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THE STRATEGIC USE OF RESETTLEMENT

A Discussion Paper Prepared by the Working Group on Resettlement

Introduction

1. The Global Consultations on International Protection were launched by UNHCR in 2000 in an effort to revitalize the international protection regime, promote better understanding of today's protection dilemmas and to discuss measures to ensure that international protection needs were properly recognized and met, while taking due account of the legitimate concerns of States, host communities and the international community in general. The impetus for the Global Consultations arose, in part, from the concern of many states over the costs involved in hosting large numbers of refugees, abuse of asylum systems by those undeserving of international protection and the inability to return the latter. The Global Consultation process provided a venue for the international community to discuss and reflect upon the challenges posed for protection in the 21st century and an opportunity for states to reassert leadership over the orderly provision of protection and durable solutions. Among the issues discussed in the Global Consultations were: mechanisms to share responsibilities/burdens in mass influx situations; the search for protection based solutions; and, refugee protection and migration control.

2. Included in the objectives of the Global Consultations were the desire to identify and promote practical responses to protection problems as well as to develop new approaches, tools, and standards to strengthen protection in areas not adequately covered by the 1951 Convention. A strong theme emerging from the Global Consultations discussions was the need for the international community to place greater emphasis on the provision of orderly durable solutions for refugees. The outcome of the Global Consultations is the Agenda for Protection, which reflects a wide cross-section of concerns and recommendations of States, intergovernmental organizations, non-governmental organizations (NGOs), as well as refugees themselves. The Agenda for Protection has been adopted by the UNHCR Standing Committee, endorsed by the ExCom and welcomed by the General Assembly of the United Nations.

3. The Global Consultations concluded that in order to strengthen the respect for the 1951 Convention and the international protection regime for refugees, resettlement should be seen as an important tool for protection, providing durable solutions and as an element of burden-sharing. Resettlement therefore needed to be approached in an integrated manner, from policy formation through selection to the integration of resettled refugees in their new countries. It should also be seen as a tool for improving protection and solutions in the regions of origin while complementing the role of national asylum systems. Included in the actions recommended by the Agenda for Protection are a number of proposed actions in regard to resettlement. Among those is one which asks that: "The Working Group on Resettlement to explore how strengthening the capacity in host

countries affects the pursuit of one or other available durable solution(s), as well as a more strategic use of resettlement, including within regions affected by refugee movements." In examining this tasking, the Working Group on Resettlement recommended a re-wording of the task to read "The Working Group on Resettlement will undertake an analysis of a more strategic use of resettlement, including within regions affected by refugee movements. This analysis will include an examination of the relationship between protection capacity and resettlement as well as how strengthening the capacity in host countries affects the pursuit of one or more durable solution(s)." This paper reflects its deliberations.

4. Over the past fifty years, millions of people have been provided with the opportunity to build new lives for themselves, and their families, through resettlement. Resettlement has also over the years produced secondary benefits other than to the resettled refugees themselves. In some cases it has sustained first asylum in the face of continued flows of refugees, in others it has played a role in achieving comprehensive solutions and often it has been an expression of burden sharing. Additionally, resettlement has often engendered support for refugees among the publics of resettlement countries. Resettled refugees have also made important contributions to the countries that have received them. In many cases, these secondary benefits were unplanned.

5. During the Global Consultations, there was some discussion as to whether there was a hierarchy of durable solutions. It is the premise of this paper that voluntary return and repatriation must always be viewed as the preferred durable solution; if for no other reason than it signals a positive change in the conditions of the country of origin to the benefit of the refugees returning there, as well as to the benefit of those who never left. In addition, when considering the role of resettlement in the provision of durable solutions, it must be recognized that even under the most ideal circumstances, only a minority of the world's refugees can be expected to secure a durable solution through third country resettlement. The question then arises, how do we maximize the potential benefits from the application of this scarce resource; how can we use resettlement in a more strategic manner?

