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Comprehensive Plans of Action: Insights from CIREFCA and the Indochinese CPA

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Abstract¹

CIREFCA and the Indochinese CPA are widely regarded as the two most significant examples of successful UNHCR-led international cooperation in the recent history of the refugee regime. This paper explores the factors which led to their success in achieving international agreement in order to derive insights for UNHCR's current and future attempts to develop comprehensive regional approaches to protracted refugee situations. The paper is based on archive research conducted at UNHCR, examining documents relating to the two initiatives. Through comparative analysis of the political and institutional processes by which the two initiatives emerged and were implemented, the paper attempts to identify the pre-conditions for a successful CPA, particularly with respect to UNHCR's role. It argues that the achievements of the two initiatives were not historically contingent, as is often claimed, but can be replicated, provided that certain pre-conditions are met by UNHCR and the other principal stakeholders.

Introduction

The global refugee regime has often been characterised by 'collective action failure', with limited international cooperation between North and South.² However, the two comprehensive plans of action agreed in 1989 represent exceptions to this general trend, highlighting how successful multilateral cooperation can take place to tackle specific refugee situations. The Comprehensive Plan of Action for Indochinese Refugees (CPA) and the International Conference on Central American Refugees (CIREFCA) represent clear case studies that illustrate that significant global burden- and responsibility-sharing is possible and can lead to durable solutions for refugees in situations of mass influx or protracted refugee situations.

The two initiatives had in common that they focused on ensuring a global approach to a regional refugee situation. Although very different from one another, the contrasting approaches of the two initiatives can nevertheless be regarded as 'CPAs' insofar as they were comprehensive in terms of drawing on a range of durable solutions simultaneously; cooperative in terms of involving additional burden- or responsibility-sharing between countries of origin and asylum, and third countries acting as donors or resettlement countries; and collaborative in terms of working across UN agencies and with

¹ This paper was written while the author was working as a consultant in the Convention Plus Unit of the Executive Office of UNHCR between August and November 2005. Working within UNHCR allowed the author access to archive material relating to CIREFCA and the Indochinese CPA. It also allowed the author to draw extensively upon the insights of members of UNHCR staff who had worked on the two past precedents and of those working on current attempts to revive a comprehensive approach to refugee protection. However, the views in this paper are the author's personal views and are not necessarily shared by either the UN or UNHCR.

² Suhrke, A (1998), 'Burden-Sharing During Refugee Emergencies: The Logic of Collective Action Versus National Action', *Journal of Refugee Studies*, 11:4, pp. 396-415.

NGOs. The operational approaches adopted in Cambodia, Mozambique and Namibia in the early 1990s, and initiatives such as the response to the Hungarian refugee crisis or ICARA I and II might also be thought of as CPA-like according to this definition. The term 'CPA' has also been invoked in relation to the CIS Conference and UNHCR's role in Bosnia in the mid-1990s. However, the two 1989 case studies remain the most salient 'success stories' of multilateral cooperation on a situational level in the recent history of the refugee regime. Of all of the CPA-like initiatives, they are also arguably of the greatest contemporary relevance insofar as CIREFCA focused upon the search for durable solutions to protracted refugee situations in the global South, and the Indochinese CPA sought to provide protection and solutions in the context of the broader 'asylum-migration nexus'. Although the CPA has been extensively criticized for the arbitrariness of its refugee status determination procedures,³ it, like CIREFCA, nevertheless stands out as an example of successful inter-state cooperation.

The recognition that the most serious consequences of protracted refugee situations represent a collective failure to ensure early access to durable solutions and to adequately meet protection needs has led to the revival of the concept of CPAs.⁴ During the term of High Commissioner Ruud Lubbers, the Convention Plus initiative reinvigorated the search for durable solutions through its work on the three 'generic' strands, developing concepts relating to the strategic use of resettlement, the targeting of development assistance and addressing irregular secondary movements. The abstract work achieved in relation to the 'generic strands' provides the potential for application to specific situations in order to develop comprehensive approaches. The CPA for Somali Refugees, the Mexico Plan of Action, and the work of the Afghanistan Comprehensive Solutions Unit (ACSU) represent starting points for adapting the CPA-approach in light of the concepts developed in the Convention Plus initiative.⁵ Meanwhile, the Africa Bureau of UNHCR has begun to explore how the concept of a CPA might be applied to a range of protracted refugee situations in Africa.⁶

In the context of this revival of the CPA concept, and given the overwhelming need to mobilise political cooperation to overcome the significant gaps in protection and solutions in many of the world's most serious protracted refugee situations, there is a corresponding need for reflection on the lessons that can be derived from past experiences. A great deal of literature has

³ As Arthur Helton put it "humanitarian objectives [were] compromised by migration control priorities". Helton, A (1993), 'Refugee Determination under the Comprehensive Plan of Action: Overview and Assessment.', *International Journal of Refugee Law*, Vol. 5, No.4, pp. 651-654.

⁴ UNHCR (2004), 'Making Comprehensive Approaches to Resolving Refugee Problems More Systematic', FORUM/2004/7, 16/9/04.

⁵ UNHCR (2005), 'Progress Report: Convention Plus', High Commissioner's Forum, FORUM 2005/6, 8/11/05.

⁶ UNHCR (2005), 'Template for Comprehensive Durable Solutions Analysis in Refugee Situations in Africa' (on file with the author).

already been written on the Indochinese CPA⁷ and, to a lesser extent, on CIREFCA.⁸ However, the two case studies have yet to be systematically analysed together in order to derive insights for the underlying political and institutional preconditions for developing and implementing future comprehensive approaches.⁹ Furthermore, there is a need for the processes to be viewed through the lens of the current historical juncture in order to identify what remains of relevance from the Cold War era and its immediate aftermath, and what requires further innovation and adaptation.

Although a more extensive analysis could draw on other examples such as the CIS Conference and case study material from the 1990s, focusing on the two most successful processes provides a starting point for further comparative analysis. Starting with the two cases from the same historical context also allows a relatively clear comparative framework for contrasting the end of the Cold War context with the post 9/11 era. This allows evaluation of the implications of the changed international climate in order to establish what remains of relevance from the late 1980s and early 1990s.

This paper therefore reflects on the two case studies as a starting point for exploring, firstly, the contrasting Indochina and CIREFCA approaches and methodologies and how they might be adapted to address current protracted refugee situations, and, secondly, the political preconditions and the role of different stakeholders in ensuring that such approaches result in improved access to solutions and quality protection. In contrast to the majority of the existing literature, the approach of the paper is primarily focused on the political level and the role of the various stakeholders in negotiation, conception and implementation, rather than on a technical, legal or operational level. The analysis draws upon archive research at UNHCR, interviews with UNHCR staff who worked on the 1989 CPAs, and the secondary literature that is already available. The paper is divided into three main sections. The first section explores the political context, approach and process of the two initiatives and evaluates the factors which led to success in each case. The second section then engages in comparative analysis, both of the approach of the two initiatives and of the relevance of the 1989 context for the post 9/11 era. The third section then assesses the lessons that can be

⁷ Robinson, C (1998), *Terms of Refuge: The Indochinese Exodus and the International Response* (Zed: London), pp. 187-230; Robinson, C (2004), 'The Comprehensive Plan of Action for Indochinese Refugees, 1989-1997: Sharing the Burden and Passing the Buck', *Journal of Refugee Studies*, Vol. 17:3, pp. 319-333; Bronee, S (1992), 'The History of the Comprehensive Plan of Action', *International Journal of Refugee Law*, Vol. 4:4, pp. 534-559; Fontaine, P-M (1995), 'The Comprehensive Plan of Action (CPA) on Indochinese Refugees, Prospects for the post-CPA and Implications for a Regional Approach to Refugee Problems', *Pacifica Review* (formerly Interdisciplinary Peace Research), Vol. 7, No. 2, pp. 39-60; Jambor, P (1992), *Indochinese Refugees in Southeast Asia: Mass Exodus and the Politics of Aid* (Ford Foundation: Bangkok).

⁸ UNHCR (2000), *State of the World's Refugees*, (Oxford: Oxford), chapter 6; UNHCR (1994), 'Review of the CIREFCA Process', EPAU Working Paper, www.unhcr.org

⁹ Although Barry Stein has offered a starting point by looking at regional approaches such as ICARA II, CIREFCA and the Indochinese CPA alongside one another. Stein, B (1997), 'Regional Efforts to Address Refugee Problems', *International Studies Association*, Toronto, 21 March.

derived from the two processes in terms of the preconditions for a CPA and how these lessons might be applied.

CIREFCA (1987-1994)

A General Assembly Resolution on CIREFCA passed at the 85th Session in late 1993 expressed “its conviction that the work carried out through the integrated conference process could serve as a valuable lesson to be applied to other regions of the world”.¹⁰ Yet, so far, despite UNHCR’s evaluations of the initiative in the early 1990s, there has been little academic reflection on the lessons that CIREFCA might offer for the search for durable solutions or attempts to enhance the quality of refugee protection. This is regrettable because CIREFCA represents one of the first attempts to develop a comprehensive regional approach. As UNHCR noted in the immediate aftermath, “perhaps the most innovative original feature of the CIREFCA process is its comprehensive approach to durable solutions for uprooted Central Americans”.¹¹ Moreover, the process touched upon many issues which have once again come to the fore of current debates on durable solutions and refugee protection. For example, CIREFCA incorporated inter alia an attempt to foster inter-agency collaboration with UNDP in order to overcome the relief-development ‘gap’; the development of links between comprehensive solutions and a regional peace process; recognition of the need to provide protection and solutions for categories of the displaced who fall outside of UNHCR’s traditional mandate – notably IDPs; a means to promote and disseminate international protection norms in a region in which legal standards were still emerging; a recognition of the relationship between development and security; and a clearly elaborated basis for multilateral responsibility-sharing between states in the region of origin and beyond. All of these aspects remain central issues in the current refugee regime.

Context

At the end of a decade of civil conflict in which around 160,000 people were killed, around 2 million people were estimated to have been displaced in Central America. Of these around 150,000 were recognised as refugees, around 900,000 were undocumented ‘externally displaced’ and around 900,000 were IDPs. With the rapprochement at the end of the Cold War, the prospects for regional peace improved with the Contadora Act for Peace and Cooperation in 1986, and the subsequent Arias Peace Plan,¹² which led to the Esquipulas II Peace Accords in August 1987. Until that point, and in the Cold War context, the displaced had been selectively supported or vilified

¹⁰ ‘International Conference on Central American Refugees’, GA Resolution A/RES/48/117, 85th Plenary Session, New York, 20/12/93, UNHCR Fonds 11, Series 3, 391.86.5.

¹¹ Jenifer Otsea, CIREFCA JSU, to UNHCR Brussels, ‘CIREFCA: A Strategy for Solutions’, 8/2/93, UNHCR Fonds 11, Series 3, 391.86.5.

¹² This process was led by the Costa Rican President, Oscar Arias. He was later awarded the Nobel Peace Prize for his contribution.

depending on whether they were identified in opposition to governments of the left or right. The peace process therefore created new opportunities and incentives for addressing displacement because of the widely recognised relationship between refugees and national security.

In the context of this peace process, renewed prospects for durable solutions for the displaced therefore started to emerge. The viability of refugee repatriation began with Tripartite Agreements for the return of Nicaraguan and Guatemalan refugees. Meanwhile, a renewed commitment to regional economic development under UNDP's Special Programme of Economic Cooperation for Central America (PEC) opened the possibility for UNHCR and UNDP to begin to collaborate on integrated developmental approaches to facilitate integration and self-sufficiency for refugees, returnees and IDPs.

UNHCR had been active in Central America states since the late 1970s and early 1980s. The 1984 Cartagena Declaration, although not legally binding, had subsequently recommended minimum standards for refugee treatment in the region and provided a refugee definition tailored to Latin America. In this context, and with the growing prospects for peace in the region and the recognition of the need for durable solutions, a Consultative Working Group on Possible Solutions to Refugee Problems in Central America was convened by UNHCR in May 1987 to consider the possibility of a conference to build on the legacy of Cartagena. In the words of the UNHCR Mexican Representative, this initial Group was "conceived as a pragmatic follow-up to Cartagena in the search for political consensus and viable solutions".¹³ Its work eventually led to the elaboration of CIREFCA.

Process

From early on CIREFCA was "conceived not only as an event, but, perhaps even more significantly, as a process".¹⁴ Rather than being a one-off Conference, its work ran from 1987 until 1994. Beginning with two Consultative Working Group sessions in 1987 and drawing upon the input of experts from the region, CIREFCA was conceived as a follow-up to the 1984 Cartagena Declaration but received new impetus as a result of the peace deal (Esquipulas II) agreed by regional heads of state in August 1987. This allowed UNHCR to draw on the commitment to peace and development of both countries in the region and donors, and to channel this into a commitment to finding solutions for the displaced. It received much of its legitimacy from Article 8 of Esquipulas II's reference to displacement and the CIREFCA Concerted Plan of Action itself was incorporated as the chapter on displacement of UNDP's wider PEC initiative.

¹³ Memo, Santistevan to Franco and Muller, August 1987, UNHCR Fonds 11, Series 3, 391.86C Mex/HCR/0556.

¹⁴ 'International Conference on Central American Refugees, Guatemala City, May 1989: Preliminary Information', Memo, Mr Deljoo to Mr Asomani, 5/12/88, UNHCR Fonds 11, Series 3, 391.86, HCR/NYC/1466.

The underlying ethos of CIREFCA was to find durable solutions for displacement through an integrated development approach, closing the 'gap' between relief and development. This meant that collaboration between UNHCR and UNDP was a central feature of CIREFCA. Both organisations provided the seven regional states with technical support in developing their own 'priority projects', both for initial submission to CIREFCA and for submission to the International Follow-Up Conferences. Integrated development was seen as a means to simultaneously address the needs of refugees, returnees and the internally displaced, while facilitating reintegration and rehabilitation by also benefiting local communities.

The main Guatemala City Conference adopted a Declaration and a Concerted Plan of Action (CPA). The CPA provided an initial portfolio of 36 projects, requiring US\$375 million over a 3-year period which was later added to. The initial project submissions were compiled by states with the support of a five-week UNHCR Mission to the region in mid-1988. The CPA also provided a set of 'Principles and Criteria for Protection and Assistance'. Implicitly, the adoption of policies, standards and legal norms was posited by UNHCR as a condition for states receiving financial support through CIREFCA. However, in practice, the availability of relatively large amounts of unconditional funding from UNDP and the Italian Government's simultaneous PRODERE ('The Development Programme for Displaced Persons, Refugees and Returnees in Central America') project undermined the credibility of this implicit conditionality.¹⁵

The project proposals varied from country-to-country depending notably on whether the state was primarily a country of origin or asylum and, in the latter case, how tolerant or restrictive that country was towards freedom of movement and the socio-economic integration of refugees. In Guatemala, the projects focused on facilitating reintegration for returnees in Huehuetenango and El Quiché by strengthening health, education and sanitation services, and improving basic infrastructure. In Costa Rica, the projects aimed primarily to promote labour market integration to allow refugees and another 250,000 'externally displaced' people from El Salvador and Nicaragua to socially and economically integrate through, for example, improved access to the jobs market and health care. In Mexico, they focused on self-reliance for Guatemalan refugees, notably through agricultural projects in Chiapas and the rural resettlement projects in Campeche and Quintana Roo. In Nicaragua, the focus was on rehabilitation and reintegration activities for returnees mainly from Honduras. In Honduras, given the state's restrictions on freedom of movement, attention was paid to strengthening UNHCR assistance in camps, pending return to Guatemala and Nicaragua. In Belize the project focused on improving self-reliance and local integration opportunities for refugees, mainly through strengthening the existing integrated rural

¹⁵ Interview with José Riera, Programme Officer to the JSU during CIREFCA, UNHCR, 24/10/05.

development project at the Valley of Peace and improving infrastructure in the Northern Orange Walk and Western Cayo Districts. In El Salvador, aside from nominal support for Nicaraguan refugees and returnees, PRODERE, in particular, envisaged meeting the basic needs of the country's IDPs.

The process evolved as it went along in order to integrate new approaches and enlarge its portfolio of projects. In particular, the Italian Government decided to allocate its US\$115m budget surplus to a development project in Central America, expanding the embryonic PRODERE territorial development project already underway in El Salvador under the auspices of UNDP. Meanwhile, late in the process, UNHCR also developed complementary initiatives such as its Quick Impact Projects (QIPs) to support the immediate developmental needs of returnee integration, and Forefem, which created a forum for mainstreaming a gendered approach to protection and solutions.

In total, CIREFCA is estimated to have channelled US\$422.3 million in additional resources to the region and the process has been widely credited with helping to consolidate peace in Central America. This financial support emerged gradually as the process evolved. US\$245m was pledged by the First International Follow-Up Meeting in New York in June 1990 and a further US\$81m was pledged at the Second Follow-Up in El Salvador in April 1992. Of the initial pledges, the Italian Government's commitment of US\$115m to fund PRODERE was by far the largest. Throughout the process, the most significant group of donors was the European states, both bilaterally and through the emerging European Economic Community (EEC).

Critical Evaluation

Projects

The most obvious contribution of CIREFCA was the projects which it developed, implemented and financed. Although the total amount of additional funding attracted by CIREFCA is difficult to estimate accurately because of difficulties in 'tracking' bilaterally-funded NGO projects implemented 'in the framework of CIREFCA', a total of US\$422.3 million was recorded by the CIREFCA Joint Support Unit (JSU) by 1994, which amounts to an estimated 86% of the total project requirements. Of this, 32% was channelled via UNDP, 24% via NGOs, 19% via UNHCR, and 17% directly to Governments.¹⁶ By 1993 this funding had provided full or partial financing for 72 'priority projects' in the seven countries and US\$240 million of the US\$345 million pledged up to that point had been disbursed.¹⁷ The projects

¹⁶ Memo, Chefeke, D to all SMC members 'CIREFCA Process: External Evaluation', 21/9/94, UNHCR Fonds 11, Series 3, 391.86.5.

¹⁷ UNHCR (1993), 'Questions and Answers About CIREFCA', prepared for Seminar on the Implementation of a Human Development Approach for Areas Affected by Conflict in Central

focused on a range of areas including immediate assistance, rehabilitation, economic development, and institution-building. The underlying ethos of all of the projects, though, was to develop an integrated approach that would span the relief-to-development continuum and support integration or reintegration. While the intention was to incorporate externally and internally displaced people as “beneficiaries of multi-sectoral development projects”, the reality was that refugees and returnees ultimately represented the principal beneficiaries, despite only constituting a small proportion of the total displaced population. UNHCR later recognised that in focusing mainly on refugees, the projects only addressed “the tip of the iceberg”.¹⁸ One of the criticisms of UNHCR’s independent review of CIREFCA was that it “did not establish appropriate mechanisms at the start to track funding and monitor projects”.¹⁹ This shortcoming makes retrospective assessment of the projects extremely sketchy.

