

Reinvigorating resettlement: changing realities demand changed approaches

by John Fredriksson

The events of 11 September 2001 had unexpected repercussions for refugees in far away places. Most dramatic of all was the refocusing of international attention on the plight of the Afghan people.

With a new interim government in place, over 3.5 million Afghan refugees in Iran and Pakistan now have hope that they may be able to return and rebuild their homes and communities.

Other refugees, however, have once again had their lives put on hold. The lucky few who had secured a place on the limited resettlement programmes of Western states saw their futures endangered as airline flights on and after 11 September were cancelled and diverted. The US shut down its programme (by far the world's largest) soon after 11 September, stranding over 22,000 refugees who had already been approved for entry. The US resettlement programme has come under intense scrutiny, just as increased security measures and border enforcement efforts have also further restricted access to asylum. This was in fact the only US migration programme completely shut down for months as visas for business travellers, tourists, students and other legal immigrants continued to be issued. By the end of December 2001, fewer than 800 refugees had arrived in the US, out of a projected 14,000 for the quarter of the 'resettlement year' starting in October. In 2002 resettlement to the US will probably fall below 45,000 admissions, the lowest in more than 23 years.

Resettlement had fallen during the 1990s out of favour in many states. In the aftermath of the tragic events of 11 September, it may prove to be one of the most useful tools in the protection kit.

What is resettlement?

Resettlement means many different things to different people. To some, it is a narrow and limited activity reserved for the most dramatic cases of human rights violations and severely traumatised persons. To others, resettlement is an inherent right of individuals who seek protection (ie you are a refugee, *ergo* you should be resettled).

Resettlement is part of the protection mandate of UNHCR. UNHCR is mandated to provide international protection to refugees when governments fail and individuals and families are at risk. UNHCR is charged to seek durable solutions to the plight of refugees, either through voluntary return when conditions permit, local integration in the host country, or resettlement in a third country. But unlike the prohibition against *refoulement* in the 1951 Refugee Convention, or the right to seek and enjoy asylum enumerated in the 1948 Universal Declaration of Human Rights, resettlement is a discretionary and voluntary activity on the part of states, despite being a core protection activity for UNHCR. Herein lies the central conundrum. How do you harmonise the desirability of protecting refugees through resettlement with the desire of states to manage migration through programmes to admit certain categories of migrants such as skilled labourers and family immigrants?

Operationally, resettlement is defined by several sequential stages which mirror other state-run migration pro-

grammes: case identification, needs assessment, identity validation, eligibility determination and processing, transportation and passage, and eventual integration in the country of reception.

The policy of resettlement, however, has three core functions, all linked to UNHCR's protection mandate and the obligations of states in this area:

- to provide international protection and meet the needs of refugees whose life, liberty, health, safety or other fundamental human rights are at risk
- to be a durable solution to the plight of refugees
- to be an instrument of international responsibility sharing

Thus, while resettlement is part of the global migration phenomena, its distinct features and characteristics are anchored in the international refugee regime and human rights law, setting it apart from all other facets of international migration.

In terms of the refugee regime broadly viewed, the dichotomy between the **refugee as an individual** - with specific personal and legal issues that need to be adjudicated by competent national authorities - and **groups of refugees** - who may collectively exhibit characteristics requiring action by the international community to ensure their protection and long-term survival - is central to the debate over the role of resettlement as a response to refugee crises and its usefulness as a durable solution tool.

Background to resettlement

Resettlement cannot be understood today without reference to UNHCR's role in relocating close to two million refugees from Vietnam, Laos and Cambodia to the US, Canada,



UNHCR/A. Hollmann

Australia, New Zealand, Sweden, France and other European countries. In 1979, at the peak of refugee outflows in the region, resettlement was the only viable option for 1 in 20 of the world's five million refugees. By 1992, the end of large-scale resettlement from South East Asia offered an opportunity for the international community to redefine resettlement policy and practice.

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From the perspective of resettlement countries, two parallel trends emerged. Some countries substantially decreased their resettlement quotas, citing 'compassion fatigue' and budgetary constraints. Others returned to the previous practice of focusing on specific ethnic groups, religious minorities and other categories of persons of specific concern to special interest groups within the country of resettlement.

