

# CANADIAN COUNCIL FOR REFUGEES

## A Working Paper on the Strategic Use of Resettlement

### ***Core Functions of Resettlement***

*Resettlement serves three equally important functions. First, it is a tool to provide international protection and meet the special needs of individual refugees whose life, liberty, safety, health or other fundamental rights are at risk in the country where they have sought refuge. Second, it is a durable solution for larger numbers or groups of refugees, alongside the other durable solutions of voluntary repatriation and local integration. Third, it can be a tangible expression of international solidarity and a responsibility-sharing mechanism, allowing States to help share each other's burdens, and reduce problems impacting the country of first asylum. (Global Consultations Paper)*

### **Introduction**

Following from the Global Consultations and the adoption of the Agenda for Protection there has been much discussion on the use of resettlement as part of a broader comprehensive strategy to achieve protection and durable solutions for increased numbers of refugees. This includes the Working Group on Resettlement's discussion paper on *The Strategic Use of Resettlement*, submitted to the June 2003 Standing Committee.

Comprehensive strategies to address the needs of refugees must be truly comprehensive. There can be no real "solution" for refugees unless the causes forcing them to flee are addressed more systematically. This necessarily involves strategies going beyond the limits of UNHCR's mandate. The imperative of peacemaking and democratic development to reduce and resolve conditions that cause refugee flight must be factored into all state and intergovernmental agendas.

Comprehensive strategies also demand solutions that are meaningful to the refugees themselves. This requires solutions that allow refugees to live full and dignified lives. Unless the perspective of refugees is taken fully into account, "solutions" may become a euphemism for unacceptable activity impeding persons from leaving their countries to find asylum, warehousing them in camps and then adjusting supplies to force them to repatriate prematurely. The human rights framework provides the standards against which any proposed solutions need to be measured. Where basic rights are denied the solution is not durable, and is not properly a solution at all.

## **1. Comprehensive durable solutions strategies**

Every refugee deserves a durable solution, whether it be voluntary repatriation, local integration or resettlement. Refugees should be recognized as active players in the search for a solution. Refugees often face situations where, because of the failures of states and the international community, they are denied access to a durable solution. In such situations, refugees frequently act to find one. To suggest that refugees who take action to find a durable solution are seeking a “reward” is to suggest that respect for refugees’ rights is a discretionary award for good behaviour, rather than a matter of basic entitlements.

While voluntary repatriation is the ideal durable solution, it can be dangerous to present it as the “preferred solution” since that characterization may lead to refugees being asked to wait in limbo to see if the “ideal” will become real. The search for durable solutions needs to begin from the moment of flight.

While refugees do not have the right to specify the exact form of durable solution they want, their needs and interests should be taken into consideration. Often assumptions are made about what will be good for refugees, without reference to their own views on the matter. For example, it is suggested by some that it will be better for refugees to be resettled within their own region. While this is undoubtedly true in some cases, it is certainly not a rule to be generalized: refugees may well have a better prospect of integration in a multicultural society half a globe away from their country of origin than in a neighbouring country where the language and culture are foreign to the refugees.

Similarly, what refugees need in order for them to have achieved a durable solution will often be individually determined and it is therefore essential to take their perspective into account. For example, a refugee separated from key family members is still looking for a solution, while a united refugee family may already have found a durable solution. The needs of adult refugees are different from those of children. Elderly, disabled and traumatized refugees have distinct needs. Taking the refugees’ point of view into account is not only better for refugees, it also increases the international community’s capacity to ensure that the durable solutions offered are really both durable and solutions.

Durable solutions should, as the name suggests, offer refugees a permanent home. Refugees who have found a durable solution may later choose to move to another country, but if so, it should be as a free choice, not because they are forced to move, or made to feel that they have over-stayed their welcome. Resettlement can only be termed a durable solution if the resettlement country has the will and the capacity to offer the resettled refugee a permanent new home.

In this respect, it is important to consider the basic standards that should be met before an offer of resettlement can be said to represent a durable solution. While it is commendable to suggest that all countries should be considered as potential countries of resettlement, one must look very carefully at whether the conditions are present for a durable solution, particularly in the case of countries so poor that they are severely challenged in meeting the needs of their own population.

*More strategic use of resettlement in support of durable solutions*

Within the context of ensuring that all refugees have a durable solution, a more strategic use of resettlement will mean:

- Increasing the availability of resettlement as a durable solution for all those who need and want it; and
- Using resettlement to encourage local integration and voluntary repatriation.