6. For the purposes of this paper, resettlement is seen as the making available in a third country, on a voluntary basis, permanent residence to a refugee who is in another country, in a manner where the resettled person enjoys civil, political, economic, social and cultural rights similar to nationals. Similarly, for the purposes of this paper, the strategic use of resettlement is the planned use of resettlement in a manner that maximizes the benefits, directly or indirectly, benefits other than those received by the refugee being resettled. Those benefits may accrue to other refugees, the hosting state, other states or the international protection regime in general.

7. Refugee situations are complex by their very nature and involve a variety of situations and linkages. For the purposes of analysis and discussion, this paper sets a number of distinct situations in which resettlement might be used. These fall under three broad Goals of the Agenda for Protection: Redoubling the search for durable solutions; Sharing burdens and responsibilities more equitably; and, protecting refugees within broader

migration movements. While each example is treated distinctly, it is recognized that in reality these will often be linked or intermingled. Furthermore, the examples cited are only illustrative. Other situations could easily have been used.

Resettlement for Individual Protection

8. While this paper seeks to examine the strategic use of resettlement, it emphasizes that the first purpose of resettlement must always be the provision of individual protection for those who cannot be provided secure asylum in a first asylum country. Any potential strategic use of resettlement must always be accompanied by sufficient resettlement capacity being available to meet the need for individual personal protection. Such persons may well exist in each of the illustrations examined in the paper and it is assumed that their needs must be addressed.

Redoubling the Search for Durable Solutions

9. There are many situations in the world where refugees may have found effective protection, but nevertheless are not being provided with a durable solution. This situation can exist for a number of years with the potential to create disquiet among the hosting communities and the possible growth of bitterness and resentment within the refugee population itself. Protracted situations can prevent refugees from getting on with a normal life, from reaching their full potential and fully contributing to any community. It can contribute to the creation of a culture of dependency and render parts of the refugee population vulnerable to exploitation. In some instances, protracted refugee situations lead to irregular movement, contributing to the growth of smuggling and trafficking and undermining the efforts of the international community to provide effective protection and orderly solutions.

10. The provision of a durable solution through resettlement would alleviate this situation for the resettled refugees. This in itself would be a positive development. Such resettlement would also be an act of burden sharing in that the country of first asylum will be relieved of a portion of its refugee population. The degree to which this has a positive effect would likely relate to the numbers resettled in relation to the overall refugee population. It may in fact produce some unintended positive benefits such as assisting in the sustaining of asylum, improvements in the conditions of first asylum or even result in the first asylum country providing some local integration. However, used in an unplanned manner, resettlement in this fashion will not have been strategic, as it would not have been planned to achieve and maximize any secondary benefit realized.

11. The benefit likely to accrue from a more strategic use of resettlement to provide durable solutions is likely to be maximized in the context of a comprehensive solution to a refugee situation. This could be said to occur when an entire population of refugees from the same country of origin in a given first asylum country secures a durable solution. In most cases, such a durable solution would come about primarily through return and repatriation, although local integration and resettlement may play a concurrent role. In other cases, the comprehensive solution may arise primarily from local

integration with resettlement again playing a supporting role. In very rare circumstances, where there is a small population with no prospect of return or local integration, or where a large coalition of participating partners exists, a comprehensive solution might be achieved solely through resettlement.

12. There are various situations where resettlement could be used as part of a package of durable solutions in order to create a comprehensive solution. One would be to resettle those persons who might not be able to return to their country of origin or remain in the country of first asylum after the majority have returned. Although this would also be an example of resettlement for individual protection, the planned use of resettlement in such a situation could act as a catalyst to support a final decision on repatriation or local integration of the larger population. Where used in this manner, to produce a planned and deliberate outcome beyond the benefit provided to the individual refugees, it would constitute a strategic use of resettlement.