In terms of durable solutions, CIREFCA contributed to voluntary repatriation through the protection principles it elaborated in the Plan of Action, through both the resources it allocated to support reintegration and notably through political dialogue in relation to the Tripartite Agreements. This work allowed the repatriation of some 27,000 Salvadorians, 62,000 Nicaraguans and the return of 45,000 Guatemalans from Mexico.²⁰ These returns were supported by what might be considered to be the precursor of UNHCR’s 4Rs framework.²¹ Indeed, PRODERE’s approach to integrated development linked assistance for local communities with that for returnees by developing social services and infrastructure in border regions.²² Within the framework of CIREFCA, UNHCR and UNDP also developed the notion of Quick Impact Projects (QIPs), supporting basic needs and short-term productive infrastructure for 70,000 returnees in Nicaragua.²³

The projects were also notable for the extent to which they facilitated self-sufficiency and local integration. The most obvious case study for successful self-sufficiency was in Mexico in Campeche and Quintana Roo in the Yucatan Peninsula, where consolidation of the local agricultural settlements and the development of integrated service provision benefited both the 18,800

America and Related Strategies for the Post-CIREFCA Process, June 1993, UNHCR Fonds 11, Series 3, 391.85.5.

¹⁸ Memo, J. Otsea to Mr Von Arnim, ‘CIREFCA: A Strategy for solution’, 8/2/93, UNHCR Fonds 11, Series 3, 361.86.5.

¹⁹ UNHCR (1994), ‘Review of the CIREFCA Process’, www.unhcr.org, para. 13.

²⁰ For an evaluation of UNHCR’s repatriation reintegration programmes in Guatemala, see UNHCR (1999), ‘Lessons Learnt From UNHCR’s Involvement in the Guatemalan Refugee Repatriation and Reintegration Programme (1987-1999)’, EPAU Evaluation, www.unhcr.org

²¹ UNHCR (2003), *Framework For Durable Solutions For Refugees and Persons of Concern*, (UNHCR: Geneva).

²² UNHCR (1993), ‘Questions and Answers About CIREFCA’, prepared for Seminar on the Implementation of a Human Development Approach for Areas Affected by Conflict in Central America and Related Strategies for the Post-CIREFCA Process, June 1993, UNHCR Fonds 11, Series 3, 391.85.5.

²³ For an evaluation, see: UNHCR (1992), ‘Quick Impact Project: a Review of UNHCR’s Returnee Reintegration Programme in Nicaragua’, EPAU Evaluation Report (by Jeff Crisp and Lowell Martin).

refugees alongside the host communities. In Chiapas, self-sufficiency was also encouraged, but a shortage of land was an obstacle to allowing refugees to become equally engaged in agricultural activities. In the Campeche and Quintana Roo, local integration and repatriation were promoted simultaneously from 1996, while in Chiapas local integration followed repatriation from 1998 onwards. The self-sufficiency and local integration projects ultimately provided education, health services, access to markets and sustainable livelihoods. For the Mexican Government the projects were seen as an attractive means to develop the poorest areas of the country, particularly in the Yucatan Peninsula.²⁴

CIREFCA also provided local integration for Salvadoran refugees in Belize, particularly through the Valley of Peace project. Although the project had begun in 1983 and had been widely criticised for relocating refugees to a jungle area with poor roads and poor quality land, CIREFCA helped to resurrect the Valley of Peace project.²⁵ By 2003, some 300 families remained and were integrated alongside the Belizeans of predominantly Maya Quechi ethnicity. Initially supported with food aid, a fund to build housing, tools and seeds, many of the Salvadorans now work in the tourism industry or in local employment, receiving social services alongside the Belizean community.²⁶ There was also a degree of local integration in Costa Rica. This took place on a smaller scale and was mainly for Salvadoran refugees in urban areas, who were few in number and were perceived to be 'hard working'. This contrasted with the Costa Rican approach to the Nicaraguan refugees, who, although they were given a degree of self-sufficiency in agricultural production, had been largely confined to camps and were not given the same level of opportunities to integrate.²⁷

Dissemination of Norms

The development of international protection norms within the region was one of the most significant outcomes of the process. CIREFCA was explicitly conceived as a follow-up to the Cartagena Declaration and a major part of UNHCR's contribution to the initiative was the drafting of legal standards for adoption by the countries in the region. As part of the CPA, a document was prepared, entitled, 'Principles and Criteria for the Protection of and Assistance to Central American Refugees, Returnees and Displaced Persons in Latin America', which summarised and offered guidance on issues relating to protection standards. Indeed, UNHCR concluded that "Throughout CIREFCA, international protection has undoubtedly been strengthened in the region through the reaffirmation of the fundamental principle of non-refoulement and the

²⁴ Interview with Ana Low, intern, researching self-sufficiency and local integration in Southern Mexico, UNHCR, 25/10/05.

²⁵ Interview with Pablo Mateu, former Programme Officer in the JSU, UNHCR, 18/10/05.

²⁶ *El Diario de Hoy*, 'From Conflict to the Valley of Peace', 18 October 2005.

²⁷ Interview with Pablo Mateu, former Programme Officer in the JSU, UNHCR, 18/10/05.

notion that refugees should not be the objects of discriminatory treatment".²⁸ For example, Belize acceded to the 1951 Convention and passed a 1991 Refugee Act, which included the incorporation of refugees in national development plans; Honduras acceded to the 1951 Convention and 1967 Protocol; Mexico introduced the refugee concept into its national legislation; Costa Rica passed a one year amnesty for all 'externally displaced' people, allowing them to regularise and locally integrate.²⁹

Another significant element of the dissemination of protection norms concerned the work of the first regional forum on 'A Gender Approach in the work with Refugee, Returnee and Displaced Women in Central America' (Forafem), which was convened towards the end of the CIREFCA process.

A major frustration encountered by UNHCR, however, was that its initial attempts to imply that funding would be conditional upon the implementation of minimum standards of protection and assistance were undermined by the wider availability of alternative sources of funding. Given that only a fraction of the resources available 'within the framework of CIREFCA' were channelled through UNHCR, and that UNDP and many NGOs did not apply such conditionality, states could largely bypass UNHCR's insistence on the development of new normative standards. In particular, the principles for the implementation of PRODERE were not based on the adoption of protection standards, creating a source of tension between UNHCR and UNDP. In practice, therefore, some states with open and tolerant approaches towards refugees, such as Belize, went comparatively unrewarded by the international community, while others, such as Honduras, continued to maintain restrictive policies towards refugees.³⁰

Contribution to Peace

As a seven year process from conception to the closing event, CIREFCA contributed to the peace process in a number of ways, such that UNHCR described it as "an instrument of political change".³¹ It fulfilled this role, firstly, by providing a context for inter-state dialogue and consensus building. In a region in which politics had polarised along left/right and East/West lines throughout the Cold War, the 'humanitarian' and explicitly 'non-political' light in which UNHCR portrayed CIREFCA gave states an area in which they could begin to build trust and interaction. Secondly, CIREFCA dealt directly with an issue which was perceived as an obstacle to security by the states in the region. José Riera, for example, noted how the Central American states viewed the issue of displacement: "Ten years of negotiations with Central American Governments, culminating with CIREFCA, have

²⁸ 'From Conflict to Peace and Development: Note on Implementation of the Concerted Plan of Action of CIREFCA', Pablo Mateu (JSU) to K. Asomani (RBLAC), 17/3/92, UNHCR Fonds 11, Series 3, 361.86.5.

²⁹ *Ibid.*

³⁰ Interview with Pablo Mateu, Former Programme Officer to the CIREFCA JSU, Geneva, 18/10/05.

³¹ Memo, Chefeke, D to all SMC members, 'CIREFCA Process: External Evaluation', 21/9/94, UNHCR Fonds 11, Series 3, 391.86.5.

provided invaluable insights into the way the problem of uprootedness is perceived (linked to national security) by the governments of the region".³² Refugees and the displaced were often seen less as passive victims than as parties to the conflict. Nicaraguan refugees were associated with the Contras, Salvadoran and Guatemalan refugees were perceived as left-wing guerrillas. This meant that working toward solutions for the displaced was itself a means to reduce states' security concerns. Thirdly, integration and reintegration within an integrated community development framework helped to contribute to national reconciliation on a local level. Incorporating the displaced within national development plans enabled the uprooted to play a productive economic and social role. Meanwhile, shared service provision in the context of the QIPs in Nicaragua, for example, fostered sustained interaction over time. Fourthly, the mobilisation of resources for the states, both through PEC and CIREFCA, increased the opportunity cost of any state undermining the peace process.

Promoting the Role of NGOs

A UNHCR reflection on CIREFCA noted that "The formal recognition of the significant potential contribution of NGOs has proven to be one of the most significant achievements of CIREFCA".³³ In a region in which states had been reluctant to acknowledge the role of civil society or non-state actors, CIREFCA allowed a growing acceptance of their role within the humanitarian sphere. For example, Nicaragua included NGOs in its own CIREFCA Working Group; El Salvador drafted its official documentation for the Second International Follow-Up Committee Meeting in full consultation with NGOs, and Guatemala negotiated with NGOs in its implementation of returnee assistance programmers.³⁴ NGOs ultimately served as implementing partners for around 60% of the CIREFCA projects,³⁵ with 38% of funding being channelled directly to NGOs.³⁶ Aside from implementation, NGOs were also involved in the multilateral process. For example, the Swedish Refugee Council appears to have played a particularly important role in enlisting the support of other international NGOs for the CIREFCA process. The Swedish Refugee Council was particularly highly regarded in El Salvador, which was identified as one of the key CIREFCA countries for UNHCR.³⁷

³² 'Some Reflections on a Potential UNHCR Role with IDPs within the Framework of CIREFCA', José Riera, Programme Officer of the JSU, to Juan Amunategui, 6/2/91, UNHCR Fonds 11, Series 3, 391.86.5.

³³ 'From Conflict to Peace and Development: Note on Implementation of the Concerted Plan of Action of CIREFCA', Pablo Mateu (JSU) to K. Asomani (RBLAC), 17/3/92, UNHCR Fonds 11, Series 3, 361.86.5.

³⁴ *Ibid.*

³⁵ 'UNHCR Report on General Assembly Resolution No. 46/107 (CIREFCA)'. 28/6/92, UNHCR Fonds 11, Series 3, 391.86.5.

³⁶ Memo, J.Otsea to Mr Von Arnim, 'CIREFCA: A Strategy for solution', 8/2/93, UNHCR Fonds 11, Series 3, 361.86.5.

³⁷ Information obtained through informal discussions with UNHCR staff.

Throughout the process, NGOs from the region seized the opportunity to mobilise and establish wider networks. In particular, the 'First International Conference of NGOs on Central American Refugees, Displaced Persons and Returnees' was held in Mexico City for three days in March 1989, being led and coordinated by the main NGOs from the region.³⁸ The Conference was significant because it led to the formation of a Regional Association, which held a constituent assembly in March 1990 in Guatemala City, and led to the Second International Consultation of NGOs in Managua in July 1991.³⁹ Not only did NGOs therefore contribute to CIREFCA but the development of civil society within the region was itself a successful outcome of CIREFCA.

UNHCR-UNDP Collaboration

Given that the underlying philosophy of CIREFCA was to bridge the relief-development 'gap', UNHCR collaboration with UNDP was identified as central to its success. UNHCR noted that "The success of the CIREFCA process has its foundation in development...a bridge thus needs to be built whereby the uprooted populations addressed in the CIREFCA initiatives are gradually incorporated into national development efforts".⁴⁰ Chapter 1 of UNDP's PEC focused specifically on displacement. It was agreed that CIREFCA would form the basis of this chapter, institutionally enshrining the need for inter-agency collaboration.

Within the context of Chapter 1 of the PEC, PRODERE represented the main "cornerstone" of inter-agency collaboration.⁴¹ Funded with a US\$115 million donation from Italy, it aimed to benefit, either directly or indirectly, 443,000 mainly IDPs in six states (excluding Mexico) by focusing on providing basic needs and socio-economic integration for war affected populations.⁴² Where these projects focused on returnees or refugees, UNDP contracted UNHCR to take on the role of implementing partner for PRODERE. Attempts to foster UNHCR-UNDP collaboration led to mixed results. Although successful collaboration took place at Headquarters level or where there was sustained personal contact, as in the case of the JSU, there were particular difficulties experienced at the field level. These different levels can be explained in turn.

At Headquarters level, UNDP actively participated from the very start of the process, attending the San Salvador meeting in September 1988 which

³⁸ 'Report on the Preparatory Meeting for CIREFCA, Antigua, Guatemala, 28-30 February 1989', by Claus Van der Vaeren of the EEC, UNHCR Fonds 11, Series 3, 391.86.1.

³⁹ 'From Conflict to Peace and Development: Note on Implementation of the Concerted Plan of Action of CIREFCA', Pablo Mateu (JSU) to K. Asomani (RBLAC), 17/3/92, UNHCR Fonds 11, Series 3, 361.86.5.

⁴⁰ 'Progress Report on the Implementation of the CIREFCA Plan of Action', 1/6/90, UNHCR Fonds 11, Series 3, 391.86.5.

⁴¹ 'Joint Statement of the Delegation of the Government of Italy and UNDP on PRODERE', New York, 25/4/91, UNHCR Fonds 11, Series 3, 391.86.4.

⁴² 'Project Brief for the Action Committee Meeting', Memo from J. Riera to Ana Liria-Franch, 6/6/90, UNHCR Fonds 11, Series 3, 391.86.5.

convened CIREFCA, where it pledged US\$300,000 towards technical preparations for the conference. Later in the year, separate meetings were held in New York between the High Commissioner and the General Administrator of UNDP, and between the Director of the Regional Bureau for Latin America and the Caribbean (RBLAC) and the UNDP Regional Director, and the basis for UNHCR-UNDP collaboration began to emerge.⁴³ The cooperation between New York and Geneva continued such that Leonardo Franco, as Head of RBLAC, and Augusto Ramirez-Ocampo, as the UNDP PEC Coordinator, were able to agree on the establishment of a CIREFCA Joint Support Unit (JSU) to jointly coordinate the follow-up to CIREFCA from San José.⁴⁴

Meanwhile, the JSU, which combined two staff from each of the two organisations was widely regarded as the most successful aspect of inter-agency collaboration, largely because of the sustained contact and mutual understanding it fostered within the Unit. The JSU, as the secretariat of the Follow-Up Committee played a crucial role in coordinating the national and international mechanisms which sustained the momentum of CIREFCA. The report of a UNHCR regional seminar noted, "The most tangible experience of this collaboration is the CIREFCA Joint Support Unit. Participants insisted to place on record the appreciation of Headquarters and field staff for excellent work accomplished by the JSU".⁴⁵ Indeed the official UNHCR review identifies the JSU as playing a crucial role in the CIREFCA follow-up in terms of offering both inspiration and coordination, and forming a bridge between UNDP and UNHCR.⁴⁶

In contrast to Headquarters and the JSU, however, inter-agency collaboration proved more difficult at field level. These coordination problems were highlighted by a RBLAC meeting on PRODERE: "Mr Chefeke pointed out the general negative opinion about PRODERE among personnel in the field and that it often created more difficulties than it has given positive support".⁴⁷ Similarly, the Costa Rican Representative, Werner Blatter's, messages to Headquarters highlight the difficult working relations and suspicion between the two organisations at field level:

Since the very first PRODERE meetings, UNDP has constantly questioned UNHCR's role...UNDP [is] still convinced that UNHCR has the responsibility for protection and assistance in camps only...While UNDP has so far adopted the attitude of incorporating UNHCR into their PRODERE project as junior partner with no authority, they want to reduce UNHCR's role in PRODERE. UNHCR wants its share of CIREFCA and this not only for displaced persons

⁴³ 'Update on International Conference Developments: Internal Paper 2', 16/11/88, UNHCR Fonds 11, Series 3, 391.90.

⁴⁴ 'Joint UNDP/UNHCR Letter on Support Unit', 6/12/89, UNHCR Fonds 11, Series 3, 391.86.5.

⁴⁵ 'Report on UNHCR Regional Seminar for Northern Latin America, 20-22 February, 1991, Guatemala City', UNHCR Fonds 11, Series 3, 391.86.5.

⁴⁶ UNHCR (1994), 'Review of the CIREFCA Process', www.unhcr.org, paras. 69-74.

⁴⁷ 'Meeting on PRODERE', RBLAC, 22/9/93, UNHCR Fonds 11, Series 3, 391.86.4.

but also for returnees and eventually also for refugee projects... [The] above comments might sound alarming, but analyzing the PRODERE process since it started in 1988...make[s] us think that UNDP has a long term strategy in mind and that PRODERE for them represents a test case and a vehicle for future enlargement of UNDP's field of action...to the detriment of UNHCR.⁴⁸

Blatter also suggested there was a disjuncture between Headquarters level participation and the field: "UNDP and PRODERE at the regional [and] local levels are not tuned into the new concept of the established cooperation between UNDP New York and UNHCR". He cited the example of the Achiote project in Costa Rica in which he argued that UNDP and the Government were excluding UNHCR, in contradiction of the agreement reached at the New York level concerning UNHCR's position as the 'lead agency'.⁴⁹

A particular difficulty resulted from the ambiguity over the division of responsibility between the organizations. This was most clearly exemplified in PRODERE's focus on IDPs. The need for UNHCR to work with UNDP partly resulted from the recognition that, while UNHCR's traditional mandate focused on refugees and returnees, there was a need to address the concerns of IDPs and other displaced persons. As José Riera noted, "The great innovation of the CIREFCA process is to present the issue of solutions...within the framework of national development...for all categories of 'uprooted' Central Americans". To tackle this 'gap' in IDP protection, UNHCR and UNDP attempted to create a clear division of labour in PRODERE, with UNDP assuming responsibility for IDPs. However, this simplistic division of responsibility for the categories of the displaced proved untenable. As Riera observed, the needs of IDPs, refugees and returnees could not be so easily divided. He argued that UNDP's approach to IDPs was focused on development and ignored the protection needs of IDPs. This was one of the reasons, he suggested, why an Italian Government assessment of the impact of PRODERE in its first year concluded that it "had yet to generate any measurable impact on the targeted population", leading the Italians to ask for UNHCR to "assume a greater political-negotiating role in PRODERE".⁵⁰

The lack of clarity over the division of responsibility also proved to be a problem for defining how the 'transition' would actually take place in terms of the envisaged handover from UNHCR to UNDP of the 'lead agency' role. A key issue highlighted was "where UNHCR ends and UNDP begins" in practice. In particular it was not entirely clear to either UNDP or UNHCR

⁴⁸ Memo, Werner Blatter to Philippe Lavanchy, 17/8/89, UNHCR Fonds 11, Series 3, 391.86.5.

⁴⁹ Memo, Werner Blatter to Leonardo Franco, 9/7/89, UNHCR Fonds 11, Series 3, 391.86.5 cos/hcr/0523.

⁵⁰ 'Some Reflections on a Potential UNHCR Role with IDPs within the Framework of CIREFCA', José Riera, Programme Officer of the JSU, to Juan Amunategui, 6/2/91, UNHCR Fonds 11, Series 3, 391.86.5.

which projects qualified for a 'developmental' cluster.⁵¹ Nevertheless, collaboration reached a sufficient level to allow UNDP to begin to formally assume the lead-agency function from mid-1993.