*Policy framework towards developing strategic use of resettlement*

The following policy objectives may be identified for initiatives to use resettlement more strategically:

- Increased consciousness by governments in the regions of conflict with respect to their own responsibilities under international law to provide protection through asylum.
- Increased participation in responsibility sharing of wealthy, developed countries with less privileged countries in peace seeking, aid and development, reconstruction and resettlement.
- Comprehensive approaches to refugee situations in particular situations such as mass influx, emergency movements, protracted stays and flight over long periods, especially where countries are destabilized by the arrivals of refugees and may resort to border closures, forced returns, interdictions and other forms of failure to protect the refugee populations.
- Integration of the principles of family reunification in all elements of a strategy.
- Reduction of barriers to access of protection, including protection through resettlement, for vulnerable groups such as women refugees, separated children and the elderly.
- The removal of successful establishment / integration criteria for those in need of resettlement.
- Development of economies of scale by harmonizing identification, referral and processing procedures, notwithstanding that the harmonizing of actual selection criteria may not necessarily be always desirable.
- Building and increasing capacity in resettlement countries, traditional, new and emerging, in order to build public support for refugees.

*Operational Considerations in meeting the objectives:*

In working towards these objectives, we should aim at the following operational considerations:

- Improved registration as the foundation to identifying refugees' needs and ultimately achieving a durable solution based on need.

- A more flexible and realistic approach to defining criteria for identification and referral for resettlement. This could include:
  - harmonizing criteria between countries, or groups of countries.
  - group identification and referral
- Coordinated planning on a global scale where UNHCR identifies refugee populations in need of durable solutions that will include the possibility of developing comprehensive strategies including resettlement.
- Coordination at a local and regional level between resettlement countries to reduce inefficiencies.
- Developing economies of scale in order to maximize resources, most especially where more than one country is willing to resettle particular groups of refugees, by harmonizing procedures in referral and processing.
- Building greater capacity in the field for identification and referral by developing partnerships and closer collaboration with other organizations, including NGOs in the field.

*Using resettlement to encourage local integration and voluntary repatriation*

If resettlement is to contribute towards a comprehensive strategy to find durable solutions for all refugees, it must at a minimum not undermine the availability of the other two durable solutions. Ideally, it should be used in such a way that it increases and enhances the availability of local integration and voluntary repatriation.

*Resettlement to enhance asylum*

Historically resettlement has been a tool for supporting asylum in special circumstances. The Kosovo mass migration into the tiny state of Macedonia threatened state capacity, which was reinforced through the humanitarian evacuation.

Theoretically, every individual must have the possibility of seeking and obtaining asylum in other countries, as states promised in making the Universal Declaration of Human Rights. Resettlement must be a form of affirmative action to ensure that the right of asylum is preserved.

Resettlement, then, is not an “orderly” alternative to asylum. The principles in the NGO paper to the Global Consultations put the dangers well:

*Resettlement should not be used as a fig leaf for policies of migration control to enable states to sidestep international legal obligations to people in need of protection by preventing them from setting foot on their territory.*

*Resettlement must be additional to states’ obligations under the 1951 Convention towards refugees who make their own way. A two-tier system must not be allowed*

*to develop, as it has in some resettlement countries, where those who arrive in an 'unauthorized' manner, even if eventually recognized as refugees, can never enjoy the same rights as people who arrive under the resettlement programme.*

Careful use of resettlement can relieve some of the pressure on the host countries and can serve to enhance protection and asylum prospects for the remaining refugee population. These efforts can bring changes in attitude and practice with regard to asylum policy in the countries to which refugees have fled.

It is important to reject firmly any use of resettlement as a means of undermining access to asylum. Some states, predominantly if not exclusively, Western states, are arguing that refugees should seek asylum in their region of origin and only leave their region, if at all, through resettlement. It should be underlined that there is no international obligation on refugees to seek asylum in their region of origin. Furthermore, there are often compelling reasons why refugees should not be expected to seek asylum in their region of origin, either because there is not meaningful protection available or because they have close ties with another state (sometimes including family ties).

