

Convention Plus: Framework of understandings on resettlement

Introduction

The Agenda for Protection¹, deriving from the Global Consultations on International Protection, recognized that there is a need for more coherence in the search for durable solutions, by integrating voluntary repatriation, local integration and resettlement, wherever feasible, into one comprehensive approach implemented in close cooperation with countries of origin, host countries, UNHCR and its partners. Pursuant to the Agenda for Protection the Working Group on Resettlement prepared a paper elaborating upon the concept of the strategic use of resettlement and providing various scenarios for its use. The Working Group defined the strategic use of resettlement as the planned use of resettlement that maximizes the benefit of resettlement, either directly or indirectly, to refugees other than those being resettled. Those benefits may accrue to other refugees, the host States, other States and the international protection regime in general.²

Building upon this effort, Canada prepared a discussion paper which was considered during the inaugural meeting of the High Commissioner's Forum in June 2003.³ As Canada highlighted, resettlement serves three equally important functions. First, it can be a tool to provide international protection and meet the special needs of individual refugees whose life, liberty, safety, health or other fundamental rights are at risk in the country where they have sought refuge. Second, it can be a durable solution for larger numbers or groups of refugees alongside the other durable solutions of voluntary repatriation and local integration. Third, it can be a tangible expression of international solidarity and a responsibility-sharing mechanism, allowing States to help alleviate each other's burdens and reduce problems that affect the country of first asylum.⁴

At the Forum, Canada and UNHCR were requested to convene a cross-section of stakeholders to work on the basic understandings related to resettlement that might be included as part of plans of action to address specific refugee situations comprehensively. Taken together, the principles and elements set forth in this paper are proposed as the framework of understandings to guide the creation of Convention plus comprehensive arrangements.

This paper outlines the elements from among which states and other partners could draw to include in a resettlement program in the context of Convention Plus situation-specific comprehensive agreements which will be determined for each unique situation and depending on the circumstances, may incorporate resettlement. It details the elements

¹ A/AC.96/965/Add.1 of 26 June 2002.

² EC/53/SC/CRP.10/Add.1 of 3 June 2003. See para. 6.

³ Resettlement and Convention Plus Initiatives: "How can resettlement be used in the context of [possible *Convention Plus* agreements and what elements related to resettlement might be considered for inclusion in possible *Convention Plus* agreements", Forum/2003/02 of 18 June 2003.

⁴ *Ibid.*, para. 2.

specific to the task of dealing with refugees in need of resettlement. Not all will be applicable to every situation.

The elements have been divided into those that are the responsibility of individual players i.e. the host country, resettlement country, the UNHCR and implementing partners. In some cases, responsibility for an element would be shared amongst all parties.

General Principles and Joint Undertakings

1. Resettlement should be undertaken in a spirit of co-operation, partnership and consultation

Since the Second World War co-operative efforts of host countries, resettlement countries and international organizations has led to solutions for millions of refugees around the world. If the strategic use of resettlement as a durable solution within the context of Convention Plus is to succeed, it should be undertaken in this same spirit of international solidarity. Host countries, resettlement countries, UNHCR and implementing partners should work collectively to pursue the agreed upon goals.

The role and responsibilities of resettlement countries, host countries, UNHCR and implementing partners should be clearly articulated at the outset of plans of action to address specific refugee situations comprehensively. In order to facilitate co-operation, formal consultations amongst all parties should ideally take place before the start of a resettlement effort and on a regular basis throughout the implementation of a comprehensive arrangement. Consultations should include needs analysis from the perspective of all parties, identification of obstacles and concerns and mechanisms for assuring a constructive decision making process.

For example, resettlement countries should consult and to the extent possible, co-ordinate the allocation of resources, to ensure that a sufficient number and type (e.g. vulnerable cases, women-at-risk, urgent protection etc.) of resettlement places are available to address the needs in the context of comprehensive durable solutions arrangement.

2. All parties will undertake to maintain transparency in order to achieve the internationally agreed objectives of the resettlement process

Transparency of process at the outset and throughout any strategic resettlement effort is essential for all parties. It is through transparency that trust can be established and maintained by all parties to the agreement. This includes the communication of clear information with respect to eligibility and selection criteria, including information on groups or types of individuals identified for resettlement by a particular country. This information should be shared with the refugee population to help manage expectations. Any changes that occur in resettlement or host countries, UNHCR and international agencies, and that may have an impact on resettlement processing, should be communicated to other parties as soon as is practicable.