Factors Which Led to Success

Early High-Level Planning Within UNHCR

Planning for CIREFCA began early, with two Consultative Group meetings being convened in May and November 1987 in Geneva and New York. The Group had high-level internal and external involvement from the start; however, the meetings were initially exploratory and were characterised by informality and flexibility. A 'Consultative Group on Possible Solutions to Refugee Problems in Central America' was first convened for three days in Geneva in May 1987. The logic of convening such a preparatory meeting was explicitly based on a "step by step" approach, seeking to develop a clear strategy but to "wait for results of [the] coming Esquipulas Summit".⁵² Participation was limited to 17 people to allow focused discussion. The deliberations were led by High Commissioner Jean-Pierre Hocké and his Chef de Cabinet Sergio Vieira de Mello, with the involvement of Leonardo Franco as the Regional Representative and the Director and Deputy Director of the regional Bureau. The initial meeting also invited six high level representatives from the implicated states, all of whom were invited as individuals because of their proven commitment to refugee issues, rather than through formal diplomatic channels.⁵³ Two academics with regional expertise – Sergio Aruguayo and Hector Espiell – were also involved in the process as consultants. From the start the objective of the meeting was to "prepar[e] for a conference or similar event dedicated to the search for solutions".⁵⁴ The initial meeting set-out a clear delineation of the problems and potential solutions, discussing, for example, the legacy of the Cartagena Declaration, and the implications for the peace process and root causes of the initial Esquipulas Declaration. It focused on the need to overcome long-term encampment through the promotion of self-sufficiency and voluntary repatriation.⁵⁵

⁵¹ 'Draft: Report on Joint UNDP/EOSG Task Force Meeting', Geneva, 6-7 May 1991', 8/7/91, UNHCR Fonds 11, Series 3, 391.86.5.

⁵² 'On Proposed working Group', Memo UNHCR San José to Headquarters, 3/3/87, UNHCR Fonds 11, Series 3, 391.86 COS/HCR/0136.

⁵³ Those invited were: Alejandro Bendana, the Secretary-General of the Nicaraguan Foreign Ministry; Carmen Rosa de Leon, the President of the Guatemalan Special Commission for Refugees; Oscar Gonzales, the Coordinator-General of the Mexican Commission for Refugees; Danilo Jimenez-Veiga, the Costa Rican Minister to the Office of the President; Joaquin Alex Maza Martelli, the Salvadorean Vice-Minister of Foreign Relations; Leo Valladores Lanza, the Honduran Foreign Minister.

⁵⁴ Letter of Invitation from the High Commissioner, 21/4/87, UNHCR Fonds 11, Series 3, 391.86A: HCR/Mex/0307.

⁵⁵ Indeed, in terms of the language, much of what was argued by UNHCR had parallels with USCRI's current 'anti-warehousing' campaign. The summary of the meeting notes, "los campamentos son por definicion transitorios y no deben perpetuarse" and that "despues de un tiempo razonable, este tipo de

The report of the meeting was then disseminated widely to, for example, the Foreign Ministers of all Latin American states, the Secretary-General of OAS and the President of the European Commission, promoting the idea of an international conference, tentatively scheduled for 1988.⁵⁶ The responses of all of the Foreign Ministers in Central America to the idea of an international conference, received by letter in July and August 1987, were extremely positive,⁵⁷ and led to the convening of a second meeting of the 'Working Group of Experts' in New York from 20-22 November 1987. This meeting set-out the terms of reference for the international conference such that the objectives and process were clear from an early stage.⁵⁸

UNHCR's internal organisation and allocation of responsibility for the conference preparations were established early in the process. While a Steering Committee, comprising the seven states, UNHCR and UNDP, took overall responsibility for oversight, UNHCR's Regional Bureau for Latin America and the Caribbean (RBLAC) took the role of secretariat for CIREFCA. Within the Bureau, two coordination groups were established: one for the programme areas and the another for conference organisation.⁵⁹ UNHCR also drafted an organizational chart, clearly identifying the individuals responsible for different tasks in the process. Within Headquarters, a Task Force headed by the Head of the Bureau, Leonardo Franco, was established; meanwhile, in the Field, the country representatives were designated primary responsibility. The majority of staff identified in the flow charts was to work on CIREFCA "on a full-time basis".⁶⁰ This clear organisational structure was backed by a budget of US\$1.85million for preparatory activities for the conference (technical, organisational and public information). The transparent planning ensured that an operational structure for programme identification was established and that the conference secretariat was able to undertake a

campamentos deberen gradualmente abrirse a reubicarse para pasar a otro esquena de inserción local mas apropiado". S. Vieira de Mello to High Commissioner, '25-27 May 1987: Consultative Group on Central American Refugees', 29/5/87, UNHCR Fonds 11, Series 3, 391.86A.

⁵⁶ For example, HC to Joao Baena Soares, Secretary-General of the OAS, UNHCR Fonds 11, Series 3, 391.86B 22/6/87.

⁵⁷ The Government of Nicaragua, for example, claimed "Mi Gobierno acoge con beneplácito la iniciativa dinámica del Grupo...de convocar a los Gobiernos de los países del área a una Conferencia Regional". Meanwhile, the Costa Rican Government stated, "...considero muy oportuna las recomendación del Grupo de Trabajo para que se incluya en la próxima reunión de Presidentes". Honduras wrote "El documento y las conclusiones elaborados...han sido tomados con gran interés por el Gobierno". All in UNHCR Fonds 11, Series 3, 391.86B.

⁵⁸ Annex IV: Terms of Reference for Conference, 'Note for the File: Grupo de Consulta Sobre Posibles Soluciones a las Problemas de los Refugiados Latinoamericanos', 25/11/87, UNHCR Fonds 11, Series 3, 391.86/Mex/HCR/0801.

⁵⁹ 'International Conference on Central American Refugees, Guatemala City, May 1989: Preliminary Information', Memo, Mr Deljoo to Mr Asomani, 5/12/88, UNHCR Fonds 11, Series 3, 391.86, HCR/NYC/1466.

⁶⁰ 'UNHCR Organizational Chart', International Conference on Central American Refugees, Guatemala City, May 1989: Preliminary Information', Memo, Mr Deljoo to Mr Asomani, 5/12/88, UNHCR Fonds 11, Series 3, 391.86, HCR/NYC/1466.

technical support mission to the seven countries in August and September 1988, as the basis for the formulation of the CIREFCA projects.⁶¹

Political Momentum

This early internal organisation allowed UNHCR to focus on developing political momentum in the build-up to the conference. This was particularly important with respect to mobilizing donor support. A series of meetings were organised with the Permanent Missions of both the states from the region and also with donors, throughout the latter half of 1988. Meanwhile the Director and Deputy Director of RBLAC visited EEC Headquarters in Brussels to provide information on the conference in October 1988 and, as part of the preparatory meeting held in Antigua, Guatemala in January 1989, an “open session” was held with donors.⁶² In response, CIREFCA received early indications of commitment. In December 1988, the EEC, for example, pledged 600,000 Ecus towards funding the conference and the preparation of projects.⁶³

However, significantly, the Guatemala City Conference, as the focal point of CIREFCA, was explicitly not conceived as a pledging conference. Instead, its primary aim was to establish a political consensus upon which UNHCR could build a multi-year process. The strategy for how to develop political support and then translate this into the mobilisation of resources was clearly elaborated from an early stage in the preparations.⁶⁴ A tactical proposal for the promotion of funding divided into four phases going from the ‘lead-up phase’ prior to the final preparatory conference until the post-conference follow-up. The initial stages of the strategy explicitly shunned a financial emphasis in favour of fostering political support. It noted of the ‘lead-up phase’:

The top priority must be promotion of policy/political/diplomatic support for the Conference as such and for the strategies it represents. In this perspective, fund-raising of any active or specific kind is dangerous. Too much pressure on the fund-raising issue now could even affect the yet-to-be determined level and quality of political/policy support for the Conference.⁶⁵

⁶¹ ‘International Conference on Central American Refugees, Guatemala City, May 1989: Preliminary Information’, Memo, Mr Deljoo to Mr Asomani, 5/12/88, UNHCR Fonds 11, Series 3, 391.86, HCR/NYC/1466.

⁶² ‘Update on International Conference Developments: Internal Paper 2’, 16/11/88, UNHCR Fonds 11, Series 3, 391.90.

⁶³ Memo, Mr Thiele (EEC) to Mr Pirlot (UNHCR), 1/12/88, UNHCR Fonds 11, Series 3, 391.90.

⁶⁴ ‘Procedures for the Preparatory Activities of the Conference Itself and the Establishment of Follow-Up Mechanisms – Proposal Submitted to the Organizing Committee Meeting, Guatemala 24 January 1989’, UNHCR Fonds 11, Series 3, 391.86.3 HCR/NYC/0102.

⁶⁵ Memo, Kevin Lyonette to Leonardo Franco, ‘Tactical Proposal for Promotion of Funding of CIREFCA Projects’, 19/4/89, UNHCR Fonds 11, Series 3, 391.86.3.

Instead of encouraging pledging, support for the process, high level participation at the Conference, and “mention[ing] discretely that ‘it is...the hope of UNHCR that policy support would be translated at a later date into a financial contribution/commitment’” were highlighted as pre-Conference priorities and CIREFCA itself was seen primarily as a political event, with the Declaration and Concerted Plan of Action being an inter-state consensus rather than a programmatic list intended to attract money.⁶⁶ This attempt to develop political commitment was complemented by UNHCR’s public information campaign coordinated by Judith Kumin. A little over US\$200,000 was allocated for the initial preparatory work for the conference, which included photo exhibitions, videos for television, journalists’ seminars, posters, and a special issue of Refugees Magazine.⁶⁷

The tactical plan for funding envisaged that the financial issue would be raised informally, at least until political will had been mobilised and consolidated. A meeting for ExCom members in Geneva in May was the first time at which the financial issue was raised directly with donors and this was simply to forewarn delegations that, at the Guatemala Conference, “UNHCR would like to meet each donor delegation informally outside the plenary session to discuss with them possible contribution levels”.⁶⁸

At the Conference itself, when the issue of contributions was broached in bilateral consultations, the UNHCR strategy emphasised flexibility and informality; arguing that “The informality will encourage donor frankness plus emphasise the flexibility and dynamism of the UNHCR approach without prejudicing the status of the Conference as not being a pledging conference”. Once tentative indications of areas of donor support were made in the aftermath of the Conference, the tactical plan foresaw that these would be entered into a master-chart to be shared with donor representatives, allowing the political momentum to snowball.⁶⁹ Unlike with the earlier ICARA II experience, the process was therefore based upon a clear strategy to generate and build political impetus towards and beyond the main Conference, rather than focusing exclusively on a one-off, financially-focused pledging conference.⁷⁰ Ironically, this strategy brought fairly immediate expressions of financial interest.⁷¹

A crucial component of CIREFCA’s political momentum was also its follow-up mechanisms, coordinated by the JSU. The National Coordinating

⁶⁶ *Ibid.*

⁶⁷ ‘Note for the File: Meeting Between Public Information Service and the Regional Bureau for Latin America on PI Activities for CIREFCA’, 12/7/88, UNHCR Fonds 11, Series 3, 391.86.2/854 FRA.

⁶⁸ Memo, Kevin Lyonette to Leonardo Franco, ‘Tactical Proposal for Promotion of Funding of CIREFCA Projects’, 19/4/89, UNHCR Fonds 11, Series 3, 391.86.3.

⁶⁹ *Ibid.*

⁷⁰ For an overview of the approach of ICARA II, see Betts, A (2004), ‘International Cooperation and Targeting Development Assistance For Refugee Solutions’, *New Issues In Refugee Research*, Working Paper No. 107 (UNHCR: Geneva).

⁷¹ ‘Note on Potential Donor Attitudes to the CIREFCA Project Proposals’, Kevin Lyonette to HC, 13/6/89, UNHCR Fonds 11, Series 3, 391.86.3.

Committees facilitated ongoing formulation of projects and solicited financial support for them. Perhaps most significantly, though, the JSU contributed to convening International Follow-Up Meetings in New York in June 1990 and San Salvador in April 1992. These meetings, unlike the 1989 Conference, were explicitly conceived as pledging conferences and allowed CIREFCA to remain an ongoing donor focus.⁷²

Ownership

The International Conference was officially convened by the affected countries in the region. On the basis of a meeting held in September 1988, the five Central American states (excluding Belize) and Mexico signed an agreement – the ‘San Salvador Communique’ – to convene CIREFCA. The Communique requested the 43rd Session of the UN General Assembly and the Office of the Secretary-General to support the conference, while asking UNHCR to organise it in collaboration with UNDP. CIREFCA was therefore considered ‘the decision of’ and ‘the initiative of’ the countries of the region.⁷³ This served to highlight to donors the Central American states’ commitment to the process and placed the onus on the states in the region to discharge their responsibilities in relation to the process.

The importance of regional ownership was highlighted throughout the preparatory activities for the conference: “The conference is an initiative of the affected countries. The preparatory work in each country is based upon proposals prepared by the relevant Governments... The role of the UN system and UNHCR in particular has been one of support and orientation... special care has been taken not to impose an outside assessment on the authorities”. Each state was therefore supported in developing its own ‘diagnostic studies’ and ‘project proposals’,⁷⁴ being asked to submit population statistics, an analysis of the impact of hosting or integrating, an assessment of priorities, an elaboration of specific strategies, and the formulation and presentation of projects by March 1989. However, UNHCR also made clear that with ‘ownership’ came responsibility: “It is expected that Governments, by proposing a strategy under which basic commitments are made... will demonstrate their own responsibility towards solutions”.⁷⁵

⁷² ‘From Conflict to Peace and Development: Note on Implementation of the Concerted Plan of Action of CIREFCA’, Pablo Mateu (JSU) to K. Asomani (RBLAC), 17/3/92, UNHCR Fonds 11, Series 3, 361.86.5.

⁷³ ‘International Conference on Central American Refugees, Guatemala City, May 1989: Preliminary Information’, Memo, Mr Deljoo to Mr Asomani, 5/12/88, UNHCR Fonds 11, Series 3, 391.86, HCR/NYC/1466.

⁷⁴ The ‘diagnostic studies’ conducted as part of the preparatory project for CIREFCA have strong parallels with the current UNHCR focus on ‘gaps analyses’ and ‘national consultations’ carried out as part of the Strengthening Protection Capacity Project’ (SPCP) and the CPA for Somali Refugees in 2004 and 2005.

⁷⁵ ‘Procedures for the Preparatory Activities of the Conference Itself and the Establishment of Follow-Up Mechanisms – Proposal Submitted to the Organizing Committee Meeting, Guatemala 24 January 1989’, UNHCR Fonds 11, Series 3, 391.86.3 HCR/NYC/0102.

Flexibility

Although planning for CIREFCA was focused and took place well in advance, UNHCR had to adapt to numerous changes in circumstances. Even though CIREFCA may be widely regarded as a 'success', it is important to be aware that the process was nevertheless characterised by challenges and obstacles to which UNHCR had to respond. The evolution of the peace process, the end of the Cold War and the subsequent repositioning of the USA in relation to CIREFCA, disagreement over the participation of Belize in the process, a funding crisis at the end of Jean-Pierre Hocké's term, and two changes of High Commissioner, all required adaptability and adjustment of the process in accordance with the changing circumstances. It is worth highlighting these to show how significant flexibility and UNHCR responsiveness were throughout CIREFCA. The examples below demonstrate how important this adaptation to circumstances was at various stages of the process:

•Emergence of the peace process

UNHCR responded proactively to take advantage of evolving political opportunities. For example, in response to the signing of the Esquipulas II, the Mexican Representative immediately recommended that all UNHCR representatives in the region write to the relevant Ministers of Foreign Affairs in support of the peace process, and to a large extent the process adapted to fit into the wider peace and development initiatives, even though it had been conceived prior to Esquipulas II and the PEC. UNHCR's response brought immediate operational benefits. In the context of the November 1987 Consultative Group meeting, a working document was produced exploring the impact of the peace process on the search for solutions for the displaced. It argued that "the peace impulse of Esquipulas II ...has opened a space in the search for solutions", citing the immediate progress that had been made in relation to the pre-existing Tripartite Commissions on Repatriation as illustrative of this effect.⁷⁶ Indeed, in October 1987 the 'peace dividend' allowed agreement to be reached for the return of 4500 Salvadoreans from the Mesa Grande region of Honduras.⁷⁷ It is notable that the peace process was also hindered by early set-backs, yet rather than being distracted, UNHCR persevered with its work.

•Political impasse over Belize

In June 1988, discussions on CIREFCA were afflicted by a political impasse concerning the composition of the Steering Committee. Costa Rica favoured the inclusion of Belize within the process. However, given its poor diplomatic relations with the country, Guatemala opposed Belize's involvement. This impasse resulted in the postponement of the conference, which UNHCR had

⁷⁶ 'Documento de Trabajo: Impacto del Esfuerzo Pacificador de Esquipulas II y de las Conclusiones del Grupo de Consulta', November 1987, UNHCR Fonds 11, Series 3, 391.86/Mex/HCR/0801.

⁷⁷ 'Note for the File: Grupo de Consulta Sobre Posibles Soluciones a las Problemas de los Refugiados Latinoamericanos', 25/11/87, UNHCR Fonds 11, Series 3, 391.86/Mex/HCR/0801.

originally hoped would be held in mid-1988. However, as the UNHCR Representative to Costa Rica highlighted, UNHCR adapted and simply continued with the technical support mission scheduled for August and September: “in order not to lose momentum gained, preparatory/technical work will go ahead as scheduled in Guatemala, i.e. the technical tasks will be separated from diplomatic problems related to the composition of the Steering Committee”.⁷⁸

•UNHCR financial crisis

In the second half of 1989, UNHCR was hit by financial crisis, which led to questions over how to prioritise funding in relation to CIREFCA. Yet, despite these changed circumstances, UNHCR adapted and Leonardo Franco used the cut-backs as a reason to continue to focus on the search for solutions, arguing, “in the face of UNHCR’s financial difficulties, moves to cut programme expenditure would have to focus on programmes not related to care and maintenance, but rather on those geared towards durable solutions; any cuts would be hard to justify to the affected areas and could lead to a loss of credibility on the part of UNHCR vis-à-vis these countries”.⁷⁹ By positing this argument and getting states such as Norway to promote the prioritisation of CIREFCA despite the cut-backs, UNHCR was able to overcome the relatively short-lived ‘crisis’ and keep CIREFCA on track.

•Criticism from donor states

While CIREFCA has often been romanticised as a ‘success’, it is important to note that not all state responses at the time were entirely positive. For example, some Permanent Missions suggested that the plan was too vague with an insufficient focus on refugees.⁸⁰ Meanwhile, others suggested that CIREFCA had an unacceptably close association with the still controversial Cartagena Declaration and that it failed to clearly identify the responsibilities of Central American states.⁸¹ Yet, as with the other set-backs, UNHCR’s response continued to be one of adaptation and perseverance.

Linkages to the Peace Process, Development and Democratisation

As High Commissioner Sadako Ogata argued towards the end of the process, “CIREFCA has been a key formative experience in many respects, breaking new ground in...demonstrating the important linkages between solutions, the

⁷⁸ Memo, Merida Morales-O’Donnell (San José) to the High Commissioner, 16/6/88, UNHCR Fonds 11, Series 3, 391.86.1 cos/hcr/0467.

⁷⁹ Memo, ‘Minutes of the Working Group on Refugee Aid and Development’, A. Noel to B. Deschamp, 31/7/89, UNHCR Fonds 11, Series 3, 391.88.

⁸⁰ André Mollard, on behalf of the Permanent Mission of the European Commission, 19/5/89, UNHCR Fonds 11, Series 3, 391.86.3 Hcr/GUD/0287.

