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Acknowledgment

Bangkok - January 1992

Note on Spelling.

Some of the names of places appearing in this book have been spelt in a variety of ways over the years. This is especially true for Cambodians, who have been called Khmers, Kampucheans or Cambodians. For the sake of simplicity, I have settled for the spelling that is most familiar to those who have been involved, in one way or another, in this part of the world.

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Foreword.

In the sixteen years I have been working for the United Nations High Commissioner for Refugees, I have had the privilege of being witness to many crucial political decisions and their impact on the lives of thousands of refugees in South East Asia. During those years, hundreds of thousands of people in the region abandoned their countries, gambled their lives, and, after years in refugee camps, have started a new life. Thousands of others died.

It is not my intention here to make a detailed historical account of the events in Southeast Asia that have spanned these years; many scholars and journalists have skillfully recounted the suffering so many endured. Rather, through the lens of first-hand experience, and, with the benefit of hindsight, I wish to look at the lessons that could be learned from these events. It is a matter of concern that the Indochinese refugee problem is still with us after 16 years. What went wrong? What could have been done? Why have solutions taken so long to be implemented?

Recently, and under the pressure of events, innovative approaches have been proposed. They deserve attention, as they could, at last, provide a solution to the plight of the Indochinese refugees. They could also lead to a complete overhaul of the international mechanisms of humanitarian relief which show signs of severe strain. The displacement of Indochinese primarily affected neighboring countries. The latter's patience has grown thinner, with each passing day, each new arrival. Nowadays, Europe feels threatened by an invasion of millions of economic migrants. Elsewhere, economic and natural disasters could also trigger further large scale movements of population. The scale and the proliferation of these flows of population, and the fears they raise, are signals of the imminent crisis being faced by Humanitarian Law concerning refugees and the organizations created to bring them relief and protection. I believe the solutions adopted for the Indochinese refugees may provide a model for a different approach, to be followed in similar situations.

1. Introduction.

Since time immemorial, people have been fleeing, to save their lives, or in search of a better future. It is only in recent times that a universal system was established to provide them with some degree of protection and assistance when fleeing from persecution. The right of asylum for refugees is the cornerstone of the whole Refugee Law edifice. Considerable progress has been achieved: over 100 nations are signatories to the 1951 Convention on Refugees and 1967 Protocol. However, the right of asylum of individuals fleeing persecution has always been constrained by the reassertion of the sovereign right of States to grant or deny them asylum.[1] There is no internationally accepted means to ensure the application of Humanitarian Law, which remains contingent on the sovereignty of each country. In order to consolidate the right of asylum, efforts have therefore been made by the humanitarian agencies, with the support of some governments, to shift the balance in favor of the individual seeking refuge against the right of the State to deny it.

Refugees and asylum seekers are part of a larger equation. It involves vast numbers of people who may have very valid motives to flee their homes yet may not be considered as refugees, i.e."fleeing owing to a well-founded fear of persecution", according to the 1951 Convention. Nowadays, concern about the numbers involved and the seeming lack of real solutions to the problem have started haunting governments all over the world. Just looking at events in recent years shows that the trickle is turning into a flood: millions of Indochinese refugees, millions of Afghans, millions of Kurds. The possibility of millions of Soviets, Eastern Europeans, or Africans displaced by events, is troubling governments and humanitarian agencies. A backlash is already perceptible: the closing down of the borders is accompanied by a tightening of the purses and of the hearts. *Asylum seekers and refugees stand to lose the most.*

While the tide seems to be turning against refugees in the traditional sense, the ever-increasing flood of economic migrants appealing for refugee status and protection may well signal the collapse of the consensus on these basic international norms of conduct which have enabled UNHCR to perform. Mr. Stoltenberg, former UN High Commissioner for Refugees, stated, in 1990:

"...Finally, it is becoming increasingly evident that the issue of migration at large is bound to be one of the threats to the broad idea of international, regional and national security in the decade ahead of us all. I wish to state here my firm belief that unless this issue is dealt with forcefully, I mean in ways that go well beyond the traditional patterns of humanitarian assistance to people in need, governments of both developed and developing countries may find it even more difficult in the years ahead to cope rationally and successfully with mass exodus. At the same time, my Office may find it impossible to continue to effectively identify, protect and assist persons falling within its competence ...".[2]

Definitions.

When drafting the 1951 Convention relating to the Status of Refugees, our forefathers had in mind to solve permanently the plight of the remaining victims of the Second World War in Europe. At the outset, the UN High Commissioner for Refugees received only a short-term mandate, renewable, if necessary. Decolonization made it pressing to extend both the geographical and time limitations inherent to the Convention, beyond Europe and beyond events having taken place prior to 1951. That was the main objective of the 1967 Protocol. The definition of a refugee, however, was left unchanged. According to this definition, contained in the 1951 Convention, a refugee is a person who:

> Art.1:" . . .Owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or, owing to such fear, is unwilling to avail himself of the protection of that country; or, who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."

With the constant increase in the number of victims, efforts have been made, to extend the scope of the definition. On a regional basis, the most generous examples can be found in the OAU Convention governing the specific aspects of refugee problems in Africa (1969) and in the Cartagena Declaration on Refugees (1984), concerning Latin America. In addition to the definition contained in the Convention of 1951, the OAU Convention, for instance, further states:

Art.1 para.2: "The term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality."

The section III, para 3 of the Declaration of Cartagena states:

"... The definition or concept of a refugee to be recommended for use in the region, is one which, in addition to containing the elements of the 1951 Convention, and the 1967 Protocol, includes among refugees persons who have fled their countries because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violations of human rights or other circumstances which have seriously disturbed public order."

These efforts to expand the refugee definition in order to assist not only refugees but also other displaced persons, are laudable, but presume an endless generosity on the part of the affected countries and the international community. Presently, the trend appears to go the opposite way: increasingly restrictive measures are being taken by governments, to try to stop or deter the flow of migrants.

Under the broad umbrella of mass-movements of population, a variety of terms are being used imprecisely: migrants or immigrants; political refugees or economic refugees; illegal immigrants; environmental refugees; externally displaced persons falling under an extended refugee definition; refugees "sur place" or "on orbit"; "refugees from violence"; "refugees from hunger", etc... The indiscriminate use of the term refugee when looking at mass exodus is a reflection of the present confusion in ideas and approaches and of the seeming lack of effective remedies. The lack of proper instruments to deal with the relatively new phenomenon of large-scale movements of population has led many organizations to plead for an open-ended extension of the refugee definition and of UNHCRs' mandate. Over the years, efforts have been made to legitimize this tendency by creating new concepts: "persons of concern" to UNHCR, people in "refugee-like" situations, or, going even further, calling on UNHCR's "good offices" to intervene in instances where the victims were clearly not refugees: all the operations in favor of "internally displaced persons" in which UNHCR has participated fall under this category. UNHCR has been able to expand its assistance to larger groups of victims with the support of the international community. Efforts were concentrated on building a consensus towards an expansion of UNHCRs' mandate large enough to cover all types of man-made disasters. It must be said that it was easier to expand UNHCRs' responsibilities than to attempt to create entirely new mechanisms or consider new approaches. The lack of a proper framework and of specifically tailored tools to face the problem of mass exodus, and in consequence, the confusion between asylum seekers and all other kinds of migrants, has reflected negatively on humanitarian organizations dealing with refugee problems. As a result, UNHCRs' budget grew from US$ 8.3

Million to close to US$ 1000 Million between 1970 and 1991 as the refugee population went from an estimated 2.5 million to over 18 million.[3]

The first distinction that needs to be made is between *immigrants* and *migrants*. Immigration is the result of the concerted policy of governments, aiming at regulating the access and stay of aliens within their national boundaries. To the contrary, migratory flows are neither planned nor orderly. Governments may try to control them, usually with limited success. Their impact on the economy of a country or even its social texture can be considerable. These flows also affect the pace of development of the receiving countries as much as they do in the countries of origin. They may even be perceived as a threat to national security and give rise to expressions of racism and xenophobia. Refugees are only a part of the migratory flows but are also the victims of those perceptions.

The second significant distinction to establish is therefore between *migrants* and *refugees*. Whatever its limitations, the refugee definition, as contained in article 1 of the Convention relating to the Status of Refugee of 1951, is the only one that has gained universal acceptance. It relates exclusively to the notion of persecution, not to economic hardship.

In practical terms, while a migrant can appeal to the authorities of his or her country to obtain legal protection, a refugee cannot. This is the crucial point that distinguishes a refugee from other migrants.

Some observers have further suggested that refugees can be divided into three sociological categories:[4]
- the "activist"
- the "target"
- the "victim"

While the first two fall clearly under the 1951 definition, the third one, is more general, and represents an extension which has become a "grey area". The amount of direct or indirect persecution on individuals becomes harder to delineate, as does the separation between political and economic or other factors being perceived as persecution and leading to exodus.