13. A second example might occur in a multi-factional civil conflict where by providing resettlement to a reluctant faction, the peace process might be facilitated and a durable solution secured for the majority of refugees. Another example might be to resettle a minority group, or groups, who owing to their religious, ethnic, linguistic, clan or tribal origins, are not able to return despite the general improvement in the situation. Each situation would require a careful analysis in advance of any decisions being taken. Furthermore there may well be within all of these examples related to return, persons who have been past victims of actual persecution and for that reason are unwilling to return. In each of these examples, resettlement might be used to facilitate the return of the majority, thus maximizing the benefits achieved through the use of resettlement.

14. Similarly, in a situation where the bulk of the population was to secure a comprehensive solution through local integration, resettlement might be used to facilitate such action by providing the means to resolve the situation of a segment of the population. One might conceive a situation where among a larger population, the first asylum state would be willing to offer local integration to groups within the population with religious, ethnic, linguistic, clan or tribal affinity with the population of the first asylum state but not those who did not share this affinity. Care would need to be taken that resettlement was used appropriately and was not, inadvertently, simply used to rid societies of unwanted minority groups. As the resettlement of identified groups would facilitate the larger solution, it would again constitute a strategic use of resettlement.

Sharing Burdens and Responsibilities More Equitably

15. Resettlement to support burden sharing is in many respects similar to resettlement as a durable solution; it is just the expression of a different primary motivation. As in the case where a state undertakes resettlement to provide a durable solution, where it will be also engaging in burden sharing, when a state decides to burden share through resettlement, a state will also be providing a durable solution.

16. The analysis is then the same as outlined in the discussion relating to resettlement for a durable solution. Resettlement as a burden sharing exercise may be commendable and will result in the provision of a durable solution to certain refugees. While it can be undertaken by states independently and be strategic, when done in coordination with other resettlement countries it is likely to maximize the secondary benefits.

17. In the use of resettlement as a burden-sharing tool, we are not looking at a comprehensive solution being provided to an entire refugee population; but resettlement being used to benefit a portion of a population in a first asylum country. A more planned and coordinated approach to use resettlement in order to burden share may ensure additional benefits are created or that those that arise can be maximized. Part of this coordination may involve negotiation of mutually agreeable arrangements between the international community and the first asylum state. These may combine undertakings for resettlement, in greater numbers than would otherwise be available, accompanied by guaranteed additional benefits such as improvements for others in the refugee population, through the provision of local integration or through an enhancement in the conditions of life in first asylum.

18. Any such arrangements for burden-sharing with guarantees from the first asylum country, may require a multi-year commitment by the international community to sustain the burden-sharing, as well as possible assistance to aid in the local integration or enhanced quality of life.

19. Situations of mass influxes, or ongoing outflows of even small or moderate numbers of asylum seekers, can strain a country's ability to sustain first asylum. Despite other assistance flowing from the international community, the strain on a country's resources could threaten the provision of first asylum and lead to refoulement. For the purposes of discussion, it is useful to address this situation from two perspectives – mass outflows and stabilized refugee populations.

20. In a mass outflow, the immediate need is to provide material assistance to the refugees in a secure protected environment. The initial international response will normally be the provision of material and financial assistance to aid the first asylum country in coping with the influx. Where this proves insufficient simply due to the total numbers, resettlement is unlikely to be a useful, or an appropriate, initial response. At a practical level, resettlement processing is often lengthy; the initial numbers committed by resettlement countries are rarely large and may contribute little to ameliorate the situation. In addition, immediate resettlement out of the region of origin would be detrimental to the objective of ultimate repatriation.

21. A more appropriate response, in the spirit of international solidarity, might be humanitarian evacuation to other countries in the immediate region. The purpose of this humanitarian evacuation would be to provide the evacuated population with immediate non-refoulement protection and adequate standards of treatment; assistance pending a stabilization of the outflow; and, allow for the quick repatriation of the population should the causes of the refugee outflow be quickly and effectively resolved. Should the refugee

situation become more prolonged, it would also allow for the improvement of standards of treatment until effective protection is realized. This humanitarian evacuation may need to be supported by the further provision of material and financial assistance from the international community.