⁸¹ R.H. Lawrence, Counsellor, Canadian Permanent Mission, Comments to Leonardo Franco, 19/5/89, UNHCR Fonds 11, Series 3, 391.86.3.

consolidation of peace and development” .82 A similar observation was included in the draft declaration of CIREFCA, which asserted that “The objectives...are based on a common foundation recognized by the countries concerned. It includes...a conviction that an inter-relationship...exists between solutions to the problems of refugees, peace in the region and development” .83 Indeed, UNHCR recognised that CIREFCA served as a “privileged forum” because of its institutional linkages to the wider peace process and regional development initiatives to which both donor states and the Central American states had a vested interest and prior commitment. In particular, Chapter 1 of the PEC and Article 8 of the Esquipulas II Accords both referred to solutions for the displaced, creating an opportunity for UNHCR to make CIREFCA a part of these wider initiatives and so channel the interests of states in these other areas into CIREFCA.⁸⁴ These relationships were explicitly referred to in the Concerted Plan of Action and the reports of the Secretary-General on the two related initiatives.⁸⁵

Section X of the UNHCR report to the main Conference makes clear the relationship of the initiative to other linked issue areas, claiming CIREFCA to be a “converging point” for these issues. It attempts to confer the legitimacy of the other initiatives on to CIREFCA by formally recognising the inter-relationships. It attempts, for example, to show how the EEC-Contadora Group San José meetings “have consistently made reference to refugees and voluntary repatriation, and more recently to CIREFCA”. Similarly, it draws on the legacy of the Cartagena Declaration, stating, “The idea of promoting dialogue and regional negotiation on Central American refugee matters was well established in 1984. The Cartagena Declaration was the first step leading to [CIREFCA]” .⁸⁶

However, UNHCR recognised that the most important factor drawing these elements together was the peace process. An in-house reflection piece noted:

The most important aspect of CIREFCA is its intimate link to the concerted search by the Central American Presidents, with the support of the Secretary-General of the UN, for a negotiated peace...A careful reading of the CIREFCA documents leads to the conclusion that Esquipulas II is the philosophical underpinning of the Conference. An analysis of the CIREFCA Declaration highlights the interrelationship of efforts in favour of refugees, returnees and

⁸² ‘Introductory Statement by Mrs Sadako Ogata’, Informal Meeting of ExCom, Geneva, 28/1/94, UNHCR Fonds 11, Series 3, 391.86.5.

⁸³ ‘Preparatory Meeting for CIREFCA, Guatemala, 12-14 April 1989’, UNHCR Fonds 11, Series 3, 391.86.3.

⁸⁴ ‘Procedures for the Preparatory Activities of the Conference Itself and the Establishment of Follow-Up Mechanisms – Proposal Submitted to the Organizing Committee Meeting, Guatemala 24 January 1989’, UNHCR Fonds 11, Series 3, 391.86.3 HCR/NYC/0102.

⁸⁵ ‘From Conflict to Peace and Development: Note on Implementation of the Concerted Plan of Action of CIREFCA’, Pablo Mateu (JSU) to K. Asomani (RBLAC), 17/3/92, UNHCR Fonds 11, Series 3, 361.86.5.

⁸⁶ ‘International Conference on Central American Refugees (CIREFCA), Guatemala City, 29-31 May 1989: Report to the Conference by UNHCR’, UNHCR Fonds 11, Series 3, 391.86.3 HCR/Mex/0375.

displaced persons and those in favour of peace, democracy and development taking place in the regions. This interrelationship is more explicitly reaffirmed in the sections entitled Fundamentals of the Plan of Action where the affected countries link the proposals for solutions in favour of the affected groups with efforts towards regional peace and development; frame these proposals within Esquipulas II; and tie the success of the Plan of Action to economic and social development in the region.⁸⁷

The concept of 'linkages' has been under recognised for its contribution to supporting international cooperation in the refugee regime. It implies that by creating perceived interconnections between issue-areas of global governance, an international institution can help to channel states' perceived interests in one area into another. The concept has been applied, in particular, to analyse North-South cooperation and to explain how in contexts in which Northern states would have very little incentive to cooperate in a particular area, and Southern states have little power to influence Northern state choices, issue-linkage can create 'side-payments', increasing the incentives for both Northern and Southern states to cooperate.⁸⁸

The issue-linkages which connected the issue of displacement to peace, development and democratisation on both an institutional and informal level were probably the most important factor in creating sustained political support for CIREFCA. In particular, they were the basis of support from the donor community and of commitment from the countries in the region and, consequently, of wider support from across the UN system. These positive implications of the interconnections across these conceptually distinct issue-areas can be explained in turn:

•Donor Support

In the first instance, the achievements of CIREFCA were in large part attributable to the strong donor support of the European Community. In financial terms the EC provided US \$110m for CIREFCA projects between 1989 and 1993, 45% of the total mobilized during that period. \$30.4m of this was for programmes implemented by UNHCR, comprising 47% of the total contributions channelled through the Office. Yet this commitment stemmed from a broader interest than simply a commitment to the displaced. As UNHCR noted, "the Community has regarded CIREFCA as an integral part

⁸⁷ 'From Conflict to Peace and Development: Note on Implementation of the Concerted Plan of Action of CIREFCA', Pablo Mateu (JSU) to K. Asomani (RBLAC), 17/3/92, UNHCR Fonds 11, Series 3, 361.86.5.

⁸⁸ Haas, E (1980), 'Why Collaborate? Issue-Linkages and International Regimes', in Kratochwil, F and Mansfield, E (eds) (1994), *International Organization: A Reader*, (Harper Collins: New York), pp. 364-384; Conybeare, J (1984), 'Public Goods, Prisoner's Dilemma and the International Political Economy', *International Studies Quarterly*, Vol. 28, pp. 5-22; Ravenhill, J (1990), 'The North-South Balance of Power', *International Affairs*, Vol. 66:4, p. 15; Betts, A (2005), 'International Cooperation Between North and South to Enhance Protection in Regions of Origin', *Refugee Studies Centre Working Paper*, No. 25.

of efforts towards peace, development and democracy in Central America".⁸⁹ The EC's commitment to Central America had been evident since the 1984 San José Declaration, which established an annual forum for political and economic cooperation between the EC and Central American States. The annual San José Summit created a basis for sustained dialogue between the region's Foreign Ministers throughout the CIREFCA process.⁹⁰ Motivated by a combination of factors including solidarity with emerging Christian democratic governments,⁹¹ the desire to offset the influence of the U.S. in the region, and a wish to assert the EEC's growing global influence by promoting peace and development, they ultimately provided nearly 50% of the funding for CIREFCA. In contrast, the contribution of the U.S. Government to CIREFCA was limited, at least until the fall of the Sandanista regime in Nicaragua. During the Reagan Administration, in particular, the country's contribution to finding solutions for Central American refugees remained bilateral and highly focused on its geopolitical interests.

•Commitment from the Central American States

In the second instance, the Central American states had a strong commitment to the peace process which could be channelled into CIREFCA. Sergio Vieira de Mello, in his role as 'coordinator of the conference', commented on the dilemma of creating an explicit institutional 'linkage' between CIREFCA and the peace process. On the one hand, he was aware that this direct relationship served to mobilise support and political momentum for CIREFCA, particularly in terms of the 'buy-in' of the Central American states, given their prior commitment to the Esquipulas process. However, on the other hand, he observed that too rigid a link would tie the prospects for CIREFCA to the success of the outcome of a precarious peace process:

The apparent disadvantage of having such an initiative tributary of the Esquipulas II Accord is off-set by the fact that the second option; described below, would undoubtedly weaken the explicit common political basis which is considered essential for the success of the International Conference...Conversely, the active participation of Mexico and the fact that the recommendation for the convening of the conference preceded the Esquipulas II Agreement, are an objective insurance against too formal an institutional linkage of a humanitarian initiative to what is essentially a risky...political process. A second option...would consist in having the conference formally convened by UNHCR on the basis of the positive consensus established through bilateral consultations...It would obviously

⁸⁹ Jenifer Otsea, CIREFCA JSU, to UNHCR Brussels, 'CIREFCA: A Strategy for Solutions', 8/2/93, UNHCR Fonds 11, Series 3, 391.86.5.

⁹⁰ Memo, Ruprecht Von Arnim, Representative to Brussels, to Jenifer Otsea, Headquarters, 'The Ninth San José Summit of Foreign Ministers of the EC and Countries of Central America', 3/3/93, UNHCR Fonds 11, Series 3, 391.86/381.

⁹¹ Many of the Nordic states had already developed close links with the region having resettled Argentinean and Chilean refugees since the 1970s.

deprive the conference of a direct and tangible political commitment on the part of the Central American countries themselves.⁹²

He further noted that much of the commitment of Central American states to CIREFCA was linked directly to the peace process: “the five governments attach a special importance to having the Conference convened at the earliest possible date, if only to demonstrate that consensus is possible on the social and humanitarian components of the Esquipulas II Accord”.⁹³ In that sense the linkage to the peace process proved significant not only for mobilising donor commitment but also establishing political will amongst the states in the region. Indeed, UNHCR’s Juridical Committee of CIREFCA noted the logic underpinning Central American states’ perception of an association between the peace process and population displacement:

Massive flows of refugees might not only affect the domestic order and stability of receiving states, but may also jeopardize the political and social stability and economic development of entire regions, and thus endanger international peace and security. The solution to the problems of displacement is therefore a necessary part of the peace process in the region and it is not conceivable to achieve peace while ignoring the problems of refugees and other displaced persons.⁹⁴

In setting out its preparatory activities, UNHCR identified the important role that linking solutions with development initiatives for the local community can play in mobilising host country support for local integration, self-sufficiency and reintegration. It argued that the linking of assistance and development,

...focuses on zones affected by the impact of refugees, returnees and displaced persons and also naturally benefits the local population. By doing so, CIREFCA ensures a sustained link with development efforts on a larger scale, which otherwise would not be possible, and avoids the perpetuation of emergency schemes isolated from local communities such as closed or precarious refugee camps.⁹⁵

This citation highlights UNHCR’s awareness of the role that the promise of additional development resources directed towards the local host population can play in promoting a commitment by host states towards solutions or

⁹² Sergio Vieira de Mello, ‘Preparation of the International Conference on Solutions to the Problems of Central American Refugees as a contribution to Peace: Report on a Mission to Central America, Mexico and UN Headquarters, 16-18 March 1988’, UNHCR Fonds 11, Series 3, 391.86.1.

⁹³ *Ibid.*

⁹⁴ ‘Principles and Criteria for the Protection and Assistance of Refugees, Repatriation and Displaced Persons’, Prepared by the Juridical Committee of CIREFCA, UNHCR Fonds 11, Series 3, 391.86.3 HCR/Mex/0890.

⁹⁵ ‘Procedures for the Preparatory Activities of the Conference Itself and the Establishment of Follow-Up Mechanisms – Proposal Submitted to the Organizing Committee Meeting, Guatemala 24 January 1989’, UNHCR Fonds 11, Series 3, 391.86.3 HCR/NYC/0102.

forms of protection that go beyond encampment. The strategic centrality of ensuring that local populations also benefited this approach was again highlighted in the draft declaration prepared for CIREFCA:

All project proposals, whether aimed at refugees, returnees or displaced persons, include a component geared at redressing the adverse effects felt by the surrounding local population and...to improve their situation. This integrated approach is a substantial part of the strategy of progressively incorporating refugees or reintegrating returnees in the countries and constitutes a key of the Plan of Action and of achieving the objectives of CIREFCA.⁹⁶

• The support of the UN System

Notably, the peace agreement also brought an immediate commitment from the Secretary-General to the issue of displacement. Five days after the signing of the agreement, Leonardo Franco met with the Assistant Executive of the Secretary-General, who emphasised the Secretary-General's commitment to the preparatory work for the regional conference on refugees, in the context of the Peace Plan.⁹⁷ The decision for the Concerted Plan of Action to stand in for Chapter 1 of the PEC created an immediate institutional link between CIREFCA and the Office of the Secretary-General given that Mr Augusto Ocampo had been appointed as the Secretary-General's Special Representative for the preparation of the PEC. ⁹⁸ It is in part because of this wider linkage that the High Commissioner was able to call upon the Secretary-General to formally convene CIREFCA.⁹⁹ Indeed, from within the Secretary-General's Office, individuals such as Alvaro de Soto and Francesc Vendrell were primarily concerned to ensure the success of the Esquipulas II peace process. This commitment to the wider process translated into an interest in CIREFCA insofar as the Secretary-General's Office wished to ensure that UNHCR role complemented rather than detracted from Esquipulas II.¹⁰⁰

The Comprehensive Plan of Action for Indochinese Refugees (1988-1996)

⁹⁶ 'Preparatory Meeting for CIREFCA, Guatemala, 12-14 April 1989, UNHCR Fonds 11, Series 3, 391.86.3.

⁹⁷ Memo on 'Meeting with M. de Soto, Executive Assistant of the S-G', in New York, L. Franco to HC, 13/8/87, UNHCR Fonds 11, Series 3, 386.86 cos/hcr/0483.

⁹⁸ 'International Conference on Central American Refugees (CIREFCA), Guatemala City, 29-31 May 1989: Report to the Conference by UNHCR', paragraph 157, UNHCR Fonds 11, Series 3, 391.86.3 HCR/Mex/0375.

⁹⁹ Letter from Jean-Pierre Hocké to Javier Perez de Cuellar, 20/12/88, UNHCR Fonds 11, Series 3, 391.86.3 HCR/NYC/1553.

¹⁰⁰ Interview with José Riera, Programme Officer to the JSU during CIREFCA, UNHCR, 24/10/05.

A lot has been written about the CPA. However, the majority of this work has been from a legal or anecdotal perspective, reflecting on the important legacy of the CPA's technical innovations. These are highly significant because many important facets of current approaches to protection – refugee status determination, family reunification, resettlement screening, monitoring of returns - were developed in the context of the CPA.¹⁰¹ Similarly, a number of ideas that have subsequently resurfaced, not least ideas such as transit processing centres¹⁰² or even tradable resettlement quotas,¹⁰³ had their genesis in the CPA. Perhaps most significantly, the CPA was the first time that UNHCR adopted a screening process in the context of a mass exodus and committed to return those who did not qualify as refugees.

However, the CPA has received less critical reflection from a political perspective. Although, the Refugee Law Reformulation Project reflected on its significance and it has been widely considered as an example of successful 'burden-sharing', there has still been insufficient reflection on the underlying conditions that made such a complex multilateral agreement possible.¹⁰⁴ The CPA's unique combination of consensus between host countries of first asylum, the country of origin and third countries beyond the region make it an important case study for understanding the preconditions for international cooperation. Indeed, it is of particular contemporary relevance because it focused on the issue of providing protection in the context of a broader migratory flow, being the first multilateral agreement to address the issue of the asylum-migration nexus. As the search for solutions in the Mediterranean, Pacific and Caribbean highlights, political agreement in analogous areas is of growing relevance.

Context

In 1979, an unprecedented multilateral agreement had been reached to address the global concerns relating to the 'Vietnamese Boat People' arriving in vast numbers in South East Asian countries. The agreement established a

¹⁰¹ Towle, R (2005), 'Lessons from the Past for the Future: Co-operative Plans and Durable Solutions', Paper presented at workshop on 'The Right to Seek and Enjoy Asylum? The Pacific, Mediterranean and Caribbean Plans Compared', Prato, Italy, 26/9/05.

¹⁰² For example, with strong parallels to the 'New Vision' paper it developed in 2003, the UK presented a 'Non-Paper' at the 4th session of the UK/SRV negotiations in 1991, in which it put forward a proposal to "establish and manage a facility in Vietnam, hereinafter referred to as the 'centre', for the purpose of ensuring a smooth reception and eventual reintegration of its nationals returning home". It was suggested that this could be in the vicinity of Hanoi and be run as a pilot project for 500 people by IOM and UNHCR. 'Draft Memorandum of Understanding Between SRV, UNHCR and IOM', UK Non-Paper, 23/7/91, UNHCR Fonds 11, Series 3, 391.89M.

¹⁰³ For example, Singapore, the Philippines, Canada and UNHCR entered into an embryonic form of such an agreement. Due to Singapore's obdurate stance on the CPA, applications lodged in Singapore were automatically transferred to a regional reception centre in the Philippines on the condition that all the additional resettlement was underwritten by Canada. As UNHCR said, "Canada does not want its special offer to cover this to be publicised". Memo, Timberlake to McNamara, 'Note on Protection Concerns Under the CPA', 18/5/90, UNHCR Fonds 11, Series 3, 391.89, HCR/USA/0524.

¹⁰⁴ Hans, A and Suhrke, A (1997), 'Responsibility-Sharing', in Hathaway, J (1997). *Reconceiving Refugee Law* (Martinus Nijhoff: The Hague), pp. 83-109.

consensus to accord prima facie recognition to all Indochinese refugees based on the understanding that third country resettlement was to be the only viable durable solution. This agreement created a commitment by the ASEAN states to continue to provide asylum on the condition that states beyond the region provided sufficient ongoing access to resettlement. The agreement resulted in over 1 million Indochinese refugees being given temporary asylum in South East Asia and then resettled in the West.

However, by the end of 1988 the number of people fleeing Vietnam was increasing, and the willingness of both host states in the region to offer protection and of third countries beyond the region to offer resettlement was declining. With resettlement quotas declining, there was a growing pool of “long-stayers” in first asylum camps and the countries in the region began to identify resettlement as a “pull factor” attracting growing numbers of economic migrants. Despite the large numbers resettled since 1979, roughly the same number of refugees (150,000) remained in camps in South East Asia as had been the case at the end of 1988.¹⁰⁵ In the words of Sergio Vieira de Mello, there was therefore a need for “a new solutions-oriented consensus involving the co-operation of countries of origin, first asylum and resettlement”.¹⁰⁶

In contrast to the previous decade, a new dimension emerged in the process, in which, for the first time, the Socialist Republic of Vietnam (SRV), as part of its wider attempts to repair its ties with ASEAN, declared itself willing to engage in the process and to repatriate without punishment or persecution those who voluntarily agreed to return.¹⁰⁷ This new rapprochement was set in the context of improved relations between the superpowers and progress on the conflict in Cambodia leading to Vietnam announcing the withdrawal of troops from the country. This opened a new possibility, previously unavailable: that of using ‘screening’ to establish refugee status, and to consider return for those not found to have a well-founded fear of persecution in their country of origin.¹⁰⁸ This new element offered the prospect of a new consensus on international cooperation for Indochinese refugees.

Process

In contrast to CIREFCA, the build-up to the CPA was fairly brief and was largely a drafting exercise based on ongoing consultations with states to reach consensus. The actual CPA offered a focused political agreement, and the

¹⁰⁵ *New York Times*, ‘Vietnam and Laos Finally Join Talks on Refugees’, 30/10/88.

¹⁰⁶ Memo, Sergio Vieira de Mello to Refeudin Ahmed, Secretary-General’s Office, ‘Recommended Opening Speech for Kuala Lumpur Meeting, 7-9 March’, 22/2/89, UNHCR Fonds 11, Series 3, 391.89 HCR/NYC/0248.

¹⁰⁷ *New York Times*, ‘Vietnam and Laos Finally Join Talks on Refugees’, 30/10/88.