The 1951 Refugee Convention and the various international instruments covering humanitarian assistance, however limited in scope, are the only tools the United Nations, governments and Non-Governmental Organizations (NGOs) have had, to tackle the problem of uprootedness. As long as the numbers involved were relatively small, these tools could address the situation adequately.

Our century has seen the surge of an unprecedented number of refugees. It has also seen extraordinary efforts made to expand refugee rights and the number of those who could benefit from it. However, this approach has increasingly shown its limitations.

Another, less apparent but related reason to expand the scope of the refugee definition, was already described by Prince Aga Khan in his report:

> " . . .The institutionalization of aid, beginning with the distribution of relief, can in itself be a powerful "pull factor" . . . Some agencies have found it increasingly difficult to obtain sufficient contributions to their programs unless they could attach a refugee "label" to them. The corollary of this may be that they "turn" people into refugees who under existing legal instruments, do not qualify for the status of refugees. This fact. . ., has led to an unavoidable blunting of differences between refugees and immigrants. . ."[5]

The case of the Vietnamese Boat-People is an illustration of generous intentions gone astray. As a group, they are the only ones, in UNHCRs' experience, to have benefited uninterruptedly from a blanket refugee recognition for **15 years**; as a result, in 1988, governments granting them first asylum were nearing the conclusion that none of them were refugees. Generosity had come full circle: the consequences of all-out efforts to extend the refugee definition to cover all categories of displaced people in distress may well result in the disappearance of the principle of asylum.

Nowadays, in dealing with millions of people on the move, the mechanism is not working. Worse still, the open-ended extension of the refugee definition and rights to ever-larger groups of people falling beyond the original demarcation has brought assertions of "abuses" of refugee claims and led to a restrictive approach by governments. Consequently, not only genuine asylum-seekers and refugees suffer, but the whole humanitarian edifice faces collapse.

Indeed, the study of refugee movements cannot be separated from the one of large-scale movements of population. Mass migrations are becoming one of the most serious political and social problems to be faced. They have triggered a racist backlash in Western countries with already large immigrant populations and where fears of losing job security or a sense of national identity already exist. Economic recession has heightened the problem.

Refugees and migrants are both victims of events they do not control. Refugee and migratory movements are closely linked. A look at failings and achievements in solving large scale refugee crises may contribute in identifying past mistakes and new approaches in dealing with present days refugee problems. In turn, new tools and approaches used to tackle the refugee problem may be of use in dealing with large-scale movements of population. Innovative solutions to the refugee crisis may benefit the quest for a solution to large-scale movements of population.

Presently, there is a growing perception amongst many governments that any alien unable to go through legal immigration channels to enter and reside in their countries resorts to claiming refugee status. The term: "Economic refugee" is being used to qualify any migrant not falling within regulated migration channels and not being a refugee in the accepted sense. The dilution of the value given to the concept of safe asylum and the very threat to the survival of UNHCR and other humanitarian agencies are a consequence of such a perception.

Migratory pressures have started disrupting the world wide system of international protection of refugees. Most people coming as asylum seekers into Europe, for instance, are leaving their countries following a revival of long denied individual freedoms, not least the freedom of movement. They are not refugees escaping persecution, but economic migrants, who cannot apply as migrants because the immigration channels are practically closed in most countries. By their sheer number, they choke the established procedures in receiving countries. This, in turn, serves as a magnet for many destitute persons abroad who feel that if they apply for refugee status in a western country, they will be taken care of by the social welfare system of that country for a few years, while their claims are being examined. As a reaction to these abuses, the authorities concerned have taken restrictive measures that inevitably affect also genuine refugees. The temptation to confront the problem of uncontrolled migratory flows with such measures appears attractive to an increasing number of governments.

From past efforts to expand the refugee definition, the pendulum has swung the other way. Today, not a single government allows free immigration: it would be immediately voted out of office. Therefore, instituting severe controls on immigration may also be justified as an attempt to minimize the rise of racism at home. Unfortunately, even the toughest immigration controls will not stop people from trying to climb over the walls if conditions back home are perceived as desperate.

In Europe, the prospect of abolishing internal frontiers after 1992 has a corollary: increased controls at the gates. Overwhelmed by the present number of asylum seekers, (from 13.000 in 1970 to 500.000 in 1991), and the projections for the future, governments are considering increasingly restrictive, some would say ungenerous, measures: accelerated procedures for screening asylum seekers with a subsequent risk of an increased margin of error; harsher living conditions while awaiting for the decision; preventive controls, (such as compulsory visas on valid travel documents), performed by airlines, performing as immigration officers, even before reaching the soil of the prospective country of asylum. In some countries, the interest stirred by the proponents of the use of the army to patrol the borders should be seen with concern. Some governments are even considering amending their Constitution which enshrined the right to be granted temporary asylum. [6]

A sense of impending crisis.

"...As an observer of the tide of suffering on the Turkish border said
the other day, 30,000 refugees are a humanitarian problem, but a
million are a political problem. . ."[7]

The build up of a humanitarian crisis is amplified by the growing number of
displaced people and by the politicizing of humanitarian issues. According to the Statute
of the Office of the High Commissioner for Refugees, the High Commissioner's work is
considered humanitarian and social and of an entirely non-political character.[8] As
practice and time have shown, preserving the distinction between political and humani-
tarian activities has been invaluable: humanitarian agencies such as UNHCR have been
able to intervene among nations or groups in conflict to help the displaced civilian
population (euphemistically called "externally displaced" if they crossed the border, or
"internally displaced" if they didn't). They have also been able to raise considerable
funds for relief programs. Since 1951, UNHCR estimates that it has rescued over 25
million refugees. Scores of people have thus been able to be saved and start a new life.

The notion that refugee problems are exclusively humanitarian and non-
political, is, in itself, a paradox. Refugee crisis are, by essence, born out of a political
conflict. Repression and persecution are just outcrops of conflicts, which, in turn, can
trigger large movements of population.[9] Already in 1953, when UNHCR was two years
old and expected to be no more than an international charitable organization putting an
end to the plight of European refugees, the distinction was being questioned.[10]

Relying essentially on voluntary contributions, stressing the notion of hu-
manitarian assistance and rejecting any political affiliation, refugee relief has naturally
been associated with charity, on a world-scale. As long as the size of refugee problems
appeared to be manageable, charity, by governments or individuals, has, in most of the
cases, been sufficient to cover basic relief to refugees and alleviate their plight. When
considering today's millions of victims and the even greater numbers likely to follow,
charity, in the form of humanitarian aid, is presently inadequate to tackle either persecu-
tion or escape from poverty.

At the outset of large-scale movements of population, man-made disasters
and natural ones are often entwined. The complexity of this amalgam, and the numbers
involved, are at the origin of the concern of governments and the perception that the
problem is intractable. The seeming lack of quick and appropriate solutions to mass
exodus, and the looming threat of millions of people pressing at the borders of wealthier
countries, add to the perception of a potential humanitarian disaster in the making.

After supporting and funding humanitarian agencies to extend protection
and assistance to ever larger groups of people, governments are now critical of the
ability of those agencies to deal with large-scale movements of population. There are
even fears that it is the assistance provided by those agencies which may entice people to
seek refugee status. The agencies themselves are beginning to acknowledge their inca-

pacity to address properly a crisis of such speed and magnitude.[11] Some, defending their performance, state that, at issue, are the new nature and size of the phenomenon.

The politics of aid and the refugees.

The constraint of national sovereignty on international protection of refugees applies not only to UNHCR but to other international agencies and NGOs. Some governments, invoking national sovereignty, have been reluctant to let humanitarian agencies provide assistance to those of their nationals in need of it. In conflicts taking place within the boundaries of one country, this restriction may be invoked to prevent outside interference, from other governments, the United Nations or NGOs.[12] This sovereign right enables governments to apply pressure on specific groups of its population, (ethnic, religious or political minorities), in order to achieve certain military or political objectives. In refugee inflows in a neighboring country, it may be the receiving government that is reluctant to call for international assistance, for fear of frictions with the country of origin. It may also welcome asylum seekers, with a view to utilize them politically or militarily.

In reaction to the restrictions imposed by governments on humanitarian aid, a new initiative, i.e. the "right of humanitarian intervention", has gained momentum. At the behest of some French NGOs, and with the support of the French government, this concept is gaining growing support. The recognition of this right[13] would enable humanitarian agencies to intervene, in the occurrence of natural or other disasters, on the basis of a "right" of the victims to receive assistance, compelling the government(s) concerned to support this intervention and open the borders. Efforts are under way to turn this initiative into an accepted international practice. In this respect, the UN General Assembly Resolutions 45/100 and 43/131[14], while reaffirming..."the sovereignty, territorial integrity and national unity of States...", proceeds to "...invite all States in need of such assistance to facilitate the work of these organizations in implementing humanitarian assistance..."

The need to formalize this principle is also a recognition that humanitarian organizations cannot remain aloof to political realities and must become politically involved, so as to safeguard their neutrality and effectiveness. The right of humanitarian intervention must be accompanied by a number of guarantees to assure even-handedness. The danger does exist that different situations may be treated differently, according to the political affiliation of the victims or the government they flee and the play of majorities within the UN Security Council and General Assembly. It is, however, a welcome evolution strengthening both the rights of individuals against the rights of States and the authority of the UN in its peace-making endeavors.