To support transparency parties should have in place management practices, including human resources and audit procedures, to deter, detect and take appropriate action against fraudulent activities related to resettlement processing, amongst staff and refugee applicants. In addition, the host country officials should take appropriate law enforcement action to deal with refugees who engage in such fraudulent practices, with support as required.

3. All parties will endeavour to deliver the resettlement program in as cost effective a way as possible

All parties should make every effort to streamline resettlement processing and make the process less resource intensive and expensive. A reduction in the cost of resettlement processing may result in additional money to assist more refugees.

Resettlement processes should be examined jointly to determine if there are tasks which are done more than once by different parties, where sharing of information would eliminate the need to collect it a second time or sharing of resources may help reduce cost and effort. For example, detailed bio-data collected at the time of registration by the UNHCR or host country could be shared with the country considering resettlement of an individual. Similarly the choice of a location for a refugee population by the host country may increase costs if the area in question is not easily accessible to resettlement countries, UNHCR and international organizations.

4. All parties should commit to continue to be part of a Convention Plus comprehensive arrangement to resolve a refugee situation, including through resettlement

Any comprehensive arrangements will be undertaken within a specific time frame, with the understanding that if solutions have not been found for the majority of refugees in a population, an extension may be made with the agreement of participants. Resettlement countries, host countries, UNHCR and international organizations that enter into a comprehensive arrangement in the context of Convention Plus should make resettlement commitments that reflect their intention of actively participating in resettlement activities until such time as durable solutions have been found for the vast majority of refugees.

Care should be taken to ensure that non protection-related “pull factors” and associated movements are not created by resettlement operations, resulting in new flows of asylum seekers after the situation in the country of origin no longer warrants it. To the extent possible, program parameters should be established which clearly delineate eligibility for resettlement. Parties should engage in ongoing monitoring and periodic review of the motivation of new arrivals and take appropriate action to minimize and address “pull factors” and associated movements. In addition, to the extent possible and when appropriate, refugees should be dealt with in the order in which they arrive in the country of asylum, taking into account protection needs, family circumstances and the physical and mental health of the individual.

5. All parties agree to work to diversify resettlement opportunities

All parties should make every effort, working in close cooperation with UNHCR, to encourage more States to provide resettlement opportunities for refugees. They should support emerging resettlement countries with technical and financial support, training, twinning arrangements or other measures aimed at creating or consolidating resettlement capacity. Diversification of resettlement opportunities in all regions of the world can have a beneficial impact in terms of managing migration flows and reducing secondary movements.

Resettlement Country

Main elements and undertakings:

1. Apply selection criteria for individual refugees or groups of refugees, in keeping with the humanitarian nature of refugee protection and the search for durable solutions.

The goal of the strategic use of resettlement and using resettlement as a component of comprehensive durable solutions arrangements is to secure protection and durable solutions for more refugees than would otherwise be the case. It is recognized that the resettlement programs of individual States often rely on selection criteria established by law and that reflect domestic interests. Resettlement countries should be prepared to explore the use of expanded and flexible resettlement criteria in support of shared humanitarian goals, particularly in emergency and protracted refugee situations. Countries should work collectively to ensure that sufficient resettlement places are offered and be prepared to make multi-year commitments for resettlement, to ensure sustained commitment to a resettlement effort.

A country may have a traditional approach to resettlement that should be examined to see if it can be modified or enhanced to meet the needs of the refugee population at hand. This could include, for example, the selection and processing of groups of refugees within a population on the basis of other than individual refugee assessments. This recognizes that group processing approaches are not inconsistent with countries applying their own selection criteria. In such scenarios it is assumed that individual screening for medical and security concerns will be done by resettlement countries, as required.

The established screening criteria of individual countries may also serve as a basis for burden-sharing arrangements. Certain countries may excel at specific kinds of resettlement (e.g. large numbers, vulnerable cases, etc.). Arrangements may include countries that do not normally resettle but who have a particular interest in the specific situation. In such cases that country will have to establish guidelines for resettlement that are appropriate for the situation in question.

2. Recognition of the importance of the integrity of the family unit

It is widely recognized that the presence of immediate family members (spouse and dependent children) is of significant benefit to refugees in terms of both their economic welfare and mental health as they endeavour to adapt to life in a country of resettlement.