¹⁰⁸ Pierre Jambor, the UNHCR Representative to Thailand, had first suggested using screening in a note as early as 1986 and developed the ideas through a Ford Foundation funded study on the Indochinese. Although the idea was initially met with resistance within UNHCR’s Department of Refugee Law and Doctrine, it gradually gained support.

actual document was extremely concise, simply highlighting the main obligations of the different groups of states. Most of the substantive details were therefore developed in the aftermath of the main 1989 Conference, on the basis of using the CPA as a guiding political and normative focal point.

The process which began with an inter-state meeting of 17 Governments from the region and beyond was held in Bangkok in October 1988 as an informal consultation to set-out the groundwork for the CPA. It was the first time since 1979 that the Socialist Republic of Vietnam (SRV) or the Lao People's Democratic Republic (LPDR) had been involved in talks on refugees from their countries. The initial meeting was purposefully informal with no pre-determined agenda, exploring states' interests as a basis for the drafting of a new agreement.¹⁰⁹ By December, the SRV had agreed a Memorandum of Understanding with UNHCR, setting out the principles to allow voluntary repatriation without punishment or persecution, and allowing UNHCR to monitor reintegration.¹¹⁰ It was in the aftermath of these discussions that the 43rd Session of the General-Assembly requested the Secretary-General to convene an International Conference in the first half of 1989 to "find a comprehensive and durable solution to the problem".

A small Drafting Group, comprising the major stakeholders, worked on the Draft Declaration and CPA. The process of drafting was based on ongoing consultations, in which the regional Representatives were consulted throughout and comments were solicited from Governments at each stage.¹¹¹ Methodologically, UNHCR's Asia and Oceania Bureau tabulated all of the states' comments to the draft, allowing them to track and input all of the amendments which were received in writing from the Permanent Missions in Geneva.

On the basis of this drafting process, a meeting was convened in Kuala Lumpur in March 1989, which agreed the draft declaration and CPA, allowing the texts to be finalised before the main conference took place in Geneva. There, the basic principles of the agreement were set-out, highlighting the obligations on each of the three main groups of states with the High Commissioner explaining the underlying ethos of the CPA, which he said "must...be characterised by balance and compromise between the various parties".¹¹²

¹⁰⁹ 'UNHCR Informal Consultations on Indochinese Asylum-Seekers in South-East Asia, Bangkok, 27-28 October 1988', 10/11/88, UNHCR Fonds 11, Series 3, 391.89 100.Ich.gen.

¹¹⁰ 'Memorandum of Understanding Between the SRV and UNHCR', 13/12/88, UNHCR Fonds 11, Series 3, 391.89.

¹¹¹ Memo, Pierre Jambor, UNHCR Representative to Thailand, to Sergio Vieira de Mello 17/1/89, UNHCR Fonds 11, Series 3, 391.89 100.Ich.gen; Sergio Vieira de Mello, Head, Regional Bureau for Asia and Oceania, 'Standard Letter to Permanent Representatives', 11/1/89, UNHCR Fonds 11, Series 3, 391.89 100.Ich.gen.

¹¹² 'Report of the Preparatory Meeting for the International Conference on Indochinese Refugees', Kuala Lumpur, 7-9 March 1989, UNHCR Fonds 11, Series 3, 391.89.

The CPA adopted in Geneva relied upon a three-way commitment by countries of first asylum in the region, countries of resettlement beyond the region, and the main country of origin. For the CPA to be successful, each group of stakeholders had to perceive that their own contribution directly underpinned the overall aim of finding a comprehensive solution to the 'problem' of the Indochinese Boat People. Resettlement states agreed to resettle all those already in the asylum countries up to a 'cut-off' point and all those determined to be 'refugees' by individual refugee status determination (RSD) after the 'cut-off'. The 'cut-offs' varied from state-to-state but began from as early as 14 March 1989. In return the ASEAN states and Hong Kong agreed to maintain the principle of first asylum. Meanwhile Vietnam committed to accept the voluntary return of non-refugees and to work to limit clandestine departures.

In the aftermath of the Kuala Lumpur and Geneva meetings, a Co-ordinating Committee, comprising a 'core group' of states was assembled. This met both in the immediate aftermath of the Kuala Lumpur meeting and later in April in Geneva. The Committee provided a focal point to which the three Sub-Committees on, firstly, 'Reception and Status Determination', secondly, 'Departures and Repatriation', and, thirdly, 'Resettlement' could report their work.¹¹³ This work established the substantive details for how the CPA, as a basic political agreement, would be implemented in practice following its adoption.

In the build-up to the Geneva Conference, the main divisions amongst Northern states were in terms of the deliberation on the position of the SRV. In particular, there was suspicion from states such as Australia about why the SRV was insisting that return of non-refugees be voluntary. The UK, in particular, also representing Hong Kong, insisted that those 'screened out' should be returned as a "minimum". In contrast the USA argued that they shared the SRV's concerns and stood by the insistence on voluntarism on the purported grounds that it was more humane and would facilitate better integration.¹¹⁴

Meanwhile, the Northern states saw their commitment to resettlement as a "blank cheque" and sought particular guarantees from the asylum states in return. Firstly, the implementation of a 'cut-off date' for prima facie recognitions was seen as crucial. As Australia put it, "The blank cheque has already been signed but the figure should be the current camp population and not the tens of thousands who will come in the absence of a 'cut off'". Secondly, the commitment of the states in the region to non-refoulement was

¹¹³ 'Report on the meeting of the Co-ordinating Committee for the International Conference on Indochinese Refugees', 19-20 April 1989, Geneva, UNHCR Fonds 11, Series 3, 391.89 HCR/THA/0516.

¹¹⁴ 'Note for the File: Informal Consultations of the IGC in Kuala Lumpur, 5/3/89, UNHCR Fonds 11, Series 3, 391.89.

also seen as crucial. As the USA argued, “the principle of first asylum is an important equation in the blank cheque”.¹¹⁵

These concerns reached their most divisive level in 1990. The most serious impasse concerned the issue of return for those not recognised as refugees, with the USA and Vietnam continuing to insist that return be voluntary. The British Foreign Minister, Douglas Hurd, wrote to the High Commissioner, stating, “My own discussions with Secretary of State Baker and President Bush in Washington on 29 January give me little hope that the United States will be willing to join in the consensus which was acceptable to all other participants in the Geneva meeting except Vietnam”.¹¹⁶

Indeed it was the failure of Vietnam to allow returns at a satisfactory rate and to reduce clandestine arrivals that led to crisis talks at the Steering Committee Meeting in Manila in mid-1990. Opening the meeting, Vieira de Mello suggested that “Seldom...have we been so close to a breakdown of this otherwise exemplary process”.¹¹⁷ Indeed, complaining about the lack of cooperation from Vietnam, a joint statement from the countries of asylum threatened abandoning the principle of non-refoulement, “In the event of failure to agree even an intermediate solution to the VBP problem, countries of temporary refuge must reserve the right to take such unilateral action as they deem necessary to safeguard their national interest, including the abandonment of temporary refuge”.¹¹⁸ The ASEAN states placed the blame squarely with the USA:

The United States, which opposes involuntary repatriation for its own reasons, has not been helpful either. In fact the United States’ position provides comfort and protection to the Vietnamese intransigence...It is the United States’ insistence on treating the Vietnamese economic migrants differently that is putting the very principle of first asylum in peril.¹¹⁹

However, on the basis of the meeting in Manila, and thanks largely to the conflict resolution skills of Sergio Vieira de Mello, a ‘Near Consensus Note’ emerged. Significantly, this provided the basis for compromise on the issue of the return of non-refugees, which put the CPA back on track. In the words of Dennis McNamara, “the consensus [on return] was not to call it forced and not to call it voluntary; just to say that those who were found to be refugees could not be sent back”.¹²⁰ The agreed compromise was that non-refugees

¹¹⁵ *Ibid.*

¹¹⁶ Letter, Douglas Hurd to HC Thorvald Stoltenberg, 2/2/90, UNHCR Fonds 11, Series 3, 391.89.

¹¹⁷ ‘Introductory Remarks by Sergio Vieira de Mello at Informal Steering Committee Meeting, Manila, 17/5/90, UNHCR Fonds 11, Series 3, 391.89.

¹¹⁸ ‘Joint Statement by Countries of Temporary Refuge’, Manila, 16/5/90, UNHCR Fonds 11, Series 3, 391.89.

¹¹⁹ Statement by Malaysian Minister of Foreign Affairs, 23rd ASEAN Ministerial Meeting, Jakarta, 24-5 July 1990, UNHCR Fonds 11, Series 3, 391.89.

¹²⁰ Interview with Dennis McNamara, Deputy Director of the Department of Refugee Law and Doctrine at the time of the CPA, Geneva, 28/11/05.

should be actively encouraged to return on the basis of 3 months counselling, would not be coerced, and would be monitored by UNHCR upon their return to the SRV.¹²¹ It further noted that while “conditions of safety and dignity” should be upheld, “the modalities of return...would be a matter for first asylum countries to resolve with the country of origin, with the guidance and involvement of UNHCR and other appropriate agencies”.¹²² In other words, UNHCR passed responsibility for return over to the countries of first asylum based on the understanding that it would be “return respecting human rights” but tacitly acknowledging that strict voluntarism might need to be compromised for the CPA to be viable.¹²³ Having restored consensus, the CPA was duly reaffirmed by the Fourth Steering Committee in April 1991.¹²⁴ Although the details for implementation needed ongoing refinement and the Vietnamese refugees remained in protracted detention in Hong Kong throughout much of the 1990s, the reaffirmation that followed the Manila meeting represented the achievement of a lasting consensus which ultimately led to the resolution of the ‘Boat People’ issue.

From 1991 the rate of voluntary returns increased rapidly and the number of new arrivals began to decline. As UNHCR increased the level of the reintegration grants for returnees and began implementing QIPs, the SRV was gradually persuaded that its interests lay in supporting return and cooperating to reduce clandestine departures. This strategy, the SRV realised, would attract the greatest bilateral and multilateral support for development assistance, trade and political engagement. Although UNHCR attempted to uphold the CPA’s commitment to ‘voluntary’ return for non-refugees, in practice from around 1992 the countries in the region increasingly engaged in coerced return, an approach which UNHCR tacitly acknowledged as the process drew to a close in 1996.¹²⁵

Critical Evaluation

Countries of Asylum

As Vieira de Mello made clear, asylum countries were clearly designated responsibility for upholding the principle of non-refoulement: “The crucial starting point for UNHCR in this respect is the re-establishment of first asylum for all Indochinese asylum-seekers arriving in Southeast Asia, as provided for in the CPA. We are satisfied that if properly applied, the CPA can achieve this objective while, at the same time, reducing the collective

¹²¹ ‘Draft Consensus Note’, 18/7/90, UNHCR Fonds 11, Series 3, 391.89.

¹²² ‘Revised Version of the ‘Near Consensus Note’, 12/7/90, UNHCR Fonds 11, Series 3, 391.89.

¹²³ Interview with Dennis McNamara, Deputy Director of the Department of Refugee Law and Doctrine at the time of the CPA, Geneva, 28/11/05.

¹²⁴ ‘Report of the Fourth Steering Committee’, Geneva, 30 April-1 May, UNHCR Fonds 11, Series 3, 391.89.

¹²⁵ Interview with Brian Lander, UNHCR, based in Hong Kong and Indonesia during the CPA, 1/11/05.

burden on first asylum states". UNHCR's role in the aftermath of the CPA therefore focused on developing reception and RSD capacity through technical support and training courses.¹²⁶ UNHCR provided pre-screening and the asylum states then conducted the RSD hearings and appeals procedures.

The asylum states sought assurances of resettlement and return before they were prepared to commit to provide an unconditional commitment to the principle of first asylum or countenance relaxing their approach to detention and reception. ¹²⁷ There was a degree of variation in the positions of the states - Singapore was particularly obdurate, while the Philippines was particularly cooperative - however, collectively the states recognised that their role was contingent upon that of the SRV and the resettlement states.

It was because of polarisation concerning the 'voluntary' nature of return for non-refugees that difficulties began to emerge in 1990. From the perspective of the asylum states, screening was meaningless in the absence of return. From their perspective, the SRV was insisting on voluntariness as a means to reduce the rate of returns so as to extract as much economic and political advantage from the process as possible.

In this context, and partly in protest, 'push-offs' continued throughout 1990. For example, UNHCR noted some 6000 Vietnamese pushed-off from Malaysia since the 'cut-off' date, with the police cordoning off Pulau Bidong to prevent landings. Meanwhile UNHCR had difficulty acquiring access in some areas, such as the east coast of Thailand, where push-offs may also have occurred.¹²⁸ This was exacerbated by the continuation of clandestine migration because of what UNHCR described as "rumour-mongering". For example, in 1991, the rumour that there might be a Kuwaiti guest worker programme for Vietnamese asylum seekers in Hong Kong was blamed for creating a significant 'pull-factor' to Hong Kong.¹²⁹ However, by that point the problem of clandestine arrivals was almost entirely focused on Hong Kong, with 98% of arrivals in South East Asia heading for Hong Kong, where around 20% of the new arrivals were found to have a well-founded fear of persecution.¹³⁰

The asylum countries had also been concerned about the basis for resettlement. Malaysia, which was the first state to implement the 'cut-off

¹²⁶ Memo, D.McNamara, Deputy Director of Department of Refugee Law and Doctrine, to G.Arnaout, Director of Department of Refugee Law and Doctrine, 28/7/89, UNHCR Fonds 11, Series 3, 391.89.

¹²⁷ Memo, D.McNamara to I. Khan, 'Re.Eligibility in South East Asia', 11/4/89, UNHCR Fonds 11, Series 3, 391.89.

¹²⁸ Memo, Timberlake to McNamara, 'Note on Protection Concerns Under the CPA', 18/5/90, UNHCR Fonds 11, Series 3, 391.89, HCR/USA/0524.

¹²⁹ 'Statement by the High Commissioner', 4th Standing Committee, Geneva, 30 April- 1 May 1991, UNHCR Fonds 11, Series 3, 391.89.

¹³⁰ Memo, R. Van Leeuwen, UNHCR Honk Kong, to HC, 'Current and Prospective Situation in Hong Kong', 6/4/91, UNHCR Fonds 11, Series 3, 391.89.

date' on 14 March 1989, provided a case in point. The Representative noted that the Malaysian Government had wrongly assumed early implementation of the cut-off would serve as a deterrent to new arrivals. However, this was not the case and in his words, "Australian officials now speak readily of the successful 'blackmail' applied to the Malaysians to get them to agree to the date", absolving resettlement countries of direct responsibility for the new arrivals. This however caused a problem for UNHCR, which was seen as "a tacit partner in encouraging the earlier date".¹³¹

By the mid-1990 Manila meeting the first asylum element of the CPA was in peril, partly because of concerns about resettlement, but mainly because of concern about the role of the SRV. Gradually, however, on the basis of the Manila meeting and the subsequent near-consensus note, the asylum process became established. The incentives for 'voluntary' return - through counselling and reintegration grants - were increased and the SRV was persuaded that its interests lay in accepting returns at a more rapid rate. This, the declining number of new arrivals, and the early implementation of resettlement screening, reinvigorated the commitment of asylum states to work with UNHCR on RSD.

A significant and often neglected element which came to underpin the states' willingness to engage in RSD was the local dynamics it created, notably through a combination of stimulating trade and corruption. To take the example of Indonesia, the presence of asylum seekers close to the town of Tanjung Pinang on the island of Bintan stimulated trade linked to the flow of remittances and the role for the Indonesian military within the area. This in turn generated high-level political support in Jakarta for continuing with the status quo. The presence of corruption within the RSD system and the emergence of the informal sector within refugee hosting areas also created similar local incentives to maintain the existing asylum system. Moreover, camps such as Galang served as a shining example of respect for human rights, which the Suharto regime was able to exploit for political purposes in full view of the international media.¹³²

The screening process has been widely criticised as arbitrary, restrictive and often corrupt, and conditions of detention and encampment were often unacceptable.¹³³ However, on the whole, after 1990, once new arrivals slowed down and returns were underway, the countries of temporary refuge played the role expected of them within the CPA, tolerating the camps and

¹³¹ Memo, Eric Morris to Sergio Vieira de Mello, 'Current Situation in Malaysia', 6/4/89, UNHCR Fonds 11, Series 3, 391.89.

¹³² Interview with Brian Lander, UNHCR, based in Hong Kong and Indonesia during the CPA, 1/11/05.

¹³³ At the time Arthur Helton was one of the most vocal critics from the NGO community. He wrote numerous letters to UNHCR on behalf of the Lawyers Committee for Human Rights, urging the Office to uphold protection principles in the implementation of the CPA. These problems have also been noted in, for example, Robinson, C (2004), 'The Comprehensive Plan of Action for Indochinese Refugees, 1989-1997: Sharing the Burden and Passing the Buck', *Journal of Refugee Studies*, Vol. 17:3, pp. 319-333.

detention centres, conducting RSD, and supporting the resettlement and return processes. By the end of the process in 1996, Hong Kong and the Philippines even carried out some local integration, albeit on a limited scale. While the response of the asylum states may not always have conformed to the ideals of the 1951 Convention,¹³⁴ it did at least achieve a remarkable degree of cooperation that ultimately brought the mass exodus to an end.

Country of Origin

Even in the build-up to the Conference, there was concern that Vietnam was unable to control its borders despite implementing strict measures to deter clandestine departures.¹³⁵ Nevertheless it committed to preventing illegal departures through a combination of coastal control, reinforcing media activities, and prosecution of the organisers of clandestine departures, while building its Orderly Departure Procedure (ODP).¹³⁶ The credibility of the SRV's willingness and ability to fulfill these commitments was questioned throughout the early stages of the process. Its unwillingness to accept involuntary deportation of non-refugees and its apparent inability to prevent clandestine departures were a particular source of animosity. However, momentum built in the aftermath of the Manila Conference such that by April 1991, 8,800 non-refugees had been returned to the SRV under the Memorandum of Understanding, which the High Commissioner described as "a beginning".¹³⁷ As the SRV acquired greater international support for returnees, so its willingness to cooperate increased. Most notably, the application of Quick Impact Projects (QIPs), along the lines of those applied in CIREFCA, helped provide a basic level of integrated development that facilitated return.

Throughout the process, the underlying motivation of the SRV was that it was concerned to maximise the financial and political benefits it could derive from the CPA given the need to establish a new form of Socialist Government given the decline of the USSR and China. As Senator Edward Kennedy put it:

A fundamental issue at Geneva, and in the talks preceding the conference, was over Vietnam's willingness to facilitate the establishment of methods for the safe return of non-refugees to Vietnam – under international auspices and with international monitoring and assistance (all of which is a diplomatic way

¹³⁴ An additional problem for UNHCR was that not all of the asylum states were signatories of the 1951 Convention, which meant that UNHCR relied even more on diplomacy and good will than on invoking legal or moral obligation.

¹³⁵ *South China Morning Post*, 3/4/89.

¹³⁶ 'Report on the meeting of the Co-ordinating Committee for the International Conference on Indochinese Refugees', 19-20 April 1989, Geneva, UNHCR Fonds 11, Series 3, 391.89 HCR/THA/0516. The ODP system, coordinated by IOM, ensured alternative channels for labour migration for non-refugees seeking to leave Vietnam. Again, this has parallels to the contemporary recognition of the need to address economic migration alongside providing international protection to refugees.