The possible political use, or misuse of aid, has caused humanitarian agencies to face an additional dilemma which they have long tried to avoid. When witnessing human rights violations or misuse of humanitarian aid, silence is the condition required

by the host government, for those agencies to be allowed to continue providing relief in life-threatening situations. Arguing that humanitarian agencies must keep away from politics, many agencies have thus turned a blind eye to major violations of human rights they may have been direct witness to. Speaking up may break the tenuous life link represented by humanitarian relief between the agencies and the victims. But when does silence become complicity?

In order to have the greatest impact, aid should be handled by a dedicated few, in order to benefit many. Unfortunately, it is often a case of aid manipulated by many, to reach a few. While relief assistance equals survival, it also equals money and power. The number of victims to assist in present-day mass movements calls for multi-million dollar programs. The relief goods, or the funds, are often injected into poverty stricken areas. They may create frictions, as the surrounding population may come to see the refugees as privileged foreigners. It tends also to increase corruption which is often endemic. Fighting local corruption in aid programs has had limited success; on the contrary, any achievement in limiting corruption may eventually delay or jeopardize distribution of urgent relief. Under these conditions, is there a level of corruption which can be considered acceptable ?[15]

2. The Comprehensive Plan of Action for Vietnamese Boat People.

History and Background.

The Indochinese refugee problem includes all the elements that characterize mass exodus. It has also some added elements that give it its unique complexity and explain its obduracy. It appears as the harbinger of the need for a different approach to the issue.

A cursory look at the background against which Indochinese people have left and continue leaving their countries shows that the basic components of migratory movements are all present in that specific situation.

Pull Factors

In addition to the political and military factors inherent to Indochina, poverty, demographic growth, rural exodus and an overall deterioration of the quality of life, are the main elements that can be found at the source of the flow of Indochinese people. Food scarcity, caused by natural disasters or mistaken political decisions have also contributed to the problem. The combination of these factors have "pushed" people to leave their country. Other factors, however, have "pulled" them towards new shores. The expectation for a better life, for oneself or the family, is the reason often invoked by asylum-seekers when asked why they left their country. Western nations are seen as lands "of milk and honey", and the image given by the media of these countries does not tend to contradict these unrealistic expectations. In addition to the above elements, Indochinese refugees have been the pawns of a global confrontation. By fleeing their country, they were seen by some as "voting with their feet" against the political regime established in their own land. Since the end of the Vietnam war, this argument has justified the inclusion of the issue in the global East-West confrontation. Nowhere has humanitarian aid been shown to be an integral part of a greater political design more clearly than in this instance.

It has been the first refugee crisis of major proportions which has called for a solution extending beyond the region where it originated. The cortege of refugees and displaced persons resulting from decolonization in Africa were dealt with within Africa. Latin Americans, victims of dictatorial regimes, were given asylum mostly within Latin America. For Indochinese refugees, asylum, assistance and long-term solutions became

a deliberate "international burden-sharing" exercise. Indeed, it can be argued that phenomena of such a magnitude could hardly be tackled by a few developing countries of the region preoccupied with their own internal security and economic development . Yet, there are grounds to believe that, beyond genuine humanitarian concerns, such appeals to international burden-sharing were also aimed at furthering a single political objective: isolating and condemning Vietnam and the other countries of Indochina. The extraordinary level of interest shown towards Indochinese refugees has thus enabled UNHCR and other agencies to spend in favor of this group over one billion dollars in refugee assistance and resettlement, since 1975, in addition to billions spent by governments for integration in the countries of resettlement.

Emotional Factors

The Vietnam war started as a colonial war.[16] It then became the battleground between two ideologies. In the course of the confrontation, historical elements, such as the notable distrust that existed between countries or groups of different ethnic origin, and conflicting territorial ambitions, have aggravated the problem. A unique aspect, however, has been the role of subjective and emotional factors in this drama. Up to this day, emotions still play at least as great a role as rational analysis in the minds of some of the concerned governments and policy-makers. Unfortunately, policy decisions based on emotional factors have often ill-served the refugees, main victims of the situation, who have repeatedly been sacrificed on the altar of a higher political cause.

An analysis of the complexities of the Indochinese refugee problem may help one approach the issue of large-scale movements of population from a different perspective. The process of bringing about a Comprehensive Plan of Action to solve the problem has demonstrated that charity and an approach based mainly on ethics are unable to solve contemporary refugee problems. In this changing situation, automatic "humanitarian reflexes", must defer to a pragmatic attitude and an active involvement. Indochinese refugees have also highlighted the limitations of humanitarian aid and of the agencies responsible to provide it. Failure to accept this fact may not only translate into continued suffering for large numbers of people; it may also signal the demise of existing humanitarian agencies.[17]

The singular character of the Vietnamese Boat People (VNBPS) phenomenon

Dating back from the outflow of Hungarians in 1956, it became an accepted international practice to grant blanket refugee status to all those seeking asylum across their border when arriving in large numbers after political upheavals. With the passing of time, however, and it may be a matter of weeks or months, the same practice dictates that a process for individual refugee status determination, or screening, be established. Still, for close to 15 years, any Vietnamese coming by boat out of Vietnam and reaching the shores of a Southeast Asian nation, has continued to receive automatically refugee status and rights. In no other refugee situation has this occurred.

The transition from a blanket recognition to individual status determination procedures is usually facilitated by the fact that, shortly after a large influx, the flow of people tends to taper off. In the case of the VNBPs, after regularly decreasing, the outflow actually increased sharply, 12 years after its inception, i.e. 1987-88, while no recent political upheaval in the country of origin could justify it.

Already in 1979, the critical seriousness of the problem and the number of people affected led the UN Secretary General to convene an international conference to contain the crisis and seek lasting humanitarian solutions. In order to safeguard the principle of first asylum which was being seriously eroded and to reduce loss of life[18], an agreement was reached at the Conference to link the maintenance of first asylum by neighboring countries to the provision of resettlement, mainly by Western countries. Efforts were made to extend the number of countries willing to provide resettlement (called "international burden-sharing"). It brought a few Lao and Vietnamese as far as Latin America or Africa. This was the first time that the international community was expected to participate actively in the solution, by opening its doors to hundreds of thousands. Despite these efforts, the main share was taken by four major resettlement countries: the US, Australia, Canada and France. The agreement reached at the 1979 Conference did work for 10 years. It has not only saved lives, but it has also given hundreds of thousands of individuals the opportunity to start anew. Since its inception the agreement had, however, a major flaw which became apparent in 1988, when, again, the right of asylum collapsed and many lives were lost. By linking asylum, the pillar of refugee law, to third country resettlement, the former became hostage of the latter. Any decrease in offers of resettlement quotas, (or increases in the number of arrivals), would inexorably lead to a "closing of the doors" of the asylum countries. This linkage had put at the mercy of an administrative decision taken by single governments (resettlement quotas), a fundamental international humanitarian principle — *asylum* —.

Worse still, the linkage between asylum and resettlement came to be seen as an automatic process, almost an acquired right, by which any Vietnamese making it to the shores of Southeast Asia would expect, if not demand, to be resettled in one of the four Western countries mentioned. This expectation has become one of the most difficult knots to undo.[19]

Since 1975, Vietnamese have paid a very high price in terms of human suffering and loss of life. The problem of the VNBPs is characterized by a succession of crises. This has spurred those concerned to search for new ways to solve the problem. A new terminology has been coined, starting with "boat-people", but also including "root-causes", "mass exodus", "anchor cases", "human deterrence", etc. . . All the efforts of the international community had, until recently, failed to stop the flow and avert further tragedies.

There are two main reasons why the issue has turned into an almost intractable problem: the generous, and sometimes misdirected efforts, on the part of humanitarians to refuse to make the distinction between persons fleeing persecution and

economic migrants, extending to all the Vietnamese the rights and protection accruing to refugees; and the use of the refugee issue by some governments to achieve political objectives that a military conflict failed to reach.

The necessity to address the "root causes" of mass exodus was highlighted in the context of the Indochinese refugee outflow. It stemmed from the realization, on the part of donor and resettlement governments, that the problem could not be solved by addressing exclusively its humanitarian aspects. Furthermore, root causes could also be a valuable political tool. By referring to the root causes, a number of governments could lay the blame of the humanitarian tragedy entirely on the countries of origin, providing a justification for the limits to their generosity. Ultimately, it also served to sanction such restrictive measures as "human deterrence" or "closed doors" policies. It is in connection with the Indochinese refugee problem that, in the 1980s', the notion of "humane deterrence" first made its appearance. It was supposed to be a compromise between the maintenance of asylum for "genuine" refugees and proposals to discourage abusive claims for asylum and thus, arrivals. The implicit contradiction between the two terms has resulted in explicit measures that were both inhumane and ineffective as a deterrent.