For UNHCR, the post-South East Asia refocusing has had both positive and negative effects. While resettlement policy became closely linked to the refugee protection mandate, the programme shrank considerably and narrowed its global reach.

Resettlement was articulated by the organisation as a tool in international protection, particularly for specific cases such as those involving security concerns, special health needs, victims of torture and severe forms of trauma, and at-risk-women.

This narrow focus resulted in fewer refugees being identified as in need for resettlement, with resettlement countries conversely focusing their efforts on other groups independent of UNHCR.

At the same time, the 'solution' pendulum swung from resettlement to repatriation, to the extent that policy documents began to refer to repatriation as the "happiest" of durable solutions while resettlement was the "least desirable". The question remains: in whose eyes was it the "happiest" solution - refugees, individual states or the international-community, including UNHCR?¹

Resettlement in the wider migration context

In the absence of durable solutions such as widespread managed resettlement programmes, refugees, facing ever more secure borders and restricted access to asylum, often resort to smugglers and traffickers. As a result,

asylum systems in the developed world are perceived to be under attack by smuggling and trafficking networks, and abused by economic migrants posing as refugees. Since many refugees have few options but to join in the irregular and often dangerous underside of international migration streams, they are often doubly victimised and tarred as 'illegal immigrants'. Ruud Lubbers has reinvigorated the international debate about protection and durable solutions in this wider context of international migration.

The inherent order in the resettlement process could be attractive to states concerned about the often unpredictable character of refugee movements. Resettlement is by definition an orderly mechanism of processing and moving refugees from a chaotic and hazardous situation to a place of safety and security in the country of resettlement. With increased emphasis on security, identity checks and screening for fraud since the events of 11 September, resettlement could become an effective tool for states who want to participate in an international protection response and help refugees attain a solution.

Repatriation to Burma in the late 1990s.

However, there is a danger that resettlement could be used as a *quid pro quo* to condone states' efforts to further restrict access to asylum. In other words, the international refugee protection regime could become totally dependent on states' discretion to decide who should be resettled, and the right to seek and enjoy asylum could be eviscerated. Asylum and resettlement need to be seen as fundamentally part and parcel of the same international refugee protection regime administered and overseen by the UNHCR. While resettlement is a discretionary response on the part of states, asylum, as a corollary to the principle of *non-refoulement*, is a right under human rights law. Asylum, like resettlement, addresses the individual need of the refugee for protection. Unlike resettlement, however, asylum is not discretionary and should not be subject to the vagaries of each state and their selection criteria beyond those enumerated in the Convention (ie exclusion clauses).

Does resettlement have something to offer in a brave new world of managed migration? The answer is a

qualified yes, as long as there is agreement about what managed migration means.² Managed migration is not reduced migration but rather a process by which a state may seek to control as well as regulate the orderly admission of immigrants. There is nothing inherently wrong with states viewing resettlement within this larger context, as long as resettlement is equally framed within the international system of refugee protection. Resettlement can also serve to alleviate refugee suffering by functioning as an instrument of international responsibility sharing, through UNHCR's commonly agreed policies, criteria and procedures.

New dimensions to existing tools

Just as the end of the South East Asian refugee programme gave UNHCR an opportunity to anchor resettlement in the protection mandate so today, in the aftermath of 11 September, there is a window of opportunity to redefine resettlement as a mechanism to achieve durable solutions for many more refugees.

The time is ripe to discard the notion that there is a hierarchy of durable solutions.

The task ahead is threefold. First, a policy should be developed on the role of resettlement as a vehicle to help refugees attain a durable solution. Second, international resettlement procedures need to be revised, enhanced and resourced. Finally, a strong political initiative should be launched to increase substantially the number of resettlement quotas offered by states, particularly members of the European Union and other developed nations.