If a family is together a refugee can focus his or her attention on learning a new language, finding employment and making a new home. If immediate family members remain behind, the resettled refugee may have difficulty with these essential elements of adaptation and integration.

It is recognized that resettlement countries do not necessarily share one definition of “immediate family” and that individual states must work within the constraints of their laws. However, in cases in which immediate family members are in the same country of asylum, resettlement countries should make every effort to ensure the integrity of the family when processing applications for resettlement. In cases in which immediate family members are in different countries of asylum, every effort should be made to facilitate reunification through resettlement of the family in one country. If a refugee has close family members who are already established in a country, that country should be the first to consider an application for resettlement and should do so in the spirit of preserving the integrity of the family.

3. Provide secure legal status to resettled refugees

Resettled refugees should be granted secure legal status in the country to which they are resettled including civil, political, economic, social and cultural rights similar to nationals. Only if a resettled refugee enjoys secure legal status with most of the rights of nationals can they be fully functioning and contributing members of the society.

4. Provide appropriate assistance to facilitate integration into the receiving country

The adaptation of a resettled refugee to the country of resettlement is important both for the refugee and the receiving country. It is widely recognized that resettled refugees adapt more quickly if they are given assistance upon, and for a period after, their arrival in a new country. In order to promote successful integration resettlement countries should offer appropriate support and services to resettled refugees and ensure that programs are flexible and suitable. Such services may include language training to acquire the language of the resettlement country, assistance to find work and help with access to health and social services. The support and acceptance of the receiving society is also important for successful adaptation. Experience has demonstrated that public support may be strengthened through public relations campaigns in the country of resettlement, particularly if a significant number of refugees are resettled in a short period of time.

There is a vast body of knowledge relating to “best practices” in facilitation of integration of resettled refugees. Resettlement countries are encouraged to share their experience and knowledge.

5. Engage in regular consultations to determine the number of refugees and types of caseloads to be resettled by each country.

Resettlement countries should meet periodically to report on their progress, amend caseloads or number to be resettled, identify problems and seek solutions and to assess the success of the resettlement effort. Such consultations will support the general

principle that resettlement be undertaken in a spirit of co-operation, partnership and consultation.

6. Protection of individual refugees is an integral element of all resettlement programs

It is recognized that the primary purpose of resettlement is the provision of individual protection to meet the needs of individual refugees whose life, liberty, safety and health or other fundamental rights are at risk. As such, resettlement countries should continue to provide sufficient resettlement places for refugees not covered by a comprehensive arrangement and for whom resettlement is the only means to guarantee their safety.

Host Country

Main elements and undertakings:

1. Commitment to the principle of *non-refoulement*

The provision of secure asylum to refugees is an essential element of any comprehensive arrangement. The principle of *non-refoulement* is widely accepted in customary international law. As such, host countries should agree to provide secure first asylum to refugees and adhere to the principle of *non-refoulement* in accordance with international standards, regardless of whether resettlement places are immediately available.

If a refugee is not accepted for resettlement for reasons other than exclusion from refugee status under Article 1 F of the 1951 Convention, secure first asylum should continue to be provided by the host country and all parties should continue to search for an appropriate durable solution for such persons.

2. Co-operation in the identification and registration of a refugee population

The early and accurate collection of information on refugee populations serves the interests of the host country, resettlement countries, the UNHCR and international organizations. It builds confidence, supports needs analysis of the refugee population and increases the likelihood of co-operation amongst partners. To support this, host countries should co-operate with UNHCR and implementing partners for the purposes of registration and identification of a refugee population and to gather information necessary to determine the best durable solutions for the refugees.⁵

Ideally, registration and identification should be done early in a refugee situation in order to facilitate efforts to find a durable solution. Information gathered will normally include details of individuals and groups in need of resettlement and will seek to identify individuals who fall under the exclusion clauses of the 1951 Convention.

⁵ For detailed information on the different purposes of refugee registration, see ExCom Conclusion No. 91 (LII) (2001)

3. Facilitate ongoing access by resettlement countries, UNHCR and international organizations, to a refugee population

Ease of access in a timely fashion, to a refugee population, will facilitate resettlement processing, the achievement of durable solutions and the strategic use of resettlement. Host countries should provide ongoing access by resettlement countries, UNHCR and implementing partners (including NGOs if applicable and appropriate) to the refugee population identified for resettlement. This includes prompt access for the purposes of pre-screening, selection interviews and follow-up procedures such as medical examinations and security checks. This may involve, for example, timely issuance of visas to a delegation from the capital of a resettlement country, permission for resident diplomats to travel within the host country or authorization for a medical doctor employed with partners such as the International Organization for Migration (IOM) to visit a refugee camp.