Unfortunately, the term “asylum” is sometimes used very loosely and without considering what its content is. Reference is made to asylum seekers being intercepted and returned to the “country of first asylum” or the country where they “have, or could have, found effective protection”. A basic concern should be for the rights of the asylum seekers: would they, if returned, in fact be able to secure effective protection? What are the minimum standards for asylum or effective protection? If the asylum seekers had protection, would they continue to have it (taking into account their personal circumstances)? If they never actually had protection, who determines that they “could have found effective protection” and ensures that that option is still open to the asylum seeker? How is the fundamental principle of *non-refoulement* safeguarded?

These questions are urgent because of the serious and widespread gaps in the availability of asylum. Many people in need of international protection are forced to move repeatedly because they do not find effective asylum. Although much is said about abuse of asylum systems by persons not in need of international protection, less is said about the abuse of the rights of refugees as a result of inadequate asylum systems. The objective of the international community must be to strengthen asylum, not to close it off on the spurious promise that it can be found somewhere else.

#### *Local Integration and Resettlement*

Resettlement has an important role to play in sharing responsibility and encouraging local integration. Refugees lose when there is a trade off of one for the other. For example, refugees suffer when a resettlement country will not resettle because it believes a host country should be providing local integration prospects, or a host country will not integrate because it believes a resettlement country should take some of the refugees.

Clarification of the criteria for defining and understanding when local integration prospects are present will assist states and UNHCR in deciding whether to consider individuals or groups for

resettlement or whether local integration is most appropriate. States may be inclined to interpret the current lack of clarity in the local integration definition in such a way as to refuse resettlement, even though local integration prospects are poor as a long-term durable solution and repatriation is not possible.

Establishing guidelines or time limits for achieving local integration would help in determining when there is a need for resettlement.

Beyond UNHCR, wider UN or other state development initiatives in the host country may increase the capacity for local integration facilitated by resettlement.

Convention Plus agreements offer the possibility of more systematic use of support to enhance local integration prospects for some refugees at the same time as offering resettling others. In this context, it is important that the basic obligation of non-refoulement be emphasized: respect for this principle can never be allowed to be dependent on the availability of resettlement.

### *Voluntary Repatriation and Resettlement*

Resettlement is an important alternative for individuals who, due to personal circumstances, cannot be repatriated, even when this is an option for others from their community. The possibility of resettlement for these people needs to remain an option when voluntary repatriation programs are being prepared.

A particular challenge identified on occasion is the fear that the availability of resettlement options may discourage voluntary repatriation. One way of addressing this is from the perspective of voluntary repatriation as the “preferred solution for refugees” (as it is described in the Agenda for Protection [Goal 5]). If refugees are hesitating to take the preferred solution of voluntary repatriation, it would perhaps be more appropriate to analyze why they are hesitating, rather than closing off other options so that voluntary repatriation is the only, instead of the preferred, solution.

## **2. Resettlement to share responsibility more equitably among states**

### *Responsibility sharing, not responsibility shifting*

In the context of equitable sharing of responsibility among states, account needs to be taken of different levels of wealth. All other things being equal, countries with fewer refugees should resettle more. But all is not equal, and it is therefore reasonable to expect wealthy and powerful countries to take larger numbers of refugees in proportion to their greater capacity and their responsibility for shaping the evolution of the globe.

Unfortunately, some of the discussion around potential strategic use of resettlement seems to suggest a shift responsibility away from, rather than towards the wealthiest countries. Some models seem to argue that poor countries should act as “countries of first asylum” and rich countries as countries of resettlement. This view not only undermines asylum (as argued above) but also represents a shifting, rather than a sharing of responsibility. Resettlement is

discretionary, whereas asylum is a legal obligation. Therefore substituting resettlement for asylum means that some countries (as it happens the rich countries) reduce their asylum obligations and offer resettlement on a discretionary basis in its place. Meanwhile, other countries (predominantly the poorer countries) are left with all of the legal obligations.

To protect the institution of asylum and to avoid responsibility shifting, it is important to recognize that all countries are for some refugees countries of first asylum.

*Responsibility-sharing by resettling refugees from countries hosting many refugees to countries with fewer refugees*

Responsibility-sharing is an important way of protecting and finding a solution for all refugees, as underlined in preambular paragraph 8 of the Agenda for Protection. However, responsibility-sharing has another role as a mechanism for the expression of solidarity and for a more just sharing of responsibility for refugees among states members of the UN.