¹³⁷ 'Statement by the High Commissioner', 4th Standing Committee, Geneva, 30 April- 1 May 1991, UNHCR Fonds 11, Series 3, 391.89.

of saying it will be done 'with cash assistance' to 'ease the burdens of reintegration' – in short, to make it worthwhile to Vietnam).¹³⁸

The key to the SRV's compliance therefore lay with the recognition that returnees were an economic and political benefit to the Government. Not only did they bring reintegration grants with them, but the CPA process increasingly attracted bilateral and UNDP funding during the early 1990s. The QIPs, for example, drew on ECHO funding and adopted a community-based approach which also benefited local communities through providing schools and wells, and other forms of social provision.

Resettlement States

The principles underlying the allocation of responsibility for resettlement were agreed in the aftermath of the conference. On the basis of indicative statistics provided by UNHCR, based on past contributions, the states worked towards setting 3-year targets for the pre-cut off date caseload, with the intention of resettling 50% in the first year. It was initially agreed that in addition to this, there would be three further principles: firstly, that refugees would be resettled in countries where they had the closest social ties; secondly, that 'longstayers' would be processed first; thirdly, that there would be equitable burden-sharing of the caseload without close social ties.¹³⁹ The USA played an important role in leading the resettlement process, committing to take around 40% of both pre- and post- cut-off date refugees, and making this conditional on other states sharing the responsibility.

The resettlement process largely went as envisaged by the CPA. On the basis of the priorities outlined above, UNHCR matched states' resettlement criteria with that of the refugees in the camps. IOM also provided logistical support in relation to resettlement. The difficulty came in resettling 'hard cases' such as those with medical conditions, for which Norway in particular, played an important role. There was also a greater reluctance to resettle the Northern Vietnamese than Southern Vietnamese. Those from the North were widely perceived to be fleeing poverty while those from the South were seen as refugees fleeing persecution because of their anti-Communist sympathies. This partly explains why it took much longer to clear the Hong Kong detention centres, which were predominantly occupied by Northern Vietnamese, than the camps in other countries. Nevertheless by 1996 the camps and detention centres in the region had been cleared in accordance with the CPA.

¹³⁸ Memo UNHCR Washington D.C. to Headquarters, 'A Staff Report on the International Conference on Indochinese Refugees, 1989', Prepared for 101st Congress', 7/7/89, UNHCR Fonds 11, Series 3, 391.89.

¹³⁹ Memo, Pierre Jambor, Representative to Thailand, to Headquarters, 'Draft Note to the Steering Committee on the Technical Meeting on Resettlement Held in Bangkok', 3/7/89, UNHCR Fonds 11, Series 3, 391.89 HCR/Bkk/HQ/0262.

Factors Which Led to Success

Viable Country of Origin

The willingness of the SRV to be an active participant in the process and to issue travel documents to those who wished to return home from detention centres was crucial for the CPA. Return was both the most crucial and most sensitive element of the CPA. Indeed it was the SRV's desire to rehabilitate itself within the region given the decline of the USSR which opened up the possibility for the Memorandum of Understanding with UNHCR. Although the country's participation was controversial and its role in arguing for voluntary returns was divisive, its active participation was the very basis of the CPA. Without this willingness, the concept of RSD would have been meaningless and agreement could not have been reached amongst the other stakeholders on how to overcome the impasse on the 1979 agreement. This highlights the centrality of identifying humane methods of return and deportation for non-refugees if comprehensive approaches to the asylum-migration nexus are to be viable.

However, it is also important to understand the process through which the SRV became able to play this role. Constructive engagement with a state that remained Communist emerged incrementally and the USA played a significant role in enabling the SRV to become a major stakeholder. Up until the late 1980s, the USA had categorically refused to countenance return to Communist states; yet in 1989 it softened its position to allow voluntary return. This willingness to engage with a Communist state, as a means to promote political and economic reform provided an opportunity for the SRV to use the CPA as a means to demonstrate its human rights credentials to the international community as a means to covet political and economic support. This incremental process gradually brought greater levels of SRV cooperation on issues such as clandestine departure, ODP and return. The case study therefore highlights not only the significant role of the country of origin but also the importance of states' political will to encourage diplomatic re-engagement.

Interests and Linkages

The role of UNHCR, and in particular of individual leadership, in facilitating agreement cannot be underestimated. However, this leadership and facilitation role was made possible against the backdrop of the perceived interests each group of states had in the situation and in their own specific commitments. In this regard, linkages to other issue-areas played a crucial role for each of the main stakeholder groups.

The US Government played an important hegemonic role in promoting resettlement, making a sufficiently large and transparent contribution to make the CPA viable. UNHCR noted even before the Conference that,

The delegation of the USA outlined plans to accept between 20 and 22 thousand of the pre-cut-off date population, representing some 40% of that category; this, however was contingent upon participation by other countries in the overall resettlement effort. The same delegation also expressed a very serious commitment to the resettlement of those screened-in under the planned eligibility procedures.¹⁴⁰

The U.S. commitment to the region was clear from the Report of the Conference prepared for Congress.¹⁴¹ It was ultimately linked to the U.S.'s wider concerns with the promotion of democracy and security in the region, and needs to be set in the context of the Government's wider involvement in the region during much of the Cold War.

Firstly, the CPA was seen as a continuation of 1979. As Senator Edward Kennedy noted, "I am hopeful the United States will assume its traditional leadership - as we did in 1979 - and support these new international efforts to address the root causes behind the continued refugee flow".¹⁴² Indeed, as the Secretary-General made clear in his opening statement to the conference, the CPA built on 1979, and 1979 was itself significant because of its relationship to the Vietnam War: "In view of its relative proximity in time to the events that profoundly affected the three countries of Indochina, the July 1979 meeting considered that the fate of asylum seekers in that region continued to be a matter of utmost concern to the international community".¹⁴³

Secondly, this continuation from 1979 was given a great deal of impetus by domestic politics precisely because of all those Indochinese who had already been resettled and now constituted a significant diaspora in the United States. The Council for Refugee Rights, for example, organised a conference in Westminster, California, which resulted in the Indochinese community proclaiming: "More than one million Indochinese living in the United States are deeply concerned with the present treatment and policies of the first asylum countries for these freedom seekers".¹⁴⁴ Indeed this approach was echoed by the U.S. Government's position at the Conference, noted by the

¹⁴⁰ 'Report on the meeting of the Co-ordinating Committee for the International Conference on Indochinese Refugees', 19-20 April 1989, Geneva, UNHCR Fonds 11, Series 3, 391.89 HCR/THA/0516.

¹⁴¹ Memo UNHCR Washington D.C. to Headquarters, 'A Staff Report on the International Conference on Indochinese Refugees, 1989', Prepared for 101st Congress', 7/7/89, UNHCR Fonds 11, Series 3, 391.89.

¹⁴² *Ibid.*

¹⁴³ 'Opening Statement by the UN Secretary-General to the International Conference on Indochinese Refugees', Geneva, 13/6/89, UNHCR Fonds 11, Series 3, 391.89.

¹⁴⁴ Council for Refugee Rights Conference, Westminster, California, 7/5/89, UNHCR Fonds 11, Series 3, 391.89.

Report to Congress: "If the friends of refugees had taken an unyielding stance in Geneva against the demand by the ASEAN and other countries to start a screening alternative...then the countries of first asylum would have ignored the U.S. and perhaps have closed their doors".¹⁴⁵

Thirdly, the U.S. was strongly motivated by the association it identified between the CPA, given the SRV's participation, and the prospects for promoting democracy and capitalism within Vietnam and the wider region. The Report to Congress noted, "It is time to take some concrete steps towards normalizing relations - of talking more directly and frequently with Hanoi...There is ample precedence for establishing American 'interests' sections in other countries where we do not have diplomatic relations, but with which we desire more regular diplomatic contact".¹⁴⁶ The Director of the Indochinese Policy Forum argued that the U.S. national interest lay in fostering regional stability:

The long-term policy goal of the United States is to help bring about a peaceful and stable Vietnam that is fully integrated into the international community and is not threatening to its neighbours. As this process occurs, we shall encourage Vietnam to move increasingly towards establishing democratic institutions...The United States should encourage conditions to help Vietnam reduce its reliance upon the Soviet Union, particularly by improving its relationship with ASEAN.¹⁴⁷

Engagement with Vietnam was also seen as a means to influence the prospects for peace in Cambodia given that Vietnam had committed to withdrawing its troops from the country by 1990 and supporting negotiations between the People's Republic of Kampuchea (PRK) and Prince Sihanouk, who for a long time had been a U.S. client.¹⁴⁸

For the SRV - as the main country of origin - approaching the Secretary-General and signing a Memorandum of Understanding with UNHCR in 1988 was a means to rehabilitate itself in the region and build new partnerships with ASEAN. The decline of the USSR and China placed Vietnam in a position in which it needed to seek new strategic and economic alliances. Its commitment to withdraw its troops from Cambodia by 1990 was indicative of

¹⁴⁵ Memo UNHCR Washington D.C. to Headquarters, 'A Staff Report on the International Conference on Indochinese Refugees, 1989', Prepared for 101st Congress', 7/7/89, UNHCR Fonds 11, Series 3, 391.89

¹⁴⁶ *Ibid.*

¹⁴⁷ The Aspen Institute, 'Recommendations for the New Administration on United States Policy Towards Indochina', by Dick Clark, Director of the Indochina Policy Forum, November 1988.

¹⁴⁸ However, it is also important to note that the U.S. Government's apparent commitment to constructive engagement masked a complex divergence of opinions both within and beyond Government. Individuals such as Shep Lowman and Lionel Rosenblatt, with their links to the U.S. State Department and working for Refugees International, were strong advocates for regarding 'every Vietnamese as a refugee' on the grounds that Vietnam remained a Communist state. It was partly this perspective, so pervasive during the Cold War and ongoing amongst much of civil society even in 1989, which led to the U.S.'s initial insistence on the *voluntary* nature of return.

this aim. Indeed, throughout the CPA its strategy was to maximise the economic and diplomatic benefits that it could derive from participating in the process. For example, its initial insistence on the 'voluntary' nature of return was a means to both slow down the process and to increase its bargaining power, so as to leverage greater financial support. To a large extent this strategy worked and the SRV received growing support for development assistance and reintegration as the process evolved.

Meanwhile, for the countries of asylum - the ASEAN states and Hong Kong - the primary motive for involvement was to resolve what had become a significant migration issue, while averting criticism from the international community for refoulement through 'push-backs'. However, there were also other less obvious interests involved. For example, Suharto used compliance with the CPA as a means to 'prove' his human rights credentials to the international community. There were also many local dynamics and sub-state interests at play, with local officials benefiting from the presence of refugees, whether as a source of commerce, employment, development or corruption.

UNHCR Leadership

UNHCR provided organisational leadership and offered a focal point for facilitating the drafting of the CPA. The Office explicitly identified itself as playing a "catalytic role" in the preparatory process.¹⁴⁹ Much of this role is attributed to the contribution of Sergio Vieira de Mello, whose role many members of UNHCR staff identify as the single most significant reason underpinning inter-state agreement in the CPA.¹⁵⁰ Vieira de Mello's charismatic approach to conflict resolution fostered dialogue and his deft diplomatic skills helped to facilitate agreement. At every stage of the process, he was there, using political and moral persuasion to mobilise state support.¹⁵¹

While Vieira de Mello's diplomatic and political role is well known, the archives point to some of the techniques he coupled with his own uniquely personal skills. For example, at the initial consultations meeting in Bangkok, at which the notion of a CPA was first broached in inter-state discussion, he deliberately requested that the discussions be informal, with no fixed agenda, but that states feel free to raise their concerns in a frank and open discussion.

¹⁴⁹ 'UNHCR Informal Consultations on Indochinese Asylum-Seekers in South-East Asia, Bangkok, 27-28 October 1988', 10/11/88, UNHCR Fonds 11, Series 3, 391.89 100.Ich.gen.

¹⁵⁰ Interview with Anne Dawson-Shepherd, based in Hong Kong and Singapore during the CPA, UNHCR, 19/10/05.

¹⁵¹ However, Vieira de Mello's role should not be overstated. For example, his diplomatic talents were ably supported by the legal and protection skills of people like Dennis McNamara and Irene Khan. Furthermore, the contrasting failure of the CIS Conference, which Vieira de Mello also led, highlights the importance of other enabling factors such as a clear set of political interests, which allowed the 'de Mello factor' to be so significant.

This led to an open and frank exchange which helped set out a clear agenda based on the interests of all parties, which the meeting made transparent.¹⁵²

From then on, Vieira de Mello was highly involved with managing the process from every angle, chairing meetings and engaging directly in the drafting process. For example, he even drafted the speaking notes for the representative of the Secretary-General at the Kuala Lumpur meeting, at which the CPA was finalised in the run-up to the Geneva Conference.¹⁵³ In the aftermath of the Geneva Conference his role became even more prevalent. For example, when in Manila in 1991 the process was in crisis, Vieira de Mello put the process back on track. He focused on re-emphasising the ethos of cooperation underpinning the CPA, getting the states around the table, reminding them of their commitments and interests and bringing about a renewed consensus. Implicitly he even invoked basic notions of game theory and Prisoner's Dilemma, highlighting that 'free-riding' was not an option and claiming the CPA to be a "set of mutually reinforcing undertakings, which must be carried out in its totality rather than selectively", and that this is in the collective interest - "we have very little, if anything, to gain from going it alone, in isolation. We have everything to be proud of if we continue to give our full commitment to a truly balanced implementation of the CPA".¹⁵⁴ In the same speech he also used moral persuasion:

Seen from a strictly UNHCR perspective I will surprise none of you here if I say that first asylum – that is lives of human beings – is at risk. Our office's strength is more than purely legal; it is moral and has a foundation in its impartial, neutral and strictly humanitarian mandate...it is my duty to tell you today that the risk of a major tragedy on the high seas is very real and imminent indeed.¹⁵⁵

It was on the basis of the meeting in Manila and that a 'Near Consensus Note' emerged. Significantly, this provided the basis for compromise on the issue of the return of non-refugees, which put the CPA back on track.

UNHCR attempted to convey an ethos of compromise throughout the process. As Vieira de Mello wrote, "The CPA is an attempt to provide the framework for an international consensus on an overall solution to this prolonged refugee problem. In working towards such a consensus,

¹⁵² 'UNHCR Informal Consultations on Indochinese Asylum-Seekers in South-East Asia, Bangkok, 27-28 October 1988', 10/11/88, UNHCR Fonds 11, Series 3, 391.89 100.Ich.gen.

¹⁵³ Memo, Sergio Vieira de Mello to Refeudin Ahmed, Secretary-General's Office, 'Recommended Opening Speech for Kuala Lumpur Meeting, 7-9 March', 22/2/89, UNHCR Fonds 11, Series 3, 391.89 HCR/NYC/0248.

¹⁵⁴ 'Introductory Remarks by Sergio Vieira de Mello at Informal Steering Committee Meeting, Manila, 17/5/90, UNHCR Fonds 11, Series 3, 391.89.

¹⁵⁵ *Ibid.*

governments and UNHCR have agreed on a range of measures which, in themselves, may not be entirely satisfactory to nay one party".¹⁵⁶

Aside from Vieira de Mello's role in mediation and persuasion, one of the primary means used by UNHCR to provide leadership during the CPA was by invoking normative conceptions of equitable 'burden-sharing', in a way which was almost entirely absent from CIREFCA, for example. In writing to the Foreign Ministers of the prospective resettlement states, the High Commissioner suggested:

Undertakings by resettlement countries to provide solutions for the populations comprise one of the essential and interdependent components of the CPA...We recognise the need to share the burden of such cases more equitably among the international community, while at the same time submitting [to your state] a reasonable proportion of cases with better prospects for integration.¹⁵⁷

Alongside this letter, the High Commissioner enclosed analysis of previous years' resettlement statistics, to offer an indicative outline of what an 'equitable' share of responsibility might be. Similarly, UNHCR circulated a "burden-sharing distribution formula" through its Resettlement Subcommittee as a means to identify the proportion of resettlement quotas for which each main stakeholder should be responsible.¹⁵⁸ For both the pre- and post-cut-off date caseloads, UNHCR provided "suggested admissions levels" or "demarches to resettlement countries".¹⁵⁹ This is significant because it is illustrative of the way in which UNHCR managed to credibly convey to states that without each contributing their 'fair share' the whole process would fail. In other words, free-riding was not an option if states hoped to meet their individual or collective interests.

Comparing the CPA and CIREFCA

Similarities

¹⁵⁶ Letter, Sergio Vieira de Mello to Mr See Chak Mun, Ambassador, Permanent Mission of Singapore, Geneva, 8/5/89, UNHCR Fonds 11, Series 3, 391.89D.

¹⁵⁷ Letter, Jean-Pierre Hocké to Resettlement States' Foreign Ministers, May 1989, all in UNHCR Fonds 11, Series 3, 391.89.

¹⁵⁸ 'Chairman's Brief for International Conference on Indochinese Refugees: Resettlement Subcommittee', 8/4/89, UNHCR Fonds 11, Series 3, 391.89

¹⁵⁹ Background documentation for the Conference, Annex V: 'Note on Statistics of Resettlement Plan', UNHCR Fonds 11, Series 3, 391.89.

Process

Both the CPA and CIREFCA were conceived as a process rather than a single event. In both cases, the main conferences in Geneva and Guatemala City in 1989 were simply a focal point for generating political commitment. The planning for those conferences was based on a series of prior international meetings in each case, and the details of implementation were established through a carefully planned follow-up process. Significantly, both initiatives also built on a substantial legacy rather than simply being conceived *ab initio*. The CPA followed from the legacy of the 1979 agreement, while CIREFCA was explicitly conceived as a follow-up to the 1984 Cartagena Declaration. This meant that both had legitimacy in terms of focusing on recognised problems in which states already had a recognised prior commitment.

Linkages

In both cases, states did not contribute to protection or solutions primarily because of an altruistic concern for the welfare of the displaced. Rather they did so because of their interests in other areas of international politics. In part because of UNHCR channelling those wider interests into a commitment to protection, both Northern and Southern states in the process came to perceive an association between their interests and the need to commit to solutions for the displaced. In the case of CIREFCA, Southern states were mainly interested in attracting development assistance and ensuring national security. Meanwhile, the EC was simultaneously concerned with development, democratisation and security for a host of impurely altruistic reasons. It was therefore the construction of institutional links with, for example, Esquipulas II and the PEC which meant that these concerns could be channeled into a commitment to the displaced through CIREFCA. A similar logic applied, to a lesser degree, in the case of the CPA, in which UNHCR managed to channel the United States' concerns to promote stability in the region given the legacy of its Cold War role in Indochina, and Vietnam's desire to re-establish itself in the international community, into a commitment to the CPA.