UNHCR and its key partners in resettlement should define clearly what it means to do resettlement, not only for the relatively few in need of legal protection but also for the refugees who have languished for years in refugee camps or lived in limbo in many of the world's urban centres. The time is ripe to discard the notion that there is a hierarchy of durable solutions, ie dubbing some as 'preferred' and others as 'undesirable'. Developing a clear policy on the intrinsic link between resettlement and the need for durable solutions will result in operational guidelines

and criteria for this type of resettlement activity, which are now virtually absent from the UNHCR Resettlement Handbook. A reinvigorated debate about the role of resettlement for durable solution purposes is also timely in many states. The challenge laid out in early 2001 by then British Home Minister Jack Straw to substantially increase resettlement capacity in Europe needs to be taken up by policy makers.

Two models

In answering the policy question of when resettlement becomes appropriate as a durable solution (as distinct from a short-term need to rescue refugees for emergency protection reasons), there are two potential models.

One model could be based on the length of time a refugee spends in limbo awaiting a more definite future, though care should be taken not to arbitrarily set pre-determined time frames, as each refugee situation is unique. However, a formula-based approach can be designed, factoring in both the length of time and the likelihood and feasibility of a repatriation agreement. This formula could, for example, be weighted so that if a refugee has been in a situation of uncertainty for only a short time, the decision on turning to resettlement can be deferred even if a repatriation programme seems relatively unlikely at that point. Conversely, the longer a refugee has been in limbo, the more resettlement should be the presumed solution unless a repatriation programme is imminent.

Another policy model could articulate the process by which, while respecting the principle of an individualised refugee status determination, the resettlement need would be defined on a group basis. Identifying a pre-determined refugee group, based on political, protection, ethnic make-up or other demographic characteristics, would in turn facilitate the identification of needs as well as the operational requirements at field level.

A renewed architecture

Since the days of the South East Asian programme, resettlement has been a low priority activity for many organi-

sations and bureaucracies. This lack of attention has had unfortunate outcomes. UNHCR itself has been rocked by a scandal of fraud and corruption in the Nairobi branch office, involving UNHCR staff extorting bribes from refugees seeking to be put on the resettlement list. UNHCR has proactively addressed the deficiencies in the resettlement operation in Kenya, beginning long before the release of a UN investigative report. Measures undertaken include strengthening staff resources, designing new oversight mechanisms and instituting case management and quality assurance procedures. Could similar measures be taken on a global basis, to ensure that resettlement processing in other sites is not vulnerable to this type of corruption? Particularly in light of new and heightened security concerns, resettlement processing must be done to the highest standards and professionalism in order to ensure integrity in the process and not undermine the will to use resettlement as a protection measure. It is often said that resettlement is very staff intensive. It is true that any process that entails assessment of need, case identification, validation of identity and adjudication of status requires an adequate level of staff and operational resources. At the same time, many of the activities commonly linked to resettlement, such as needs assessment, refugee registration, case management and individual counselling, are necessary and helpful for all other facets of refugee assistance and protection activities at the field level. Most importantly, they are essential elements in the design of strategies for repatriation and local integration, helping refugees make informed decisions. When refugee registration and assessments are done in the exclusive context of resettlement, they become onerous, difficult to implement and, in some cases, subject to fraud and corruption.

For UNHCR, the role and function of resettlement within the organisation needs to be examined and strengthened. If resettlement is to become more important and involve many more states as partners, more staff and resources will be required. Furthermore, the way resettlement is managed should be reviewed, in order to strengthen management accountability, focusing on outcomes and results. A review and reform of management practices (including

recruitment of specialised staff, training and career development, and centralisation of oversight on policy and practice) is necessary, both for UNHCR and concerned states. Harmonising policies and practices between UNHCR and states is needed to create a coherent global system and, most importantly, set in motion a transparent programme that would facilitate resettlement operations at the field level. When resettlement is global and applied consistently, and criteria for eligibility are transparent, the 'magnet' effect of resettlement that many fear would be lessened. In other words, for refugees, if your chances to be resettled are the same - assuming the same level of need - whether you are in Bangkok, Dadaab or Moscow, there would be no reason to shop around for the best processing site.

