exacerbated by remaining in close proximity to her home village or to the site of the violence; she may have no or limited actual or legal opportunities to relocate within the country; and her country of origin may be under-resourced to such an extent that the necessary medical and trauma counselling is not available.

Questions relating to the option of **internal relocation** will necessarily be raised in such cases and, as in asylum claims, the basic test should be whether it is **both possible and reasonable** for that individual to

relocate.<sup>9</sup> Where internal relocation would lead to 'undue hardship' on the individual and her family, it would not be a suitable alternative.

Resettlement is not an attempt to usurp the responsibility of a particular state for taking care of its citizens. Resettlement should be an option for individuals where the state is unable or fails to fulfil its obligations and where the victims are considered to be in need of additional protection.

### Trafficked women and girls

'Trafficked women' are women who have been recruited, transported, transferred, harboured or received, by means of the threat or use of force or coercion, abduction, fraud, deception, abuse of power for the purposes of forced prostitution, sexual exploitation, forced labour, or slavery or slavery-like practices.<sup>10</sup> Trafficked women, like refugee victims of sexual violence, share the experiences of physical and psychological trauma. In reality, refugee women are particularly vulnerable targets of this type of criminal activity.

Some trafficked women may be able to mount valid claims for refugee status as a result of the trafficking experience and thereby benefit from resettlement as an appropriate durable solution in their case. For example, considerations of possible reprisals from the trafficking ring, or the likelihood of severe family or community ostracism, may amount to persecution in an individual case, coupled with the failure or inability of the country of origin to offer protection against such harm. In terms of resettlement, she may be considered unable to remain in the foreign country, due to limited integration prospects, including potential prosecution and/or detention by the local authorities for illegal entry or prostitution. Resettlement could be a suitable, if not the only, protection alternative available.

However, where a trafficked woman is not a refugee, the option of resettlement is not available as UNHCR's mandate does not at present extend protection to victims of trafficking who are not otherwise refugees. In such cases, the international community must facilitate effective witness protection schemes, which could include options for long-term settlement abroad.

### Conclusion

The challenge of protecting women and girls against sexual and gender violence is an ever present one. Resettlement is only one solution available in individual cases where the victims are refugees. However, resettlement could equally be made available to internally displaced victims, who cannot otherwise be guaranteed legal or physical security in their home country. For trafficked women who are not otherwise refugees, options for long-term settlement may need to be considered within broader witness protection schemes.

*Alice Edwards worked for UNHCR in Bosnia and Herzegovina and Rwanda, and was UNHCR's Focal Point on Refugee Women and Gender in both countries. The views contained in this article are those of the writer and not necessarily those of UNHCR or the UN. Email: edwards\_alice@hotmail.com.*

*All examples cited are based on actual cases, with some modified details to prevent identification.*

1. *Background Note for the Agenda Item: The Use of Resettlement to Address Durable Solution Needs*, Annual Tripartite Consultations on Resettlement, Geneva, 20-21 June 2001, p1.
2. The term 'victim' has been used throughout this article in preference to survivor, as a means of de-stigmatising the term.
3. The writer equally recognises that men and boys can be victims of sexual and gender-related violence.
4. In most countries, counselling is not usually an option.
5. The problems of female genital mutilation, domestic violence, child brides and abductions for the purposes of marriage are equally serious cases which should also be considered for resettlement.
6. *Resettlement Handbook*, UNHCR (revised) April 1998, Chapter 1, p1.
7. According to UNHCR, mandate refugees are also eligible for consideration for resettlement.
8. This article will not look into the responsibilities of UNHCR to an alleged perpetrator should he also be a refugee.
9. UNHCR Position Paper 'Relocating Internally as a Reasonable Alternative to Seeking Asylum - (The So-Called "Internal Flight Alternative" or "Relocation Principle")', February 1999.
10. See *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime*, 15 November 2000, Palermo, Italy.