22. Once the refugee situation has stabilized, or in the context of small or moderate ongoing outflows with little near term likelihood of improving conditions in the country of origin, resettlement could play a role in alleviating some of the burden. This may require the provision of multi-year resettlement commitments by the international community to assure the first asylum country of ongoing support in return for that country's commitment to the maintenance of open borders and provision of effective protection. Criteria applied to select resettled cases might give some weight to the time spent in first asylum so that new arrivals are not given undue preference over older populations. By helping to sustain first asylum protection for the larger refugee population the use of resettlement in this manner would be strategic. Clear and transparent selection criteria for resettlement in each situation will also help manage expectations. Having noted this possible opportunity for the more strategic use of resettlement, it is important that resettlement not be considered as a quid pro quo for states continuing to accept new arrivals. The meeting of a state's obligation to provide asylum should not become dependent upon the provision of resettlement assistance.

23. A further important consideration in using resettlement to help sustain first asylum is the need to avoid the creation of a pull factor, particularly in protracted situations, resulting in the outflow becoming predominately economic in motivation. This will require the ongoing monitoring and periodic review of motivations of new arrivals by the UNHCR, host country and resettlement countries. The advent of non-refugee pull factors might be avoided through the development of selection criteria that establishes eligibility, and also by putting in place coherent resettlement screening processes. Where it becomes evident that such a change in motivation has occurred, collective steps by the UNHCR, host country and resettlement countries should be taken to address the change.

Protecting Refugees Within Broader Migration Movements

24. The existence of the asylum/migration nexus and the phenomenon of mixed flows are now well accepted. The question is whether resettlement might be used strategically to assist in the management of irregular flows of people which may include refugees in need of protection, refugees engaged in a secondary movement and economic migrants. In the scenario being examined here, we are looking at the potential role for resettlement of refugees from the country of first asylum as well as those intercepted while in transit through another country.

25. A starting assumption must be that an irregular movement should not ordinarily be rewarded with a resettlement outcome. Clearly, resettlement should not be offered to economic migrants who are found not to be in need of international protection. They should be returned to their country of origin. Depending upon the circumstances, it should also not be offered to those refugees who have, or could have, found effective

protection in another country and would be able to re-avail themselves of such protection. Refugees who have, or could have, found effective protection, should be readmitted to the country of first asylum where they found, or could have found, effective protection.

26. The readmission of refugees who had previously secured effective protection, or avoided the opportunity to secure it**,** can be very difficult to achieve. There is no international obligation to readmit and in the face of an absence of sufficient international assistance, countries are often not inclined to assist. The readmission of such persons, however, is clearly desirable in order to support the international protection regime. In these circumstances it may be strategic to consider resettlement from the country of first asylum. The making available of resettlement opportunities in the first asylum country may assist in deterring further secondary movements by providing the prospect of a durable solution. In addition, entering into agreements with countries of first asylum for the provision of resettlement in conjunction with readmission would act as a significant deterrent to those who might consider irregular movement while at the same time acting to relieve the country of first asylum of some of the burden incurred. The provision of resettlement may again have to be multi-year; in order to provide a reliable commitment to the first asylum country. It would need to be accompanied by the introduction or comprehensive refugee registration and documentation systems. The use of resettlement in this manner would be strategic in that it would deter irregular movements, provide an orderly durable solution for other refugees as well as relieve some of the burden of the country of first asylum.

27. Secondary movements are usually done irregularly and often involve the use of smugglers or traffickers. Smugglers and traffickers frequently seek to exploit weaknesses in a country's border controls to secure transit for the persons being smuggled or trafficked. Efforts by states to improve their border controls and to combat this smuggling and trafficking will often result in refugees being intercepted in their country. The protection needs of intercepted persons should to be determined and comprehensive solutions applied. Those found to be in need of international protection, and with no prospect of return to their countries of origin in the near future, would be dealt with through possible local integration or third country resettlement. Persons not in need of international protection should be returned to their country of origin. Where refugees who had previously secured effective protection, or avoided the opportunity to secure it, are unable to be readmitted to the country of first asylum, resettlement from the country of transit will ensure that that country is not left alone to deal with the refugee population. This may encourage the country to continue to intercept/disrupt irregular flows rather than allow them to continue along the smuggling route. This should be done, however, only after the smuggling has been brought under control or as part of a comprehensive set of measures to bring the smuggling under control and thus prevent resettlement creating a pull factor. Such comprehensive measures could include capacity building to assist the country. This would constitute a strategic use of resettlement.