In the case of the Vietnamese, there is a consensus that the country's economic situation has been, in recent years, the strongest element pushing people to leave. The extent of the Vietnamese government's responsibility for not solving or actually aggravating the economic crisis can be debated. Still, there is a paradox in stating that most of the Vietnamese leaving their country are economic migrants and, at the same time, denying any economic assistance to alleviate the situation at the source.

The Vietnamese Boat People: The Pawns

Under the term "Vietnamese Boat People", which is now part of our current language, individuals escaping their country have become pawns of a multitude of players in a tragic game where losers die.

Scholars, journalists, and eventually government officials themselves have recognized that very soon after the dramatic events in Vietnam in 1975, Boat People as well as other Indochinese refugees, became a key part of the political equation in the region. Related humanitarian concerns took the back seat.[20]

Pawns for their government.

It has been argued that the forced exile of a large number of its nationals may have represented, for the Vietnamese government, an opportunity to get rid of those elements that symbolized the past and could not be expected to integrate in the new social order. The efforts to speed the "socialization" of the South and the need to

eliminate the perceived threat posed by foreign residents, especially by the ethnic Chinese community , could only benefit from those departures.

Vietnamese Boat People also represented a not negligible source of income, to be cashed in at several stages of the process[21]. The confiscation of personal goods could trigger departures or come as a their consequence. The delivery of permits to move within the country or to leave it, whether obtained legally or not, could also represent a source of income. Last but not least, once resettled in a western country, the Vietnamese would send remittances, in hard currency, to their relatives having remained in Vietnam. In the 1980s', it is estimated that such foreign remittances amounted to some US$ 120 million per year, topping any other national hard currency income.[22]

With the benefit of hindsight, one can say that Vietnam and its ideological opponents failed to foresee the backlash that their political decisions would rouse. In 1975, Vietnam made an ideological choice which resulted in the expulsion of all the foreigners: not only the Chinese, but also the Indians, Filipinos, Westerners, etc... They were technocrats, not ideologues and mostly belonged to the business community, which foundered as a consequence. The outcome of this policy has also been for Vietnam a serious brain drain and the creation abroad of a ferociously anti-communist community. In the USA, the latter have been very active in lobbying the government against an early resumption of diplomatic and economic ties with the authorities in Hanoi.

Some observers have even argued that an additional objective of such a massive outflow, pursued by the Vietnamese authorities, has been the de-stabilization of neighboring governments. In the climate following the political changes in Indochina in 1975, the arrival of scores of Vietnamese, sometimes in single boat-loads of thousands, was considered in many receiving countries as a critical threat to their national security.

Pawns for the West.

In some quarters, VNBPs continue to be perceived as the justification, given "a posteriori", of the Vietnam war: they are seen as a living indictment of the government which came to power in 1975. They are also seen as a way to pursue the conflict in a circuitous way: they can help justify the continued embargo against the Vietnamese government and the denial of financial and development assistance to the country. While the economic situation in Vietnam is recognized to be the major cause of the exodus, economic assistance is thus being discouraged when not denied outright. The West has been unable to stop a mechanism that it has supported for 15 years.

Pawns of the asylum countries.

What have the Vietnamese Boat People brought to the countries of first asylum? The most visible contribution is financial, through payment of goods, services or salaries, effected in the countries concerned[23]. While the asylum countries may finally be relieved to see refugee camps disappear from their land, local authorities may come to regret the considerable source of income and the spin-off to the local economy refugee camps have been providing for all these years. Less visible, but as appreciable, is the political usefulness of VNBPs. In terms of international relations, they have been used as a demonstration of the "threat" being faced by asylum countries and the dire consequences of Marxist ideology. They have also been a bargaining tool, used by asylum countries, to ensure from western nations increased military, economic or development aid, in addition to relief aid. The inclusion of VNBPs in the regional political equation has resulted in a sustained level of political and economic support from the international community. Conversely, VNBPs, once having outlived their political usefulness, could risk being the first victims of a major backlash in the humanitarian field.

Pawns in the humanitarian "game."

There are no other situations where good intentions have yielded such tragic results. Having encouraged the expectations of Vietnamese tempted to leave by boat in search of a better future, through lobbying for extended resettlement, using the media for demagogic objectives, and even, paradoxically, by gestures such as sending mercy ships to their rescue, many humanitarians have unwittingly contributed to the obduracy of the problem and the continuing number of casualties. Sending mercy ships to assist VNBPs in distress or threatened by pirates, for instance, is a remarkable gesture. Unfortunately, the knowledge that such ships were mostly cruising just beyond the limit of Vietnamese waters, thus reducing the length and the risks of the crossing and guaranteeing "fast track" resettlement, encouraged quite a few to take to the sea.[24]

At one time or another, for a variety of purposes, unrealistic ideas have also been floated, such as buying an island "somewhere" or asking far away countries such as Belize, Kuwait, etc..., to accept VNBPs. These initiatives have essentially resulted in more people leaving Vietnam, guided by illusions and sustained by dreams.

Since 1975, over 800,000 Vietnamese have found a new home in the USA. As in any democratic country, such a large number of potential voters cannot be ignored by politicians, especially if organized in powerful and vocal lobbies. In California, for instance, the "Vietnamese vote" plays an important role in local politics.

Vietnamese themselves have contributed to the persistence of the situation. "Anchor cases" are the most dramatic example. Countries accepting refugees for resettlement establish their quotas and criteria of acceptance. It is an exercise of their

sovereign national right. Criteria applying to the selection of refugees for resettlement are far more flexible than those for regular immigration. Still, there are conditions, such as the need to have a member of the family already resettled in the country, or to be able of justifying any link, however tenuous, between the refugee and the prospective resettlement country. These conditions are usually waived for special humanitarian cases. Unaccompanied minors are such an exception. They are children who are not necessarily orphans, (if they were, who would have paid for the price of the boat ride?), but have left Vietnam alone, or have become separated, following the disappearance of the member(s) of the family or the elder they were travelling with. For these compelling reasons, they have benefited from a special treatment, enabling them to be accepted and resettled on a priority basis, on humanitarian grounds, in order to avoid the further trauma of extended camp life. Once resettled, according to the principle of family unity, they in turn, are in a position to sponsor relatives, still in Vietnam, to join them in the country of resettlement. When, in the course of time, resettlement, especially in the favored four countries, (US, Australia, Canada and France), became more difficult to gain, a number of families in Vietnam, aware of the criteria and their inability to fulfill them, took the risk to deliberately put one or several of their children alone on a boat. Be it for the genuine hope to ensure a better life for the child, or by calculation — using the child as an "anchor" that could drag the rest of the family out of Vietnam — many families started to send their children out at sea. The number of children, who became victims of pirates or victims of the elements increased in the same proportion. It did not take long for the immigration officers of different countries responsible of accepting refugee to become aware of the loophole. They quickly reassessed their accelerated resettlement procedures for unaccompanied minors. As of May 1991, over 500 of them were in camps in Thailand alone.

The case of the unaccompanied minors is tragic. Yet, some have been clamoring for their continued speedy resettlement. They have strenuously opposed efforts to reunite the minor with his/her family back in Vietnam. Experience has shown that emptying the camps of minors through quick resettlement in third countries has encouraged an even greater number of families to take the chance, and send their children away, causing more death and suffering in the process. As one observer put it, it is "like digging a hole in the sand: the more sand you dig out, the more falls in". This has not deterred the advocates of an open-ended resettlement for unaccompanied minors.

The odyssey of the Indochinese refugees is an extraordinary illustration of the achievements of international solidarity. It also encompasses all the elements that would lead to the crisis presently faced by UNHCR and other humanitarian agencies.

Suddenly, towards the end of 1987, the trickle of Vietnamese Boat People turned again into a flood. The Thai authorities were the first to react, by taking a number of measures that were aimed at stopping the flow, whatever the cost in human lives. Harsh measures taken in the past by countries of first asylum had succeeded in bringing additional support and resettlement quotas from western countries. This time, aware that their criticism of the blunt measures taken by the Thai authorities would be met with yet another request for more resettlement quotas, western governments' reactions were subdued. Conditions had changed, in the nine years since the first International Conference; other refugee situations needed attention, and there was a definite perception that resettlement offers in the west, rather than alleviating the problem, were acting as a powerful "pull" factor. Most worrisome of all, a consensus was building up, especially amongst governments of first asylum countries, that, unless a regionally concerted "closing of the doors" was implemented, the problem would continue unabated. Expressions of concern, from UNHCR and other humanitarian agencies, for the plight of the victims, and the violations to the principle of asylum, went unheeded.[25]

The situation was deteriorating. It was in this somber context that a seminar, sponsored by the Ford Foundation, took place in Thailand in May 1988, bringing together officials from first asylum countries, from major resettlement countries and UNHCR.[26] The timing of the consultation was fortuitous: it was to take place a few weeks before the regular ASEAN Senior Officials Meeting (ASEAN SOM), itself preceded by a meeting of members of the ASEAN Working Group on Indochinese Refugees. Through these various mechanisms, seminar recommendations were passed on, to be endorsed by the ASEAN Foreign Ministers meeting in Bangkok, in the summer of 1988, and finally, to be discussed between ASEAN and their "dialogue partners", at the highest level, during the 21st ASEAN Post Ministerial Conference (PMC).[27]By emphasizing the informal and confidential character of the seminar and by inviting participants to express their views not in their official capacity but on the basis of their own experience with the issue at hand, the meeting offered a forum free from the constraints that usually tie down governments' officials or international organizations.