4. Facilitate the movement of refugees within the host country, as required by the resettlement process.

The host country should facilitate the controlled and supervised movement of refugees within their country if it is necessary to support of the resettlement process. For example, in some situations it may be necessary for refugees to travel to another location for resettlement interviews, medical examinations or other procedures that are part of resettlement processing, or for the purposes of reunification with close family members located in another part of the country. Refugees may also have to travel to a point of departure when they are ready to leave for a resettlement country. Permission to travel should ideally be granted well in advance of the planned departure.

5. Facilitate the departure from the host country of persons selected for resettlement.

The host country should facilitate the departure from their country of refugees selected for resettlement. This may include the provision of exit permission where applicable, the issuance of travel documents and co-operation in the movement of refugees to the point of departure for the resettlement country. When required, issuance of exit permission, travel documents and permits to travel within the host country should be granted within a reasonable time before the planned departure for the resettlement country.

UNHCR

Main elements and undertakings:

1. Conduct systematic needs analysis and search for comprehensive and durable solutions

Consistent with UNHCR's mandate of finding durable solutions for refugees, UNHCR undertakes to lead the process of identifying those refugee situations that would benefit from comprehensive solutions, including the use of resettlement. In this context UNHCR would conduct a thorough needs analysis of specific refugee populations. UNHCR would also lead joint consultations with resettlement countries, host countries and, when

appropriate, country(ies) of origin, as well as relevant partners, regarding such a comprehensive approach.

2. Develop mechanisms for identifying groups and populations for resettlement.

In furtherance of ongoing initiatives to use resettlement more strategically and to enhance the use of resettlement as a durable solution, UNHCR will continue to develop and implement the UNHCR Methodology for Group Identification and work with resettlement countries to develop frameworks for the resettlement of groups and large refugee populations.

3. Apply tools and techniques for registration.

UNHCR should ensure to the extent possible that complete and accurate family information is obtained at the time of registration and referral in order to ensure the integrity of the family unit for resettlement purposes.

In addition to identifying individuals and groups who require resettlement, UNHCR should make every effort to identify individuals who fall under the exclusion clauses of the 1951 Convention. They should also share information with other parties that may assist with the identification of persons who may fall under the exclusion clauses.

In this context, UNHCR undertakes to introduce new techniques and tools to enhance the registration and documentation of refugees.

4. Co-ordinate resettlement activities, including facilitation of regular consultations among parties

The UNHCR should act as co-ordinator for resettlement activities within the context of a Convention Plus comprehensive arrangement. This role includes calling regular and emergency meetings of all parties to the arrangement and the organization and facilitation of such meetings. It also includes overseeing the process to ensure that all parties are living up to their commitments under the arrangement, identifying problems and attempting to find solutions, and keeping all parties informed of developments relevant to the agreement and to resettlement processing.

5. Provide support to the host country and resettlement countries in the resettlement process

UNHCR will provide support to the host country and the resettlement countries throughout the resettlement process. In addition to specific undertakings identified above, this includes assistance with arranging and facilitating interviews, assistance with the arrangement of medical examinations and transportation, facilitation of exit permission, issuance of travel documents and any other proceedings integral to the resettlement process.

Implementing Partners (including International Organizations, Intergovernmental Organizations and NGOs)

Main elements and undertakings:

1. Provide support with resettlement processing

International organizations may support the process of screening, identification, verification, registration and referral of a refugee population, depending on the circumstances. The actual screening may be done by UNHCR or the host country but an implementing partner may assist. As this process is highly resource intensive and therefore expensive, every effort should be made to make it as efficient and cost effective as possible.

2. Provide support to the host country, resettlement countries and UNHCR in the resettlement process

Implementing partners may provide support to the host country, UNHCR and the resettlement countries throughout the resettlement process. This may include assistance with registration and documentation of refugees, arranging interviews, assistance with arrangements for medical examinations and transportation, facilitation of exit permission, issuance of travel documents and any other process integral to the resettlement process.