28. A key challenge for the international protection system is the provision of equitable access to asylum, status determination and durable solutions. Repeat asylum claims; and asylum shopping, represent a serious drain on the resources committed to the

international protection regime. Collective decision-making, particularly by states in geographic proximity, would help avoid many such abuses. Collective decision-making could be particularly attractive, for instance, to groups of smaller states that cannot individually afford the resources for individual asylum determination processes. The distribution of persons found to be refugees, and granted asylum, among the countries participating in collective decision-making would need to be through a burden-sharing mechanism. Resettlement countries outside of the collective decision-making group could, through the pledging of resettlement capacity to resettle a portion of those found to be refugees, encourage the development of such a collective decision-making space. This may encourage additional states to accede to the 1951 Convention thereby strengthening the international resettlement regime. Care would need to be taken to ensure that the provision of resettlement did not act as a draw factor to bring persons into the collective decision-making space. The use of resettlement in this manner would be strategic.

Achieving the Strategic Use of Resettlement

29. Currently, there are a small number of countries with regular annual resettlement programmes that provide what is admittedly a limited global resettlement capacity. Over time, many countries have offered resettlement on an ad hoc basis, some of whom continue to do so periodically. A number of states, facing the challenges of mixed flows of migrants and refugees have either reduced their resettlement quotas or stopped participating in resettlement. Meeting the needs of those requiring individual protection is a primary aim of much of the currently available resettlement capacity. As advocated in the Agenda for Protection, if resettlement is to be used strategically with the desired outcome, a substantial increase in the global resettlement capacity is required.

30. Such an increase is not likely to come solely from the existing resettlement countries; nor should that be expected. Increasing the number of countries with annual resettlement programmes will be an important step to increase the resettlement capacity that will be necessary for strategic use. In addition to expanding the number of resettlement countries, there is also a need to diversify the geographic distribution of available resettlement; a need for resettlement opportunities to be available in all regions of the world. People should not be forced, through lack of opportunity, to leave their regions of origin in order to start a new life. Hardly any country is too poor, too small, or too populated not to be able to offer a new life to a small number of refugees each year.

31. The expansion and diversification of countries having annual resettlement programmes could benefit from the provision of expertise and advice to emerging resettlement countries as they build their capacity to offer resettlement. UNHCR will need to play an important catalytic role in this regard in order to initially guide emerging resettlement states to potential sources of expertise. Twinning arrangements, secondment of staff, exchanges among NGOs and the development of best practices are examples of possible options to be considered. Consideration might also be given for the provision of international financial assistance to offset some of the initial resettlement arrival costs when resettlement is to a developing country. Such assistance could be provided bilaterally or multilaterally through the UNHCR.

32. The need for greater resettlement capacity to ensure there are enough places available to provide resettlement to those in need of an individual protection solution as well as to use strategically is not the only change that will be needed in order to achieve a more strategic use of resettlement. There will also be a need for a significant change in thinking by UNHCR, resettlement countries and countries providing first asylum towards the provision of asylum and durable solutions as well as their roles in the broader international protection system. In addition, there is a need to make the resettlement process, both the identification of potential candidates for resettlement and their processing by resettlement countries, more efficient. UNHCR has already launched a comprehensive review of its resettlement management and operational practices.

33. Currently, some resettlement countries largely determine the use of their resettlement capacity based on domestic considerations. Whether this is in regard to the identification of populations to be resettled or categories of vulnerable persons to be given priority, domestic influences often take precedence over international needs and opportunities in determining the allocation of resettlement capacity. Other resettlement countries determine their use of resettlement capacity based on international need, regional and geographic considerations. It is unreasonable to expect that domestic considerations will cease to be considered; many of these domestic factors encourage public support for refugees. However, resettlement could be enhanced, and its use become more strategic, if countries begin to act more collectively in pursuing agreed upon goals. In doing so, countries may well take on different roles, but in a more coordinated manner.