The seminar was, therefore, able to play a seminal role in formulating an innovative policy in respect of the continued influx of Boat People. The exercise was not devoid of danger: the temptation of closing down and abandoning first asylum in the region was present in the minds of many of the participating officials.

The discussions reflected the various concerns and established the bases for a consensual approach[28]. Indeed, there were two diametrically opposed sets of considerations which needed to be reconciled: the humanitarian ones and the political ones. A consensus could be built only if they were merged. In order to find a common ground, a list of the critical issues to be blended was established.

On the part of UNHCR and other humanitarian agencies, first and foremost were the threat of a generalized rejection of the principle of first asylum and the protection and life of refugees. Secondly, was the recognition of the fact that if new arrivals would not anymore automatically be classified as refugees, they also could not all be considered as economic migrants. A consensus developed, that an individual refugee screening process had to be established, region-wide, based on the 1951 definition.

The main achievement of the seminar, and the first step towards the Comprehensive Plan of Action, was to encourage the participating government officials, who came with conflicting objectives, to realize that the problem could not be tackled by ad-hoc and unilateral measures at a national or even regional level. A "closing of the door" in individual countries could be easily implemented. So could there be a retaliatory freeze on third country resettlement, leaving asylum countries to deal with the tens of thousands stranded in camps. These measures would just exacerbate the problem. A formula had to be found which could harmoniously merge the practical concerns of the first asylum countries with the upholding of humanitarian principles. There lay the key to the Comprehensive Plan of Action.

The next step required the elaboration of a comprehensive set of concrete measures, the "package deal", which would encompass both humanitarian and security concerns. In the context of the political and regional situation existing in early 1988, this required some audacity on the part of all the Governments and agencies involved, as it was going against policies and attitudes held for the past 15 years. Blanket refugee status and automatic third country resettlement had to be abandoned in order to safeguard the principle of asylum. Receiving countries had to guarantee the maintenance of first asylum, without relying exclusively on acceptance in a third country as a way to empty the camps. For the first time, a change of attitude, from confrontation to cooperation, in respect of the country of origin, Vietnam, became not only necessary, but unavoidable. Fifteen years of Vietnam-bashing had not contributed to solving the Boat People problem or improved the living conditions of the Vietnamese people, thus discouraging them from leaving. Neither had it improved security in the region. Vietnam, as the country of origin, needed to be involved constructively in the search for a solution, if one was to be found. In turn, it had to realize that, by cooperating, it could gain a foothold towards the recognition and assistance from the international community that it had vainly been looking for since 1975. Until then, Vietnam had not been willing to assume any responsibility for those of its citizens who had fled the country and had considered their return as a low priority if not a hindrance. On this basis, a convergence of interests could bring about a solution.

On the one hand, there were a growing number of governments claiming that all new arrivals were economic, or illegal immigrants. At the other end of the spectrum others were insisting that, on the contrary, the asylum seekers should all be considered as refugees and should all be resettled. Both statements were not only inaccurate, but equally detrimental to asylum seekers and refugees. For opposite reasons, both sides were initially against the proposal of establishing a region-wide refugee screening

procedure. First asylum countries looked at it as a plot from resettlement countries to renege on their previous commitment to accept all new arrivals. Conversely, some NGOs could not conceive that Boat People could not all be refugees. Yet, without it, the alternative was, either open-ended asylum, which had ended with the upsurge in arrivals in 1987-88, or systematic rejections at sea, which were equally utterly unacceptable. The limits of an ever-expanding refugee definition had been reached.

As a result of the seminar, with the cautious endorsement of the concerned governments, during 1988 and at the beginning of 1989, UNHCR was asked to organize and chair informal and confidential meetings with a selected group of government officials to draft a tentative proposal for a Comprehensive Plan of Action.[29]

Conceptual elements of a new approach to the VNBPs.

- A new approach had to produce a "package" of measures, merging harmoniously all the concerns. This integrated approach required from the participants, including the countries of origin, (Vietnam and Laos), the firm commitment to both agree to the whole package and undertake to implement their respective share. Once found, this agreement had to be sealed at a new International Conference, on the model of the one held in 1979.

. If all the participants, first asylum,resettlement and donor countries, as well as countries of origin had to be involved and support the plan, it was clear that single measures and unilateral approaches such as boats "push-offs" or "redirections", or a freeze in humanitarian aid or resettlement quotas were counter-productive.

‣ The security and strategic concerns of the countries of first asylum had to be integrated.

‣ The large number of long stayers (i.e., with more than 2 years stay in camps), with no prospect of departure for resettlement had to be tackled.

‣ So was the increased number of arrivals. Since 1983,the average annual decrease in arrivals was about 12%. In 1987, arrivals increased suddenly 47% over 1986.

‣ A perceived decrease in resettlement offers from western countries had to be reviewed.

‣ The realization that the agreement reached at the International Conference in 1979 had served its purpose but had become ineffectual. No single solution existed to solve the problem. Political and humanitarian concerns had to be integrated.

Beyond those issues specific to the Boat People, there are a certain number of new assumptions and approaches found in the CPA that deal with large scale movements of population which deserve some consideration. The following elements formed the cement of the CPA and could be viewed as the basis for an innovative approach to the problem of mass movements of population:

Elements of a new approach to mass migration:

· A return to multilateralism, stimulated by grass-root regional initiatives, as the best approach towards solutions to the seemingly intractable problem of mass exodus. In this context, the United Nations become the initiator and the catalyst of a "forward" policy, discarding its previous "honest broker" role.

· Approaches based exclusively on humanitarian concerns cannot remain aloof to regional and international political considerations if they wish to remain credible and effective. Consequently, humanitarian approaches must be integrated into the political agenda of the governments and the humanitarian agencies involved.

· Refugees, in the sense of the 1951 Convention, must remain distinct from all other migrants. Enlarging the scope of the accepted refugee definition to include other categories of migrants may jeopardize the rights of refugees without bringing any benefit to non-refugees. A return to the established definition is therefore warranted.

· Resettlement in a third country is not the panacea to solve all large scale movements of population. It is an important tool, but it may actually act as a powerful "pull factor" and become part of the problem of uprooting.

· The role of mass media and its impact on large scale movements of population has not yet been fully documented. Since 1975, the media, especially radio broadcasts, have been used, wittingly or unwittingly, to encourage people to leave Vietnam. By painting a bleak picture of Vietnam, and a rosy picture of the West, or, more pointedly, reporting on continued resettlement quotas open for Indochinese, the media has contributed to encouraging illegal departures. The main stumbling block in trying to reverse the trend and stop the hemorrhage from Vietnam has been the persistence of expectations created over 15 years. Recognizing such influence, the CPA recommends the establishment of a media campaign to provide objective information on the resettlement policies of the main receiving countries, of the situation in the camps and the dangers of travelling by boat. This information campaign is directed not only towards the population in the country of origin, but also towards Western countries where large Vietnamese communities serve as a powerful magnet to their relatives wishing to join them.In similar large scale movements of population, the media must be called upon to play a critical role.

A look at the steady decrease in arrivals in 1991 in the region, would tend to show that the media campaign, as part of the CPA, is bearing fruit.

Achievements of the CPA and outstanding problems.

In its almost three years of existence, the CPA has shown a remarkable resilience and effectiveness. The most visible results have been the disappearance of the "long stayers". Of the 43,000 in camps at the time of the agreed "cut-off date", when the CPA became effective region-wide, the vast majority, who had spent years in reclusion with no prospects of resettlement, has already been resettled. The Orderly Departure Program (ODP), which was to provide a safe and legal way to leave Vietnam, has also exceeded all expectations: from little over 21,000 in 1988, to close to 60,000 in 1991 and a hoped for 100,000 in 1992. Despite Vietnam's continued isolation, a regular migration channel has been consolidated. The ODP, however, is open only to Vietnamese from the South. It cannot be used to decrease migratory pressures from the Center and the North of the country.