A renewed commitment

If resettlement is to become a realistic solution for refugees, the number of participating countries and the quotas offered have to increase significantly. Developed states will need to contribute more financial resources to enable UNHCR to fulfill its mission. High Commissioner Lubbers has also challenged developed nations to increase efforts at burden sharing through larger resettlement quotas,

suggesting a ratio of 1 refugee per 1,000 inhabitants. So far, the response by many governments has been muted or silent. Using this formula, the US would have a target of about 271,000 refugees per year: a 387% increase on their 2002 target. For Germany, it would mean a resettlement programme of 83,000.

Realistically, the European Union states could commit themselves to increase resettlement quotas over time to 100,000 per year. Canada and Australia could each return to their annual levels of 20,000 of the early 1990s, and the US to similar historic levels of 130,000 per year. Though much smaller in absolute numbers, there has already been good progress in increasing the number of countries interested in offering resettlement, including Chile, Brazil, Benin, Burkina Faso and Iceland.³

More important than numbers and quotas, however, is the need for states to support the resettlement option as part of a broader commitment to achieve durable solutions for refugees. The infrastructure of resettlement does not stand alone. Renewed attention is needed on refugee registration, caseload identification and durable solutions for refugees in protracted situations. Warehousing refugees for years and

years in miserable camps and untenable situations breeds discontent, victimises the vulnerable and opens the door for criminal elements to abuse and take advantage of refugees, further eroding public support. Investments in self-reliance projects, micro-enterprise, refugee education and vocational training all rely on good registration and case management systems. Resettlement then truly becomes a do-able option, an important but not exclusive item in the menu of solutions that refugees need in order to regain hope for the future.

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The views expressed herein are those of the author and do not necessarily reflect the views of the United Nations.

1 See for example *General Conclusion on International Protection* (No. 79 (XLVII)-1996), The Executive Committee, UNHCR Geneva, and the *Resettlement Handbook*; April 1998, Division of International Protection, UNHCR, Geneva.

2 Rt Hon Jack Straw MP 'An Effective Protection Regime for the Twenty-first Century', speech before the Institute for Public Policy Research, London, 6 February 2001. Available from *The Guardian* Newspaper Limited, 2001 website.

3 Progress was made in this regard at the 25-27 April 2001 International Conference on the Reception and Integration of Resettled Refugees: Norrköping, Sweden. See *ICRIRR: Principles*, www.unhcr.ch/cgi-bin/texis/vtx/home?page=search.

Resettlement: the only chance for long-term security?

by Marta Bivand and Ceri Oeppen

UNHCR supports a variety of durable solutions for the Afghan refugees in India. For all the Afghan families we met in New Delhi, however, resettlement was their preferred option. For many, the lack of legal and economic security in India combined with the continuing instability in Afghanistan leaves them no other viable solution. Farishta, for example, worries about her children's future: "In Afghanistan there are no human rights and children cannot go to school. Life is dangerous in Afghanistan. But life is dangerous in India too, and my children cannot go to school here either because we haven't got money for the fees. I would like my family to resettle in Canada." For others, their desire to resettle overseas is reinforced by the fact that they already have family members living in North America, Europe and Australia. Masood's family told us that to their knowledge they have no remaining family in Afghanistan but that they are in contact with family members in the US and Canada.

Ibrahim's family came to New Delhi from Kabul in 1990. Originally he thought they would only be in India for a couple of months until things calmed down in Afghanistan. It did not take long before they too started thinking of resettlement. On the 6 August 2001 the family received a letter from the US embassy in New Delhi granting them resettlement in Richmond in the US. After eleven years of uncertainty, they started planning for their future. Ibrahim's four teenage daughters were particularly excited, and looked forward to pursuing their education and developing careers. But they also admitted they would be sad to leave India, and especially sad to leave friends they had made there. On the morning of 11 September Ibrahim and his family boarded their flight to Washington DC. While they were in the air, events in New York unfolded and their flight was re-routed to Canada.

Ibrahim and his family were among the last Afghans to be resettled in the US. Yet many Afghans in New Delhi still see resettlement as their only realistic opportunity for long-term security. Staying in India remains only a temporary solution, while many are unconvinced that they will be able to return to Afghanistan. What remains unclear is whether there will be any further opportunities for resettlement.

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* All names have been changed.