UNHCR Leadership

What distinguishes both the CPA and CIREFCA was the leadership that UNHCR provided to each process. This involved a number of key elements. In both cases political momentum was built through close contact with the states at ministerial level, building trust and confidence over time. There was clear strategic planning, both in the build up to the international conferences and in the follow-up. What is perhaps most notable, however, is the extent to which the leadership came from individuals, whose names ultimately became synonymous with the initiatives. Individual and charismatic leadership was critical to success and the internal UNHCR climate supported such leadership. In the case of the CPA, Sergio Vieira de Mello and Dennis McNamara, as extremely senior members of Headquarters staff, were given the support to focus their attention on the process. In addition, UNHCR

ensured that representatives within the region, such as Pierre Jambor and Pierre-Michel Fontaine, were involved in guiding the process within the region. In the case of CIREFCA, the most senior members of staff with responsibility for the region, Leonardo Franco and Philippe Lavanchy, were tasked with providing leadership. They were supported by members of staff who have subsequently been recognised as amongst UNHCR's most talented and committed members of staff.¹⁶⁰ In many ways these experiences highlight the centrality of having high level members of staff working full time on a CPA in order to provide it with leadership. In addition, both processes received full backing not only from the High Commissioner, who was actively involved throughout both initiatives, but also the Secretary-General. Even at the time, UNHCR's leadership role was noted by others. For example, in the build up to CIREFCA, a representative of the EEC commented that "Il faut souligner le rôle de leadership du HCR dans l'organisation de la CIREFCA...[qui] aurait joué un rôle essentiel tout du point de vue politique en réunissant les 7 gouvernements...que du point de vue conceptuel en amenant les différents participants à converger sur des stratégies communes".¹⁶¹

Inter-agency collaboration (IOM and UNDP)

Given that the scope of developing a comprehensive approach almost inevitably goes far beyond UNHCR's mandate, both initiatives relied upon inter-agency partnerships. In the case of CIREFCA, UNHCR collaborated with UNDP as a means to overcome the relief-development 'gap'. Meanwhile, in the CPA UNHCR collaborated with IOM. Based on Irene Khan's view that "direct involvement in the process [of deportation of non-refugees] would not only be outside our mandate but could be in conflict with it", she concluded that "UNHCR should make active efforts to help governments identify other agencies, such as IOM" which could carry out both deportation and monitoring upon return.¹⁶² However, Khan's hope that IOM would become involved in the return process if it became involuntary was contrary to Article 1 of IOM's Constitution, which clearly precludes participation in forcible return operations. Ultimately, IOM therefore refused to become involved in return but worked with UNHCR in relation to ODP and resettlement. In contrast to CIREFCA, UNDP (and other UN agencies) were conspicuously absent from the CPA in spite of the focus on reintegration for returnees.

Despite these differences, the two cases therefore both point to the importance of UNHCR playing a 'catalytic' role in promoting inter-agency collaboration. However, in both cases the complexities posed by collaboration are evident.

¹⁶⁰ Those involved in working on CIREFCA include Robert Muller, Jenifer Otsea, José Riera, Merida Morales-O'Donnell, Werner Blatter, Pablo Mateu, and José María Mendiluce.

¹⁶¹ 'Report on the Preparatory Meeting for CIREFCA, Antigua, Guatemala, 28-30 February 1989', by Claus Van der Vaeren of the EEC, UNHCR Fonds 11, Series 3, 391.86.1.

¹⁶² Memo, Irene Khan to Mr P-M Moussalli, 'UNHCR's Role in the Return of Non-Refugees to Vietnam', 16/7/90, UNHCR Fonds 11, Series 3, 391.89

In the case of CIREFCA, collaboration caused a great deal of tension amongst staff. UNDP was viewed with suspicion and there was concern that the widespread and unconditional availability of development funding undermined UNHCR's attempts to promote protection standards in the region. In the case of the CPA Irene Khan's comments highlight the concern that any involvement in deportation could even leave UNHCR complicit in refoulement. This became particularly problematic due to IOM's unwillingness to collaborate on involuntary return, leaving primary responsibility to the host governments.

Collective Bargaining by the South

Both processes were also notable for the extent to which the Southern states were able to mobilise collectively and, broadly speaking, have a coherent position from which to negotiate with both UNHCR and the donor or resettlement states. In the case of the CPA, the states of first asylum were able to mobilise through the meetings of the ASEAN foreign ministers, frequently denouncing the position of Northern states. For example, at their Jakarta meeting they jointly proclaimed: "The Foreign Ministers deeply regretted that Vietnam and the United States, in opposing involuntary repatriation, have refused to provide for effective intermediate solutions. The responsibility for the collapse of the CPA rests entirely with those who insist on the selective implementation of the CPA".¹⁶³ Indeed this contributed to the formulation of a draft communiqué on behalf of the 'Countries of Temporary Refuge', by then using the acronym, 'the CTRs'. A similar form of collective bargaining was evident in CIREFCA, with the states in part mobilising through the Contadora Group. The Esquipulas II process gave a collective solidarity to the Group and, for example, enabled them to present a united front in the annual San José meetings with the EC, which formed the backdrop to the European states' considerable commitment to CIREFCA. This collective bargaining is in marked contrast to, for example, many contemporary negotiations in the refugee regime in which Southern states often negotiate on a more individualistic basis, sometimes finding themselves isolated and with little power to leverage Northern donor commitment.

Differences

Asylum-Migration Nexus v Peace Process

The CPA represents one of the first attempts to tackle what has subsequently become known as the 'asylum-migration nexus'. By introducing RSD, it attempted to ensure access to international protection for refugees in the context of broader 'mixed flows'. This makes it analogous to, for example,

¹⁶³ 'Joint Statement by the ASEAN Foreign Ministers on the Problems of Vietnamese Boat People', Jakarta, 24/7/90, UNHCR Fonds 11, Series 3, 391.90.

proposals for tackling contemporary issues of transit migration which entail sea crossing, such as the notion of a 'Mediterranean Solution'. In contrast, CIREFCA was not focused on ensuring protection within broader migratory movements but rather built on a peace process context, which provided renewed prospects for access to durable solutions such as repatriation and local integration. Its focus was therefore more on closing the 'relief-development gap' as a means to facilitate access to such solutions through an integrated development approach. In terms of its relationship to a peace process, it is therefore more analogous to, for example, the current CPA for Somali refugees. These differences are exemplified by the implications they had for the institutional partners with which UNHCR collaborated. In the former case, UNHCR focused on IOM and in the latter on UNDP.

State-Specific Interests v International Public Good Logic

Suhrke argues that states' contributions to protection and solutions can be characterised as an international public good, from which all actors will benefit from one state's provision irrespective of which state provides. This she argues creates a strong incentive for 'free riding' on the provision of other states and often results in collective action failure. Although a given action may be in the collective interest, if states act independently and in the absence of strong leadership, they will not have sufficient incentive to contribute to the public good.¹⁶⁴ In many ways the CPA addressed, and overcame, this type of logic by recognising the interdependence of states' contributions. There was little incentive for states to act independently and, as Suhrke argues in her own analysis of post-1975 cooperation on Indochinese refugees, the hegemonic role of the USA played a relatively important role in driving the resettlement process. Moreover, the language of Vieira de Mello throughout the process focused on creating a perception amongst states that collective action was the only means to meet their individual interests and on persuading states that a short-termist approach to 'free-riding' would lead to a collectively sub-optimal outcome.

In contrast, the basis of cooperation in CIREFCA was not on overcoming collective action failure by recognizing the interdependence of states' commitments, but on appealing to individual states' pre-existing interests in 'linked' areas of global governance. In that sense, the existence of private state-specific interests ('joint products') served as a direct incentive for the EC states in particular to commit to the process, largely irrespective of the actions of other states.¹⁶⁵ For example, Italy's commitment to provide \$115m to PRODERE was largely based on its own concerns to maintain solidarity with left-wing Christian democratic governments in the region. Meanwhile, the EC had a particular concern to counterbalance the role of the U.S. in the region. In

¹⁶⁴ Suhrke, A (1998), 'Burden-Sharing During Refugee Emergencies: The Logic of Collective Action Versus National Action', *Journal of Refugee Studies*, 11:4, pp. 396-415.

¹⁶⁵ Betts (2003), 'Public Goods Theory and the Provision of Refugee Protection', *Journal of Refugee Studies*, Vol. 16:3, pp. 274-296.

keeping with this idea, it is notable that the financing of the projects was characterised by 'flexible funding', allowing donors to support elements of projects linked to their own specific concerns and existing bilateral budget lines. For example, in the case of Belize, Swedish funding focused on health care, USAID focused on developing market infrastructure, and the Japanese and French focused on the excavation and consolidation of archaeological sites as a vehicle for generating employment through tourism.¹⁶⁶

Comparing the Cold War and Post 9/11 eras

In attempting to learn lessons from history, an important question relates to the replicability of past successes. Both processes were focused around 1989, at the end of the Cold War. This was a time when there were residue Cold War interests providing an incentive for engagement, but there was also a new optimism and commitment to peace and international cooperation. As the President of the General Assembly noted at the end of 1988, "This, more than any earlier time, is the hour of the United Nations...The year 1988 is the one year in the entire history of the United Nations in which prospects for peace appear to be most propitious".¹⁶⁷ Indeed the International Commission for Central American Recovery and Development noted in its 1989 report that:

Shifts in the relations between the superpowers have enhanced the possibilities of peace in the region. Central Americans are heartened by progress towards the peaceful settlement of regional conflicts in Afghanistan, Southeast Asia, Southern Africa, and the Persian Gulf. Just as East-West rivalry has made such resolutions difficult in the past, cooperation among the superpowers can encourage peaceful settlements of Third World conflicts today.¹⁶⁸

Similarly, in his opening speech to the Kuala Lumpur meeting that reached consensus on the Indochinese CPA, the Secretary-General's Representative noted that

We are meeting during what is...a positive time when a reduction of global and regional tensions have, in many areas of the world, opened up prospects for resolution of what, all too recently, appeared to be intractable conflicts and associated refugee problems.¹⁶⁹

¹⁶⁶ Fax to P. Lavanchy, 'Follow-up to CIREFCA', 6/6/89, UNHCR Fonds 11, Series 3, 391.86 HC/27/10.

¹⁶⁷ 'Press Release: General assembly President's Remarks at Conclusion of General Debate', 14/10/88, UNHCR Fonds 11, Series 3,, 391.90.

¹⁶⁸ 'Report of the International Commission for Central American Recovery and Development', February 1989, UNHCR Fonds 11, Series 3, 391.86.3

¹⁶⁹ Memo, Sergio Vieira de Mello to Refeudin Ahmed, Secretary-General's Office, 'Recommended Opening Speech for Kuala Lumpur Meeting, 7-9 March', 22/2/89, UNHCR Fonds 11, Series 3, 391.89 HCR/NYC/0248.

It is therefore clear that, to some extent, the end of the Cold War was a unique juncture for international cooperation and the United Nations. In contrast the 'post-9/11 era' has been characterised by division in a way which has polarised the UN on issues such as the invasion of Iraq. Meanwhile the willingness of states to commit to refugee protection has declined with an asylum 'crisis' having been identified in both North and South, as electorates have become less tolerant towards immigrants and the impact of structural adjustment and democratisation has undermined the political and economic capacity of many Southern states to provide for their own citizens' social welfare, let alone that of refugees.

However, it would be misleading to suggest that 1989 was a uniquely propitious time and that the current juncture need inevitably inhibit successful CPAs. This is for two main reasons. Firstly, the context of the end of the Cold War was not an overridingly significant factor in the success of the 1989 processes, as it is often claimed to be. Secondly, new incentives for engagement have emerged in the context of globalisation, the growth in South-North migration, and the 'War on Terror', which are just as compelling as those that existed at the end of the Cold War era. These can be explained in turn.

Exaggerating the Cold War Contribution

Although the longstanding US involvement in Indochina provided the basis for its hegemonic role in the CPA and the end of the Cold War contributed notably to the role of the SRV, there is very little evidence to suggest that the specific historical juncture was crucial to the outcome of CIREFCA. Although a central role has therefore been attributed to U.S. hegemony in a Cold War context in the Indochinese CPA, neither can be claimed to have been crucial to the success of CIREFCA. If anything, the Cold War context and the role of US Government served as an initial hindrance to CIREFCA. The Reagan Administration was in fact extremely lukewarm towards CIREFCA and the linked peace process in its early stages. Reagan himself had described Esquipulas II as "fatally flawed" and rather than offering political backing for the preparatory stages of CIREFCA, had continued to focus on channeling resources to the Contras in an attempt to overthrow Daniel Ortega's Sandinista Government in Nicaragua.¹⁷⁰ The *New York Times* even suggested that the Administration might benefit from the failure of the Arias Peace Plan if it could portray its failure to be the fault of the Sandinistas and so use it to persuade Congress to restart aid to the Contras.¹⁷¹ The unconstructive nature of the U.S. preoccupation with Nicaragua was again highlighted in August 1988 when U.S. Secretary of State, George Schultz met with the four Central American Foreign Ministers in Guatemala City. His attempts to foster an anti-Nicaraguan alliance resulted in division between

¹⁷⁰ 'Summary of the 42nd Session of the General Assembly of the UN on the Peace Plan for Central America', Memo, Muller to da Cunha, 25/9/87, Fonds UNHCR 391.86, 167/87.

¹⁷¹ *New York Times*, 'Who's Living Up to the Arias Plan?', 11/3/89.

support from Honduras and El Salvador, and reluctance from Costa Rica and Guatemala.¹⁷²

A UNHCR mission to Washington D.C. in April 1989 led to equivocation and a lack of support from the U.S. Government for CIREFCA. For example, following a meeting with the Deputy Director of USAID it was noted that “The U.S. Officials expressed concern about the capacity of governments to properly implement the projects and of the donors to monitor them”. Furthermore, the Deputy Director suggested that “he did not envisage additional AID funding” and that the U.S. preferred to continue to channel its approximately US\$700 million per year for Central America bilaterally. Again a particular concern expressed by the Deputy Assistant Secretary for Refugee Programmes related to returning Nicaraguans in the context of the U.S. Government’s support for the Contras.¹⁷³

Indeed, that the USA actually played an initially unconstructive role in CIREFCA, at least until regime change had taken place in Nicaragua at the end of the Cold War, was highlighted by ICVA’s statement to CIREFCA on behalf of NGOs. ICVA claimed that CIREFCA needed to place greater emphasis on “root causes” but this would require “foreign powers, especially the United States, [to] reformulate their policies towards Central America”.¹⁷⁴ It was only once the Cold War drew to a close and there was a change of Government in Nicaragua in 1990 that the Bush Administration really embraced CIREFCA, particularly as a means to promote democracy under the Government of President Chamorro. Indeed, following the signing of a demobilization agreement, the US Government passed a ‘law on aid for Nicaragua’, allowing a total of US\$300 million to be allocated to the country, \$30m of which went towards the demobilization of the Contras, \$10m on repatriation from Honduras and Costa Rica, and \$5m directly to CIREFCA projects.¹⁷⁵

Globalisation: New Incentives for Engagement

Globalisation and growing North-South interdependence have created a growing Northern interest in the related areas of containment, security and development. This increased interconnectedness has created new incentives for Northern state involvement in refugees’ regions of origin. In particular, in contrast to the 1980s, there are now far more South-North transboundary

¹⁷² ‘Meeting Between Secretary of State George Schultz and Four Foreign Ministers in Guatemala, 1/8/89’, UNHCR Fonds 11, Series 3, 391.86.1/841.COS.

¹⁷³ ‘A Note for the File. Exchanges of Views on CIREFCA: José Maria Mendiluce and Brian Deschamp, Mission to Washington, April 20-21 1989’, Patricia Weiss Fagan, 8/5/89, UNHCR Fonds 11, Series 3, 391.86/38.

¹⁷⁴ Letter, Jean-Pierre de Warlincourt (ICVA) to Jorge Santistevan, UNHCR Representative in Mexico, ‘NGO Statement to CIREFCA, 31/5/89’, 30/6/89, UNHCR Fonds 11, Series 3, 391.86.3.

¹⁷⁵ ‘International Conference for Aid to Nicaragua, Rome, 6-7 June 1990’, UNHCR Fonds 11, Series 3, 391.85 JKT I; ‘Summary of Conclusions and Recommendations from Leonardo Franco’s Mission Report, New York – Washington D.C., 21-3 May 1990’, UNHCR Fonds 11, Series 3, 391.86.5.

flows, which have generated a perception that a failure to engage with processes in the global South can have 'spillover' consequences for Northern states. This new logic has been explicitly evident in the development of EU approaches to 'protection in regions of origin', led by the Netherlands and Denmark, in particular, as well as a growing acknowledgement of the need to tackle the root causes of issues such as migration, conflict and terrorism through, for example, increased levels of development assistance. These emerging new incentives for engagement arguably have parallels to the Cold War era, insofar as they encourage an engagement in the South, which was lacking during much of the 1990s, albeit for self-interested reasons based primarily on perceptions of 'security'.¹⁷⁶

However, these new opportunities also pose challenges which were not so prevalent at the end of the Cold War. In particular, both CIREFCA and the CPA were relatively 'protection-centric' instruments in which the focus of states was more directly on the refugee issue. Today, however, states are focused much more on 'migration management', and it is this broader concern which is increasingly defining approaches to asylum and refugee protection.¹⁷⁷ The changed context has implications for the types of durable solution that are available. For example, it now seems unlikely that states would commit to the degree of resettlement witnessed in the context of the Indochinese CPA.

Preconditions for a CPA

The negotiation and implementation of any comprehensive regional approach to forced migration will inevitably be context specific. The CPA and CIREFCA were developed in a specific historical and regional context, which will not be entirely replicable. The two case studies are not mutually exclusive from one another and nor do they exhaust all of the possibilities for comprehensive approaches. On the contrary, new and innovative thinking is required for new circumstances. However, as arguably the two most successful examples of UNHCR's work in promoting inter-state cooperation and access to durable solutions since the immediate aftermath of the Second World War, they offer insights for the likely preconditions for future CPAs. In the words of UNHCR's Dessalegn Chefeke in the aftermath of CIREFCA, they "should not be viewed as a 'model' but rather as a 'prototype' – the first experience of its kind, to be adapted and applied as appropriate to other regions of the world".¹⁷⁸ Indeed, the common elements of the two initiatives imply important political and practical elements for current and future CPAs.

¹⁷⁶ Betts, A (2005), 'International Cooperation Between North and South to Enhance Protection in Regions of Origin', *Refugee Studies Centre Working Paper*, No. 25, pp. 7-8.

¹⁷⁷ Crisp, J (2003), 'A New Asylum Paradigm? Globalization, Migration and the Uncertain Future of the International Refugee Regime', *New Issues in Refugee Research*, Working Paper No. 100, (UNHCR: Geneva).

¹⁷⁸ Memo, Chefeke, D to all SMC member, 'CIREFCA Process: External Evaluation', 21/9/94, UNHCR Fonds 11, Series 3, 391.86.5.

Political

Interests

In both cases, the 1989 CPAs relied upon the presence of clearly identifiable perceptions of state interests. The principal stakeholders, both within and beyond the region, contributed to the initiatives for largely non-altruistic reasons which had little to do with immediate concern for the welfare of the displaced. In the case of the Indochinese CPA, the legacy of the Vietnam War and the Cold War context created a set of interests for the main actors. The USA saw its leadership role as related to its prior involvement in the region and to the need to support the SRV in moving away from its Communist associations. The SRV saw the CPA as a means to rehabilitate itself within the eyes of the international community following the decline of the USSR and China. Meanwhile, a number of ASEAN states also developed wider interests, such as asserting their supposed human rights credentials. Given the longstanding nature of the Indochinese exodus, there was also an overriding commitment from all stakeholders to achieve a lasting solution. In the case of CIREFCA, the Central American states were primarily concerned with resolving the issue of displacement because of its association with national security and also as a means to attract development assistance. Meanwhile, the EC countries and the Nordic states, which comprised the main donors, saw their interests in counterbalancing the US role in the region and supporting left-wing Christian democratic governments as partly met through CIREFCA. In both cases, it was the existence of these prior interests that made a UNHCR-led agreement possible.