Most important of all, the seemingly endless flow of arrivals and piracy victims seems to have tapered off. In the first six months of 1991, arrivals in the ASEAN countries totalled some 800, against the 14,000 in Hong Kong during the same time. There were several reasons for this discrepancy, one of which appears to be the perception of prospective boat people that the legal procedure in Hong Kong, based on the British system of law, may give them more of a chance to be recognized as refugees and be resettled than, for instance, in the case of Thailand or Malaysia. This was the unexpected result of the successful fight by a number of humanitarian agencies to ensure that no "involuntary returns", or, better said, deportations, take place, following the return of 51 from Hong Kong in December 1989. Yet, the treatment of Albanians arriving in Italy during the summer of 1991 did not go unnoticed in the region.[30] More recently, the forcible return of Haitians from the USA raises again the shadows of "double standards". An additional reason can be found in the decision to provide all voluntary returnees with US$ 30 per month during the first 12 months of their return. While UNHCR thought it would be a humanitarian gesture aimed at encouraging voluntary returns, it had become a pull factor in itself. A few hundred people in camps in Hong Kong have twice (some even three times), undertaken the trip to Hong Kong and applied for voluntary repatriation, hoping to again receive that subsidy. Belatedly, in September 1991, UNHCR decided to stop this financial assistance. The forcible return of the "double backers" in flights carrying deportees resumed between Hong Kong and Vietnam. The impact on the number of new arrivals has been immediate. It says much for the "refugee" nature of the exodus that when UNHCR suspended assistance to returnees who arrived after 27 September 1991 in first asylum camps, arrivals in Hong Kong from Vietnam fell by some 99,5% within one week after the measure was publicized in Vietnam. Since the beginning of 1992 , arrivals in theregion have come down to a few dozens. At the same time,the UNHCR-Royal Thai Government Anti Piracy Program was phased out.

Beyond the most tangible results achieved so far, longer term and more radical changes have occurred. The CPA marked a watershed as it grew out of regional efforts. The initiative has not come from the top down, but rather, from those at operational levels, having to deal directly with the problem and being unencumbered by constraints of having to adhere to official established policies.

It has been widely accepted that solutions to humanitarian issues, such as refugees, are a result of improvements in the political and military fields, leading to peaceful resolution of conflicts. The CPA shows that an improvement in the humanitarian field can precede and even be a contributing factor to peace. The meetings that took place in Bangkok in 1988, in order to draft a Comprehensive Plan of Action, were the first, since the end of the Vietnam War, to gather Vietnam and erstwhile antagonists ASEAN governments, Japan, and some key western countries, around a table. By ending Vietnam's isolation, the CPA has significantly contributed to an improvement of relations between Vietnam with its neighbors and with Western countries.

For years, governments in the region had carefully avoided using the term "refugee", weary of its implications, preferring to use the term "illegal immigrants". The establishment of a refugee status determination procedure in ASEAN countries, based on the 1951 Convention and implemented by local officials, signals the acceptance of such international instruments by the authorities concerned. Coming from governments that had never felt bound by refugee Conventions, (which they had not signed), and which were on the verge of giving a fatal blow to the principle of asylum, it marks a dramatic change in the whole attitude of Asian officials towards asylum seekers and refugees.

Unavoidably, in order to consolidate the gains made, the existence of non-refugees (i.e., economic migrants) amongst those fleeing Vietnam must be accepted. According to international practice, they have to be deported, in safety and dignity, back to their country of origin. Such matters are settled through bilateral discussions. Thus, the CPA provided for mandatory return.

This last, and crucial point, remains the most controversial of the CPA. It may seem a paradox to affirm that the CPA is a success while there are, to date, more Vietnamese in camps in the region (110,000) than in 1988. Yet, even the fiercest opponents of the CPA from both ends of the humanitarian spectrum have been unable to provide a viable alternative. On the other hand, while all the governments involved have agreed that the CPA had to be implemented in full, as a "package", a key participant has refused to agree to the mandatory return of non-refugees. In the lengthy discussions that led to the drafting of the CPA, this point was hotly debated. Eventually, the importance of safeguarding the principle of asylum, and the acknowledgment that it was not possible to contend, more than a decade after the momentous changes in Vietnam, that all the boat people were refugees, led to the (by some, reluctant), acceptance of the CPA. The assertion that all VNBPs were refugees, which had to do more with emotions and

politics than with the reality being faced daily by officials and refugee workers at ground level, had lost all credibility. Having accepted the fact that those not recognized as refugees under a proper refugee status determination procedure were migrants, it is only logical to apply migration laws and internationally accepted practices to their case. As in every country in the world, this meant deportation. It must be recalled that the major reluctance of asylum countries of the region to establish a screening procedure, and thus restore asylum, was based on the fear that they would be stuck indefinitely with all those " screened-out", who could not therefore leave for a third country and would not accept to return to Vietnam. Acceptance of all the other measures contemplated in the CPA verged on the recognition of the fundamental difference between refugees and other migrants.

To allay the fears of well-meaning, but ultimately counter productive critics, it must be further added that deportation proceedings (for non refugees), can only take place with the agreement and cooperation of both countries of asylum and of origin; unless the return of non refugees is done in safety and dignity, migrants, facing deportation, would then be considered as refugees. Conversely, the denial of refugee status under a proper procedure is also made after taking into account the possible dangers of involuntary return. Opposing, on principle, any mandatory return to Vietnam without providing a viable alternative is clearly an untenable and ultimately anti-humanitarian position which would have scuttled the CPA even before being launched, burying asylum with it. The proposed compromise of accepting only "voluntary" returns may be as dangerous. It is, again, an attempt to stretch the refugee definition by providing migrants with some of the rights of refugees, such as assisted voluntary repatriation.

The crisis of 1988 was an illustration of the dangers of entertaining this ambiguity. The present mathematics of camp population in the whole region should encourage those opposed to the deportation of the non-refugees, in safety and dignity, to reconsider. There are presently over 110,000 VNBPs in camps. It is estimated that some 25% may justifiably be granted the refugee status, by stretching the Convention to its limit. Some 80,000 of those already in camps will therefore have no other choice than to return home. For them, their stay in camps will translate into more misery. For government officials of first asylum countries, the perception of being again stuck with tens of thousands of Vietnamese and no prospects of a solution may well trigger a mortal blow to first asylum in the region. It would, in all likelihood, echo across other regions where countries faced with large scale influxes and would be tempted to follow suit.

For a second CPA

Elements of a second CPA

The Steering Committee, which should, in the course of regular meetings assess and orient the CPA, has been unable to provide a solution to this stalemate. Each of its meeting has been preceded by large media coverage, which has contributed to the rigidity of the positions expounded by the participating governments. It is therefore recommended that the mechanism that created the CPA be re-activated. Along the lines of the seminar sponsored by the Ford Foundation, governments and UN officials should meet informally and in confidentiality, in order to agree on the following points:

- full restoration or assured maintenance of first asylum. This commitment would be expected especially from Malaysia, which has quietly denied first asylum to tens of thousands of VNBPs, Singapore, which has tended to reap the benefits but has been unwilling to contribute its part and Hong Kong, overwhelmed by the thousands of continuing arrivals and the 64,000 in its camps. This should be easier, now that arrivals have dwindled to a trickle.

- UNHCR should organize and attend a series of meetings leading to bilateral agreements between Vietnam and each of the asylum countries, for the organized "Orderly Return Program", ORP, corollary to the Orderly Departure Program. The return of non refugees should be done in safety in dignity. UNHCR, while not directly participating in the return of non refugees, should ensure that the bilateral agreements follow the agreed upon guidelines and that the time table of return takes into account Vietnam's absorption capacity and the speedy return of the "groups at risk" in camps in the region. It could benefit from the assistance of IOM, and the support of the EEC and Japan, through integrated projects in the areas of origin in Vietnam.

- A continued commitment by countries of the region to the individual refugee status determination, in exchange for a continued commitment from resettlement countries to accept those found to be refugees. The latter would be the subject of a new agreement on apportioning quotas, as was done during the first seminar.

- A 3 years plan to empty the camps in the region, through a combination of accelerated return procedures for non refugees and third country resettlement for refugees.
- The integration of development aid to Vietnam to encourage returns and discourage further illegal departures.

- The resolution of related issues, such as disembarkation and screening for rescued at sea cases and the return of Unaccompanied Minors.

In order to achieve such a plan, UNHCR would be expected to return to its previous catalytic role and ensure that a draft CPA II meets with its own concerns and the approval of all concerned. Once drafted, such a consensus building exercise could be achieved through the existing mechanisms of working groups and Steering Committee meetings. The agreed final draft would then be submitted to a full meeting of Executive Committee in Geneva, in the fall of 1992.

3. For a Lao CPA.

Turning to the Lao refugees, one could argue that the issue has been overshadowed by the international attention given to the Cambodians and Vietnamese ones. This may have been a blessing in disguise, as less interference from extra regional actors may actually give more chance of success to the search for durable solutions.

For 16 years, third country resettlement has been the only viable durable solution for the Lao refugees. Since 1975 till mid-1991, nearly one hundred and eighty thousand Lao have been resettled while only seven thousand have voluntarily repatriated.[31] Third country resettlement has cost hundreds of millions and one is left to wonder whether the placement of Lao in Argentina, Africa or China, in an effort to internationalize the problem, has indeed been beneficial to the refugees or has contributed in any way to solving the overall problem.