The 2001 International Conference on the Reception and Integration of Resettled Refugees made great strides in revising the thinking on resettlement towards a greater appreciation of the benefits to receiving states of resettling refugees, that is, towards understanding that refugees can make a useful contribution to new societies. This needs to be continued.

More can be done to show states the benefits of resettlement beyond the contribution to meeting global humanitarian needs. There can be economic benefits and benefits in population demographics.

Resettled refugees are a visible witness to other citizens about the situations and issues in other parts of the world, some of them caused by the developed world. This understanding is more profound because it comes through direct person to person exchanges. Other citizens may learn about precarious refugee hosting situations as well as refugee producing situations. This is a public education program. It contributes to informed support for the state's contributions to global refugee affairs. However, public support for refugee resettlement programs should not be used to discredit directly or indirectly other refugees. Resettlement must enhance asylum. It must extend the primary contribution that a state makes by offering protection to refugees at the border or within the country under international law with UNHCR supervision. The NGO Statement on Resettlement to the Global Consultations put the concern well:

*“Resettlement should be used to foster public support for all refugees. Resettlement and evacuation programmes have been, and should be, used to promote public sympathy for refugees. Firm action and political leadership is needed to counter the idea from developing that “resettled = good refugees,” while “asylum-seekers = bad refugees” which has allowed two-tier systems to evolve in some major resettlement countries.”*

Governments have a positive obligation to create a welcoming environment and to persuade their population of the benefits of receiving refugees. States should not allow themselves to be led by public perception: rather they should assume the responsibility for ensuring that refugees are seen in a positive light.

An important element in capacity development and creating hospitable communities in resettlement countries is the continuation of integration initiatives linking countries already engaged in resettlement as well as those considering and developing new resettlement programs, through such activities as bilateral exchanges, partnerships, mentoring, twinning and information sharing.

The Agenda for Protection speaks to the need for refugees to be empowered and to be assisted in achieving self-reliance. This is an important consideration in working towards successful resettlement as a measure of responsibility-sharing. We speak of sharing responsibilities between states, but it is important to bear in mind that the purpose of finding durable solutions is to give refugees back the power to be responsible for their own lives. It is therefore vital that refugees, including refugee women, participate fully in the decisions around their resettlement and in their integration into their new homes.

### **Moving forward**

From the preceding discussion, we may recommend actions in the following areas:

1. *Strengthening the commitment of the international community to find durable solutions for refugees*  
International law imposes certain obligations with respect to the protection of refugees, providing a framework for advancing asylum. There is no such framework for ensuring that durable solutions are found for refugees in their borders. Convention Plus offers an avenue for the international community to assume greater responsibility for ensuring that all refugees have a durable solution within a reasonable time.
2. *Effective integration of resettlement as a component of comprehensive strategies to provide durable solutions*
  - Special agreements dealing with specific refugee situations including resettlement (cf. proposed “tools for protection” in the context of Convention Plus).
  - Tools to assess the availability of local integration as a durable solution, including a trigger for resettlement programs when local integration is not available.
  - Commitments to offer resettlement to those who cannot be repatriated, in the context of voluntary repatriation programs.
3. *Use of resettlement to enhance asylum and availability of durable solutions*
  - Specific or generic agreements to offer resettlement in situations where mass influx calls into question a state’s capacity to offer asylum. It should be noted that resettlement is not a substitute for asylum but in exceptional situations may be a useful tool where capacity, not willingness, of the host country is the concern.
4. *Expansion of resettlement places, including through promotion of successful integration*



- Measures to increase the numbers of states with resettlement programs and the number of resettlement places per state, perhaps through multilateral commitments to resettlement.
  - Measures to assist states in enhancing their integration capacity, including through increased role for refugees and NGOs in integration programming.
5. *Increased capacity to identify and efficiently process those refugees in need of protection, and those who require resettlement as a durable solution*
- Improved early registration and identification of refugees who need resettlement.
  - Enhanced UNHCR capacity to identify and refer refugees for resettlement, with effective, efficient and fair processes.
  - Increased involvement of NGOs in the identification and processing of refugees for resettlement.
  - Changes to state criteria and procedures to make them more responsive to refugees' needs, with a view to achieving a more coordinated and efficient approach.
  - Collaboration and coordination between states conducting resettlement activities from the same pool of refugees, or in the same region, in order to maximize economies of scale.
  - More consistent application of resettlement criteria by UNHCR and states.