Linkages

Both CIREFCA and Indochina highlight the extent to which the refugee regime has been historically embedded in a broader conception of international politics. As the above interests highlight, states perceived the issue of displacement to be closely related to other issue-areas in which they had identifiable interests. Indeed these perceived interconnections across issue-areas of global governance have been the very basis of access to protection and durable solutions for the displaced in both the CPA and CIREFCA. The success of the two CPAs therefore depended in large part on UNHCR's ability to create a credible perception of a relationship between these interests and the comprehensive approach to displacement. This was particularly effectively achieved in the case of CIREFCA, in which UNHCR contributed to institutionalising a number of these 'linkages'. A direct relationship was formed between CIREFCA and UNDP's development initiatives such as PEC and PRODERE which created an association between development assistance and durable solutions. Similarly, a clear link was formed with the Esquipulas II Peace Accords as a result of their direct

reference to displacement. Developing such linkages brought not only state commitment but also wider support from across the UN system, notably from the UN Secretary-General.

Leadership

In both cases, UNHCR committed high level staff to both CPAs, who worked almost full-time on the initiatives. In particular, the Directors of the relevant regional Bureaux - namely Sergio Vieira de Mello and Leonardo Franco - were highly committed and led the processes both internally and externally. They were also able to draw on significant support from the High Commissioner, high level staff throughout headquarters. This clear leadership, focused around charismatic and diplomatically skilled individuals allowed strategic planning from early in the process but also provided the flexibility to adapt and respond to changing circumstances. Although it is rarely argued in grand theories of international politics, the role of individual personalities was crucial, as it has been throughout the history of the refugee regime.¹⁷⁹ However, what is also crucial to recognise is that UNHCR created an enabling environment which allowed such leadership to emerge. By committing significant human and financial resources to the processes, UNHCR allowed talented individuals to thrive. For example, the Organization committed sufficiently to the Indochinese CPA to allow high level members of staff to make extremely regular visits to South East Asia in order to guide the process and demonstrate to states the seriousness of the initiative.

Political momentum was particularly important in both cases and this relied upon having a clear vision that could be conveyed to states and a message that the end goal was achievable and in the interests of all stakeholders. Perhaps most notably, the two main conferences in Geneva and Guatemala City and the CPA documents did not address every detail of implementation. Rather they were used as political focal points upon which the wider process could build. They were consciously conceived as politically focused commitments, rather than pledging conferences and were used primarily to build momentum and credibility for the process.

What is also notable from the two case studies, however, is that state leadership was also important to complement that of UNHCR's work in building political momentum. The Organization was able to rely upon highly committed states to help promote its goals in relation to other states. UNHCR formed key strategic alliances with other state actors which played an important role. The UK, for example, played an important role in the CPA, particularly given its unique position of simultaneously representing Hong Kong. The UK's representative at its Permanent Mission in Geneva was particularly committed to working with UNHCR to achieve wider consensus,

¹⁷⁹ Skran, C (1995), *Refugees in Inter-war Europe: The Emergence of a Regime* (Clarendon: Oxford), pp. 287-292.

and the British played a crucial role in working with the USA. Malaysia also served as a useful conduit through which UNHCR was able to ensure ASEAN support.¹⁸⁰ Meanwhile, in the case of CIREFCA, the EC provided momentum with respect to generating donor support, while Costa Rica played a notably supportive role in the region. Key individuals have also been identified for their role in mobilising their own states' support for CIREFCA. Some UNHCR staff, for example, recall the significant role played by the Guatemalan Government representative present at the Guatemala City Conference in 1989, Carmen Rosa de Leon. As the President of the Guatemalan Special Commission for Refugees, she had been instrumental in bringing the Conference to Guatemala when it had been originally intended to be held in Costa Rica.¹⁸¹ Meanwhile, the Minister of Foreign Affairs of Honduras, Leo Valladores Lanza, has been identified by UNHCR staff as playing an important role both in the Conference and in helping to soften his state's previously restrictionist position towards refugees.¹⁸² These examples highlight the importance for UNHCR of forming alliances with highly committed states as a conduit for generating wider political support.

Practical

Country of Origin Involvement

In both CIREFCA and the CPA, the countries of origin were active partners within the negotiations, making the promotion of voluntary repatriation or return a viable component of each comprehensive approach. There is no practical reason why a CPA need necessarily have to include return. However, in practice, given that states tend to regard repatriation as 'the preferred durable solution' and approaches to the asylum-migration nexus are only likely to be meaningful if non-refugees are returned, the viability of the country of origin, as a negotiating partner and a recipient of returnees, would appear to be an important pre-condition for a successful CPA. In the case of Indochina, the SRV's role was what made resolution of the impasse on the 1979 agreement possible. In the case of CIREFCA, the positive impact of the change of government in Nicaragua and the evolving role of the Guatemalan Government, for example, show the importance of the countries of origin as partners in the process.

In both cases, it is important to highlight that the willingness of the countries of origin to play this role was connected to a wider diplomatic process of constructive engagement. In the case of Indochina it was based on the commitment of the USA to soften its position with respect to a Communist

¹⁸⁰ Interview with Dennis McNamara, Deputy Director of the Department of Refugee Law and Doctrine at the time of the CPA, Geneva, 28/11/05.

¹⁸¹ Costa Rica's main concern had been to find solutions for the 'externally displaced' Nicaraguans, mainly comprised of economic migrants. Realising that CIREFCA would offer very little in this regard, the Government became increasingly lukewarm about hosting.

¹⁸² Information from informal discussions with UNHCR staff.

state so as to highlight the incentives for the SRV to cooperate. In the case of CIREFCA, the wider peace process and the end of the Sandinista Government in Nicaragua, in particular, similarly brought renewed opportunities to constructively engage across previously intractable Left/Right and East/West lines, making repatriation a more viable solution.

Ownership

Rather than being passive recipients of external support, the countries in the region were active participants throughout the two processes. The active involvement of not only the countries of origin but also the countries of asylum ensured that there was 'buy-in' by all of the relevant actors. In both cases the states had an identifiable stake in the success of the process and were vocal in promoting the initiatives and engaging the donor and resettlement countries. In CIREFCA the projects were compiled by the Central American states themselves with the technical support of UNHCR, ensuring that they had clear interests in implementation. Similarly, the availability of additional development assistance created an incentive for them to drive the process. In the case of Indochina, the 'countries of temporary refuge' were directly involved in identifying their own 'cut-off' date and developing their own reception and status determination procedures in consultation with UNHCR. This, and their collective bargaining position through ASEAN, gave them a central role throughout the process. The notion of 'ownership' was therefore significant in as much as it meant that UNHCR did not have to provide all of the political momentum for the initiative in isolation.

Inter-agency Collaboration

In both initiatives the scope of the comprehensive approach necessarily went beyond the bounds of UNHCR's mandate. In order to address these concerns, inter-agency collaboration was required. During CIREFCA, UNDP's role allowed an integrated development approach that could simultaneously provide for the needs of groups who fell outside of UNHCR's mandate; notably IDPs, the 'externally displaced', and local populations. The Indochinese CPA was one of the first examples of UNHCR-IOM partnership. IOM's role was important in relation to the logistical aspects of resettlement and providing alternative migratory channels for non-refugees. Although no clear division of labour was established, the debates within UNHCR at the time reveal that a role for IOM was considered to be important so that UNHCR would not be directly implicated in the deportation of non-refugees. Although IOM ultimately refused to play a role in return, meaning that UNHCR largely had to renounce the role to states, the Organization assumed a significant role particularly with respect to the Orderly Departure Procedure (ODP), providing an alternative migration channel for non-refugees wishing to leave Vietnam. Together the Indochinese and Central American cases therefore show the importance of UNHCR partnership with development

actors when a CPA focuses on integrated development, and the importance of IOM partnership in cases related to addressing an asylum-migration nexus.

What is notable from the CIREFCA experience is that inter-agency partnership is most successful when it is based on personal interaction at the field level. Although there was initial suspicion in relations, the work of the JSU that a working relationship is most viable when based on sustained interaction.¹⁸³ This implies the need to build a shared culture over time with partner agencies such as UNDP. Both CPAs also highlight the need to ensure that UNHCR has a clear 'exit strategy'.¹⁸⁴ In the case of CIREFCA, the hand over of the 'lead agency' role to UNDP allowed UNHCR to gradually extricate itself from the situation. In contrast, the Indochinese CPA was drawn out until 1996 because UNHCR's exit strategy was less clearly defined.

Strong Regional Presence

An important element of both initiatives was the strong UNHCR presence within the region, supported by frequent and high level visits to the region by Headquarters staff. Part of CIREFCA's success has been attributed to the presence of much of the process in Central America. The JSU was present in San José, the Representatives were particularly strong, and Spanish provided a common working language.¹⁸⁵ During the Indochinese CPA, the majority of the intergovernmental meetings were held in the region. As with CIREFCA, this allowed high level participation by, for example, the region's Foreign Ministers.

Application to Current Refugee Situations

Two of the greatest challenges currently facing the global refugee regime concern the issues of protracted refugee situations and the asylum-migration nexus. In the first instance, UNHCR estimates that there are currently 6,200,000 refugees who have been in a "long-lasting and intractable state of limbo" in a developing country for five years or more.¹⁸⁶ Such situations include over 2,000,000 Afghans in Pakistan and Iran; 490,000 Burundians in Tanzania; 200,000 Sudanese in Uganda; 150,000 Liberians in Guinea, 150,000 Somalis in Kenya; 120,000 Burmese in Thailand; 100,000 Bhutanese in Nepal.¹⁸⁷ Such situations very often have serious implications for human

¹⁸³ UNHCR (1994), 'Review of the CIREFCA Process', EPAU Working Paper, www.unhcr.org, para. 122.

¹⁸⁴ For an analysis of the ongoing nature of this problem, see: UNHCR (1997), 'Review of UNHCR's Phase-Out Strategies: Case Studies in Selected Countries of Origin', EPAU Working Paper, www.unhcr.org

¹⁸⁵ Interview with José Riera, Programme Officer to the JSU during CIREFCA, UNHCR, 24/10/05.

¹⁸⁶ UNHCR (2004), 'Protracted Refugee Situations', Standing Committee, 30th Meeting, EC/54/SC/CRP.14, 10 June.

¹⁸⁷ *Ibid*, p. 2.

rights¹⁸⁸ and state security.¹⁸⁹ To a large extent CIREFCA engaged with and successfully resolved a protracted situation in the context of a wider peace process. In the second instance, asylum seekers are increasingly caught up in irregular migratory movements, making it difficult to provide international protection without simultaneously addressing migration within its broader context. Castles and Van Hear have described this phenomenon as the 'migration-asylum nexus'.¹⁹⁰ They use this term to describe the growing difficulty in separating between forced and economic migration; their closely related causes; the similarities between the migratory processes; and the lack of differentiation in the policy responses to both categories. Such situations have become of particular concern in the context of transit migration in general and attempts to cross territorial waters. To a large extent, the Indochinese CPA addressed these emerging concerns about how to provide protection within broader migratory movements.

The two cases offer important lessons because they have very clear parallels with a lot of current thinking in relation to these two challenges. In this sense they provide important lessons from the past which, if appropriately applied, can enable stakeholders to avoid cyclically repeating the mistakes of the past. For example, CIREFCA's 'diagnostic plans' adopted a strikingly similar approach to the 'gaps analyses' of the current SPCP and CPA for Somali Refugees. The plans identified the main needs as a basis for developing 'priority projects' in consultation with the Governments. Furthermore, as with the current CPA for Somali refugees, the coordinators of CIREFCA faced the dilemma of to what extent the Plan of Action should be dependent on the peace process. The CPA for Somali refugees has vacillated between the credibility of 'plugging into' the wider UN Joint Needs Assessment (JNA) as its chapter on solutions for the displaced, on the one hand, and ensuring that it can maintain sufficient independence to make progress irrespective of the direction of the peace process and the JNA. This dilemma was similarly present in CIREFCA in which it was recognised that while 'plugging into' the PEC had many advantages, it tied the initiative to the success of the peace process.¹⁹¹ CIREFCA provides insights into dilemmas which have remained on the UNHCR agenda ever since. For example, CIREFCA addressed the issue of the 'relief to development gap' and offers insights, both through its successes and limitations, into current UNHCR attempts to nurture viable partnerships with development agencies such as UNDP.

¹⁸⁸ Smith, M (2004), 'Warehousing Refugees: A Denial of Rights, a Waste of Humanity', *World Refugee Survey*, pp. 40-1; Crisp, J (2003), 'No Solutions In Sight? The Problem of Protracted Refugee Situations in Africa', *New Issues In Refugee Research*, Working Paper No. 75 (UNHCR: Geneva).

¹⁸⁹ Loescher, G and Milner, J (2005), *Protracted Refugee Situations: Domestic and International Security Implications*, Adelphi Paper Number 375, (Routledge: London), pp.23-34.

¹⁹⁰ Castles, S and Van Hear, N (2005), 'The Migration-Asylum Nexus: Definition and Significance', lecture given at COMPAS, 27 January.

¹⁹¹ 'Note on Potential Donor Attitudes to the CIREFCA Project Proposals', Kevin Lyonette to HC, 13/6/89, UNHCR Fonds 11, Series 3, 391.86.3.

The Indochinese case study offers clear parallels to current attempts to address the asylum-migration nexus in the Mediterranean, Pacific and Caribbean regions. Indeed the Indochinese CPA was not only addressing a refugee issue but focused on states' concerns with 'mixed migration' across territorial waters. In parallel with current debates, the debates during the CPA focused on finding alternatives to restrictive proposals such as closed transit processing centres. Indeed one of its main focuses was on tackling irregular migration alongside ensuring access to international protection. One of its central insights in this regard was the role that Orderly Departure Procedure (ODP) played in providing alternative forms of migration channels for non-refugees while simultaneously deterring clandestine migration. Central to this was the role of partnership with IOM, which ran the ODP from Vietnam. As with current initiatives in North Africa, UNHCR did face difficulties in developing partnership with IOM.¹⁹² During the CPA, for example, IOM did not wish to be involved in the return of non-refugees. Nevertheless, the CPA experience shows the importance of engaging with countries of origin to address the underlying causes of movement, and of providing alternative channels for labour migration, if the asylum-migration nexus is to be adequately addressed.

In many ways, CIREFCA therefore provides highly relevant insights for tackling protracted refugee situations and the Indochinese CPA offers insights into addressing the asylum-migration nexus. However, both offer lessons for an overall form of methodology that can be applicable to either context. The notion of a comprehensive plan of action entails a situational approach to finding solutions within a regionally-specific context. In particular, the Indochinese and Central American cases demonstrate how, by taking a given situation and addressing it holistically through initiating a sustained political process, long-term solutions can be found which meet the interests of states, refugees and non-refugees. The two cases show how such approaches cannot be one-off events but must be built on a process that builds inter-state cooperation and inter-agency collaboration through UNHCR leadership.

Conclusion

The historical examples of CIREFCA and the Indochinese CPA should not be taken as 'models' to be taxidermically applied out of context. Indeed, different regions, refugee situations and historical junctures will require different solutions, and new and innovative thinking is required to meet the challenges of the Twenty-First Century. However, although they are not the only examples of comprehensive regional approaches, CIREFCA and the CPA remain the most prevalent examples of successful international cooperation in the recent history of the refugee regime. Both the differences and the similarities between the two processes offer insights into the role that

¹⁹² UNHCR (2005), 'Institution Building For Asylum in North Africa: Mid-Term Report' (UNHCR: Geneva).

UNHCR, states and other actors can play in developing and implementing CPA-like approaches for contemporary protracted refugee situations.

The differences between the initiatives highlight two important conceptual divergences for understanding comprehensive approaches. Firstly, CIREFCA focused on a peace process; the CPA focused on providing protection within the context of an asylum-migration nexus situation. Although, in practice the two are not mutually exclusive, the contrast points to analogous situations in which the lessons from each might have their greatest applicability. In the former case, for example, the CPA for Somali Refugees has many parallels with CIREFCA. In the latter case, the CPA represents one of the first attempt to develop a comprehensive approach to a 'mixed flow' of refugees and non-refugees crossing territorial waters. This has parallels with, for example, current attempts to identify a Mediterranean Solution that can provide refugee protection in the context of broader migratory movements while providing alternatives for non-refugees. Secondly, the CPA was in some ways analogous to an international public good, in which UNHCR had to persuade the states that 'free riding' was not an option and that to achieve the collective interest, all the states would have to fulfill their part of the bargain. The disjuncture between individual states' temptation to shirk responsibility and the clear interest that all the states had in resolving the situation defined UNHCR's role. In contrast, states' commitment to CIREFCA was more broadly based on their own state-specific interests in supporting the process, and consequently UNHCR's role was more based on creating perceived linkages between those existing interests in other areas and the search for solutions.

Equally, though, the common elements between the two processes demonstrate a number of factors which are crucial if new CPAs are to be successful. Both were processes with a clearly identifiable build-up and follow-up mechanism, rather than simply one-off pledging conferences. Most importantly, the experiences highlight the need for clear strategic thinking and UNHCR leadership to identify and channel existing state interests, often in other issue-areas, into a commitment to solutions for the displaced. In both CIREFCA and the CPA this has depended particularly on the commitment of highly talented individuals to set out a clear strategic vision and build political momentum around a credible process. In committing high level staff to the initiatives on a full-time basis, and defining a clear division of responsibility within UNHCR, the Organization demonstrated its unambiguous commitment to the two CPAs. Success, however, depended upon key states both within and outside the region. In the case of the CPA, the USA played an important leadership role in advocating for sustained resettlement while actors such as the UK and Malaysia served as important conduits; in the case of CIREFCA, the EC states provided very evident political and economic support. Although further research from a less UNHCR-centric perspective is required to show the precise role of other actors, the paper suggests the complementary role played by individuals

within partner agencies, NGOs and the UN Secretary-General's Office. It is clear that despite UNHCR's centrality to the process, successful CPAs also depend upon commitment, partnership and leadership from a range of sources.

It is easy with hindsight to regard the case studies with rose tinted spectacles, indeed as more time passes, their achievements seem ever more remarkable and unique. However, neither CIREFCA nor the CPA were 'perfect' processes. Both encountered obstacles; yet, in each case, UNHCR showed the necessary flexibility to adapt and overcome challenges as they arose. It was able to seize new opportunities such as the Esquipulas II peace process and the end of the Cold War. The Organization was able to surmount a one year postponement of CIREFCA caused by the impasse over Belize; it was able to endure a serious financial crisis at the end of Hocké's term; the CPA's Manila Conference overcame a serious crisis in 1990; and, in both cases, adaptation and reassessment were a hallmark of success rather than failure. Again, perhaps most crucially, this adaptability required leadership and vision by individuals within UNHCR, characteristics which are not historically contingent, but rely on committing the resources to create an environment within which exceptional leadership can emerge. A comprehensive situational approach has the potential to provide lasting solutions to both protracted refugee situations and the emerging asylum-migration nexus. However, to do so it will need to be based on an unequivocal commitment by UNHCR, states, NGOs, and the wider UN system.

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