34. Achieving the strategic use of resettlement will require greater international consultation and collective decision-making in determining the appropriate response to refugee outflows and the durable solution needs of a refugee population. The UNHCR, hosting countries and resettlement countries will need to engage in collective analysis and decision-making on the appropriate action to be taken regarding particular refugee populations and between refugee populations.

35. We recognize that most countries operate on single year budgetary authority. Multi-year commitments to resettlement however, would represent a valuable tool in many situations. Resettlement states may wish therefore to explore securing the authority to make multi-year pledges for a portion of their traditional annual capacity.

36. Resettlement countries will need to take different approaches to determining a person's eligibility for resettlement referral. Achieving a comprehensive solution to a particular caseload may require the resettling of a population of refugees who have individual protection needs, or it could involve resettling a group of refugees whose resettlement needs flow from being a member of the group. If resettlement is going to be used strategically there will likely be a need for greater focus on the resettlement of groups of persons. The analysis of the needs of the group and their identification for resettlement would substitute in many cases for an individual assessment of resettlement need. This would not eliminate the need for individual screening to identify potential exclusion cases or persons inadmissible for other reasons.

37. As states develop a better and more shared concept of the strategic use of resettlement, further work on the selection criteria to be applied in different situations would be useful. The Working Group on Resettlement has been tasked by the Agenda for Protection to continue its examination of the selection criteria to be applied in mass displacement situations (Goal 3, Objective 6, Action 2).

38. In seeking to use resettlement strategically, resettlement states will need to consider how broader linkages can be achieved through partnership with first asylum states. First asylum states need to be more open to making commitments on behalf of refugees beyond the provision of first asylum protection. This may entail commitments with respect to the maintenance of effective protection, the provision of local integration or the acceptance of returns from secondary movements. The involvement of an agreement for some action by the first asylum country in conjunction with resettlement could potentially convert a non-strategic situation into a strategic one. Such agreements would ideally arise from the collective analysis of the country of first asylum, the UNHCR and resettlement countries. Agreements could be broadly multilateral in nature or as simple as one between one resettlement country, a hosting country and UNHCR.

39. Delivery of larger resettlement numbers will need to be undertaken in a more efficient fashion in order to avoid huge increases in costs for UNHCR and reduce the costs for resettlement countries. Current processing arrangements are resource intensive and expensive. Improved registration procedures and processes can contribute significantly to a more efficient resettlement regime. It must be done much earlier in a refugee situation, include data on the potential need for resettlement, such as group identification, and also involve a better identification of persons who would be excludable.

Conclusion

40. As noted in the introduction, even in the most ideal of circumstances only a minority of the world's refugees could hope to be resettled to a third country. Undoubtedly there will be competing situations where resettlement could be used strategically and states will need to develop some means of deciding which caseloads/protracted situations should be selected. This may ultimately be a mixture of maximizing the strategic use or benefit that might be achieved and humanitarian considerations. Creating the conditions for a more strategic use of resettlement will, however, require states to embrace some truly international cooperation and solidarity for the benefit of refugees. The benefits from such an approach could be considerable; it could contribute to a significant expansion of durable solutions as well as re-establish the international community's ability to provide more planned and orderly solutions to the needs of refugees.

41. Resettlement has been proposed by the High Commissioner as an issue lending itself to possible treatment within the Convention Plus framework. The Standing Committee may therefore wish to ensure that the suggestions in this paper are given further consideration in the UNHCR FORUM. The FORUM will provide an opportunity for

states, and other actors, to explore to what extent more collective approaches could be used to address refugee needs. The multilateral agreements envisaged by Convention Plus might allow resettlement to be used more strategically in order to maximize the benefits that can be derived from its use.