Created as part of the CPA, a trilateral mechanism, sponsored and organized by UNHCR, has involved, at regular intervals, meetings of Thai and Lao officials, focussed on means to accelerate voluntary repatriation of Lao refugees. Some of them, essentially hill tribes, have spent over 16 years of their life in camps. Most of the teenagers were born and raised in the camps. The piecemeal efforts of the past, directed at finding durable solutions, have reached their limits. The present situation shows that there were still over 60,000 Lao in camps at the end of 1991. According to a recent survey,[32] it can be estimated that up to 40,000 of them may opt to, or have no other alternative than return home. At the present agreed ceiling of return of 300 or even 500 per month, at least seven years would be needed to conclude the repatriation, supposing that there are no new arrivals or that the natality rate, one of the worlds highest, decreases. This is clearly not acceptable, in human terms for the tens of thousands still in camps, nor for the country of asylum. The need for a Lao CPA has become undisputed.

It will entail taking new elements specific to the Lao situation into account: the most obvious ones are linked to the characteristics of the hill tribes' culture and their recent tumultuous history. In addition to the typical problems related to returning refugees having spent years in camps and the possible "dependency syndrome", the necessity for environmentally sound projects enabling the previously nomadic, "slash and burn" hill tribe returnees to sedentariness is imperative. The limits of traditional voluntary repatriation efforts, aiming at individuals or families, have been reached. Attempts are being made to encourage repatriation of groups composed by clusters of people having, in the course of their camp life developed affinities similar to extended family links. The return of large numbers, (500 to 1000)

at the same time will require UNHCR and the NGOs concerned to look at the problem in a much more coordinated way. Laos' absorption capacity cannot be increased simply by building more reception centers, with NGOs continuing to provide basic and supplementary relief and limited vocational skills training. Small, self-contained and economically profitable projects must be designed and implemented. Their success will in turn encourage more volunteers to apply for repatriation.

In order to do so, a number of steps need to be followed, which would include the convening of a meeting, along the lines of the one that took place in Thailand in 1988 under the Ford Foundation auspices, gathering key operating officials from Laos, Thailand, a number of donor or otherwise concerned countries, (USA, Japan, Canada, Australia, France, a Scandinavian one), IGOs (EEC, ADB, IOM), IOs (UNDP, UNICEF, UNHCR) and some selected NGOs. The objective of the meeting would be to prepare a draft, along the lines of the existing CPA, based on a 3 to 5 years time frame and including agreed upon objectives and the respective roles expected from the participants.

On the basis of the survey undertaken in 1990-91 in the Hmong camps[33], some 40,000 have expressed an interest in returning. This would imply an average of 10,000 returns per year for the next four years. In view of the scope of the operation and the lack of infrastructure and financial support in Laos, a major cooperative effort is required, from all the organizations involved (international, inter-governmental and non-governmental), to prepare the ground and provide employment. It will also require the establishment of a coordinating mechanism, within Laos, to facilitate what will be a major and complex operation. This Plan must integrate political and economic measures, enabling the Lao ethnic groups presently in refugee camps to return home in safety and dignity. The use of refugees by different entities for military or political actions against the established government in Vientiane must cease. Activities in the camps must be geared to prepare for the return and be integrated with projects in Laos in the targeted areas of return. Education and vocational training would be the mainstay of such programs. In equal measure, the plan must facilitate the integration between relief assistance at an early stage of the return, provided by UNHCR and NGOs, and longer term development assistance, provided by UNDP, EEC, the World Bank or ADB, bi-lateral and non-governmental aid. A mass information campaign, both in the camps and in Laos, should be aimed at encouraging early voluntary returns and re-integration. A mechanism to ensure the holding of regular meetings to assess and steer the implementation of the Lao CPA should be established.

A Proposal: The IRC Pilot Project

At the beginning of 1992, the International Rescue Committee (IRC), an American NGO with a long experience in the refugee camps in Thailand, has submitted to the concerned authorities a proposal reflecting the concerns mentioned above. In substance, it proposes the establishment of a pilot project in Laos, for the return and reintegration of 1000 families from the hilltribe refugees in camps in Thailand. It tries to encompass the objectives sought by all the participants; for Thailand, the closing of the refugee camps; for Laos, internal security and the need for a harmonious reintegration of the returnees; for UNHCR, the protection and assistance of the refugees; and, last but not least, the refugees' need for safety and the possibility to ensure their own economic livelihood and improve their future. Instead of the traditional relief and humanitarian oriented approach, the project advocates a private sector approach to the problem. It includes the agency's involvement in finding markets for the income generation projects, establishment of agricultural projects to ensure food self sufficiency, and assistance in the community related issues such as public health and sanitation. It calls upon the private sector and aims at implementing an economically sound project, but is seen as complementary to UNHCR overall responsibility and requires the agency's support as well as the support from the governments involved, within the framework of the Tri-partite meetings.

Although it is only a pilot project, its approach and objectives are a reflection of the lessons learned with the CPA and the problem of the Vietnamese Boat People.

4. The Cambodian Repatriation.

The Cambodians have shed much blood in the strife that has torn their country and much ink has been spent describing and analyzing this tragedy. In the past decade, the flow of humanitarian assistance to the Cambodian refugees is another illustration of the possible pitfalls presently existing in the field of refugee assistance and protection.

The neutral character of relief and the impartiality of the "relief-givers", should guarantee that aid is distributed to all civilians in need, notwithstanding the color or ideology of these civilians or of their leaders. The principles of humanity, neutrality and impartiality should be the only guides to humanitarian assistance. Still, for the Cambodian refugees, their location and the political affiliation of their leadership have been paramount in determining the levels and the type of assistance they have received. It is estimated that, between 1982 and 1990, the 3-400,000 Khmers in the border camps have received some US\$ 324 million in aid from UNBRO alone.[34]During the same time, only a fraction of this aid has been granted to the 8 million Khmers in the country facing similar hardship.

> ". . .Supporting a [Khmer] refugee in a border camp for one year costs US\$ 142. Yet, in 1986, the country [Cambodia] received only about US\$ 1.50 per person from the multilateral agencies and another US\$ 1.50 per person from NGOs..."[35]

Yet, the UN General Assembly Resolution 34/22 of 1979 had reaffirmed the need to provide relief to the Cambodians on a non-discriminatory basis:

> ". . .Strongly appeals to all States and national and International humanitarian organizations to render, on an urgent and non-discriminatory basis, humanitarian relief to the civilian population of Kampuchea, including those who have sought refuge in neighboring countries..."

Food is survival. It is the symbol and the main component of basic emergency relief. Until such a time when they can again become self-sufficient, all the victims of disasters must be provided with basic emergency relief. This postulate

suffers no exception: people displaced by man-made or natural disasters must receive food, wherever they may be and whatever their race, religion or ideology. This follows the principles of "humanity, neutrality and impartiality" and is based on the assumption that the provision of food is a non-political activity. Unfortunately, humanitarian agencies in charge of relief have been witnesses, if not unwilling accessories, to how food has been used as a strategic weapon. As such, the provision of food (and other relief items), cannot be devoid of political considerations. It is an illustration of the use of humanitarian assistance for the achievement of political objectives.[36]

In 1979, the United Nations launched one of its major operations: the "land-bridge" to Kampuchea. It was a matter of rescuing from starvation the population of an entire country. This was shockingly clear at the Thai-Cambodian border, where scores were dying daily of disease and starvation. The need for food was urgent and unequivocal. The reasons that led some governments to support this initiative were primarily humanitarian. At the same time, they were not altogether without ulterior political or strategic motives. The interplay between politics and humanitarian considerations has been admirably described.[37]

With the passing of time, some of the unplanned consequences of the decision to provide food to Cambodia through a land-bridge operating from Thailand, have become apparent. The original objective was clearly stated: the population of an entire country, victims of genocidal rulers and on the verge of starvation, was to be given a new lease on life. A decade later, it can be said that these humanitarian concerns became themselves a contributing factor to the protraction of the conflict and of the suffering.

The displacement of the population from inside Cambodia towards the border that took place at that time and has continued until recently, and its total dependency on food relief, are the most obvious examples of good intentions gone astray. From 500,000 to 1,000,000 persons, or approximately 10 to 20% of the estimated population of the country at that time, have been affected. This major input of food has also reduced the ability of the government in place in Phnom Penh to control and reorganize a large segment of the country and its population. It was with extreme reluctance, that the international community did provide some emergency relief directly in Cambodia through the central government. Its "absorption capacity" was not at issue; the objective was not to allow the newly installed authorities to use direly needed relief to consolidate their power. This fear was not groundless. In 1980-81, the authorities in Phnom Penh were downplaying the extent of the UN and NGOs contribution by telling the people that it came from "friendly socialist countries supporting the right policy being followed by the government of the People's Republic of Kampuchea". More recently, the forcible resettlement by leaders of the former resistance factions of civilians from the camps under their control into "liberated areas"of Cambodia, unfit to sustain a normal life, responds to the same imperatives.[38]

In 1979, following the invasion of Kampuchea by Vietnamese troops, large numbers of civilians, held as hostages by the Khmer Rouge, moved towards the Thai border. The initial position of the Thai government in the fall of 1979, stemming probably from the fear of being drawn unwillingly into the conflict and deeply concerned at the prospect of Vietnamese troops at its border, was that no temporary asylum on Thai soil would be granted to Khmers. In fact, it was well-known and widely reported that Khmer Rouge troops and their cohort of civilians were being given safe-passage through Thailand, on the understanding that they could only transit, but not stay[39]. It was only following the general outcry caused by the deportation at gun-point, in June 1979, of some 40,000 civilians, that this policy was amended. In late 1979, the number of sick and starving civilians at the border was estimated to be around 500,000. In opening its door, Thailand appealed for immediate assistance to shoulder the burden of this additional mass of refugees. UNHCR entered into negotiations with the Thai authorities to determine the modalities for the distribution of emergency assistance. In addition to the traditional emphasis on the neutral character of relief, it was understood that aid was exclusively to benefit needy civilians. In accordance with UNHCRs' principles, refugee camps had to be located at a "safe" distance from the border. Agreement was reached, camp sites identified, and 48 hours later, the first survivors of the Khmer Rouge holocaust started pouring in. In the following weeks, over 180,000 persons were brought into UNHCR camps. Shortly later, however, this very generous policy was to change. Thailand would still support the provision of aid to Khmers, but it would have to be done exclusively in the border area. Officially, Khmers would not be allowed into Thailand any more. UNHCR resisted this change. It could not agree with leaving refugees on the border. Other humanitarian agencies did not have the same reservations: they rushed to start assistance at and across the border. It can be argued that the dilemma had no satisfactory answer: it was against established humanitarian principles to leave asylum seekers and refugees in an area bordering with their country of origin, exposed to the military activities of an on-going conflict. On the other hand, standing on these principled grounds could result in denying assistance to starving and sick people and cause further casualties. A distribution of responsibilities was established, between the different UN agencies involved. UNHCR would be responsible for protecting and assisting Khmers in camps located inside Thailand. The population of those camps would be granted blanket refugee status and would be given the opportunity to resettle in a third country. Other agencies, (UNBROs' predecessors, i.e., UNICEF, WFP and ICRC), would be responsible for those at the border, considered as "displaced persons", rather than refugees.

The reasons for the change of policy on the part of Thailand and its allies have become clearer with the passing of time. Still reeling under the shock of the sudden and drastic political changes in Indochina, Thailand and its closest strategic allies feared that Thailand would be the next "domino" to fall. In addition to the communist insurgency throughout many parts of the country, the presence of Vietnamese troops at the borders with Laos and Cambodia could only reinforce those fears. Thailand had become a "front-line" state, facing Vietnam, its traditional and now ideological antagonist. All means available would be used to avert the threat. National

security was paramount. Humanitarian matters would not only have to abide by those concerns, but would become an element of governments policy.

> ". . . As one Thai military thinker put it, having lost Cambodia as a buffer, the best that Thailand could do was to sustain the fighting that, in itself, constituted a buffer . . .
>
> . . . Thanks to food and other humanitarian assistance supplied by international organizations to the Khmer population living in camps along the Thai border and military supplies given by China and ASEAN, the number of non-communist fighters grew to a force of nearly thirty thousand . . ."[40]

Besides the perceived threat to its national security, and the already heavy refugee burden being carried by Thailand, the motives for denying asylum seekers access to UNHCR camps, were based on the belief that the situation of this new mass of asylum seekers was to be very temporary. The closer these people stayed to their country, the easier it would be for them to return. Resettlement in other countries for such large numbers was neither a practical nor desirable alternative. There were doubts that hundreds of thousands of Cambodians, including former Khmer Rouge or their supporters, coming in addition to the thousands of Vietnamese and Lao refugees, could be accepted in the West. There were also genuine fears that resettlement would attract still more people at the border and consummate the brain-drain of the country resulting from the Khmer Rouge genocide. The Thai government was committed to let emergency aid continue at the border. In reality, initiating the land-bridge to feed the Khmer population from the Thai border and settling the asylum seekers at the border fulfilled several key strategic and political objectives. If, on the humanitarian side, it was a decision for which Khmers civilians stuck in the camps are still paying today, it was a master stroke in terms of geo-politics.

Continued support for front-line Thailand.

The tragedy of Kampuchea and the plight of its population ensured that the attention of the international community would remain focussed on the issue for the years to come. The expulsion of 40,000 Khmers in June 1979 by the Thai government gave rise to an international outcry and criticism of Thailand. Yet, the opening of Thailand' doors shortly afterward brought the country gains on the political, financial and military fronts. As a front-line state, Thailand's position in the international arena acquired a greater relevance than its effective political or economic importance at the time would have warranted. Allied military assistance greatly increased, as did funds pledged for refugee relief. In addition to its on-going program for refugees already in Thailand, amounting to some US$ 40 million a year, UNHCR, for instance, budgeted and spent close to US$ 100 million for its 1979-80 emergency program of assistance for Kampucheans.

Revival of the Khmer Rouge.

Observers working at the border, in the fall of 1979 agree that the Khmer Rouge (KR) appeared to have been very nearly wiped out. The remnants of the Pol Pot government could not expect any support from the Cambodians after the treatment to which they had subjected the population. The stories of horror that emerged and the scale of the massacre led to an almost universal abhorrence of the Khmer Rouge. Little support or even sympathy would come from the international community. The Khmer Rouge remained, however, the best if not the only tool to oppose to the invading Vietnamese. In previous years, Thailand had also suffered from Khmer Rouge incursions.[41] Despite their gruesome record, some governments knew well that, given the means, the KR would still be the best opponents against the Vietnamese. They could not expect any overt international support, but allowing several hundreds of thousands of persons to gather at the border and providing them with food and other relief, would render that support possible. Hopefully, once restored and organized, other Khmers would take up the fight against the newly installed government in Phnom Penh. These forces could be regrouped as a non-communist coalition, separate from the Khmer Rouge, and therefore gain the support of the international community. Had it not been for the border relief operation, the Khmer Rouge may well have ceased to exist in 1979.

The UN recognized government: a ragtag agglomeration of 350.000 refugees.

It is a paradox that for over 10 years, the only basis of legitimacy for the internationally recognized government of Cambodia has been the refugee population living in the border encampments. The existence of those camps has served as a justification to the creation and continued support of an internationally recognized government, over which the same population has had little or no say at all. Many of the (self)-appointed representatives, most of whom only occasionally set foot in the camps, have considered that captive population their best tool to further personal and political ambitions.

The refugees in those camps have never attained a minimum level of self-sufficiency. On the contrary: for close to 10 years, refugee children have received only primary education. The policy decision to curtail basic services, was taken "so that they would not feel too comfortable and stay too long", to use the words of an official.

Aid has continued to be doled out. Certainly, the refugees in border camps would not have survived without it. Yet, one element that has contributed to prolong the conflict up to this day is clearly the continuation of that assistance. It includes, for instance, the medical services being provided in the camps. Paradoxically, the level of

medical aid in-camp is far higher than that which the authorities in Phnom Penh are able to provide to the population under their control. In late 1990 and in 1991, new arrivals at the border included people having come to benefit from those medical services, not available inside Cambodia. Rather than encouraging people to return and reintegrate, aid, under the guise of food, education or health, continued to pull people away from their land hampering any chance to reach stability and self-sufficiency. To consider people who have reached the border camps in need of better health services as falling under the extended refugee definition can only further weaken the definition itself. Aid provided at such levels and for such a long time creates in the camps a welfare dependent population and continues to have a disruptive effect on large areas of Cambodia.

As one refugee worker wrote:

> "...Is border relief worthwhile or does this relief system create the needs it fulfills or, even worse, does border relief foster the development of forces which will ultimately increase the suffering of the Khmer people?...In doing so, the relief effort is fostering a civilian need and engendering a military tragedy..."[42]

Integrating aid in the war effort.

In the rivalry between the various Khmer factions to gain international credibility, the control of territory and of people play a fundamental role. The occupation of additional areas of Cambodia by one of the factions at the border has been followed by the settlement of civilians transferred from the border camps. Control of territory and population are seen as a major objective to acquire a better position at the negotiating table and in future elections. In addition to the dangers intrinsic to any war zone, malaria and lack of any infrastructure make those areas totally unfit to sustain any additional population. Appeals are therefore made by Khmer leaders to the UN and NGOs to provide the necessary assistance to the civilians under their authority. The need exists, but, to provide it constitutes an explicit encouragement to the leaders of the various factions to move, more often by constraint than willingly, additional people under their control from the border camps to those areas.

Millions of dollars of "overt" or "covert" "humanitarian" assistance provided to the non-communist coalition by some governments have been spent to create, just a few kilometers from the Thai border, an infrastructure which can attract but not, in any way, sustain the life of over 100.000 Khmers who are expected to move there

from the camps, "voluntarily." It serves the dubious purpose, however, of pretending that a parallel and efficient government has been controlling and administering part of the Cambodian territory.

Humanitarian agencies are faced with an impossible choice: the principles of humanity, neutrality and impartiality make it imperative that all civilian populations in distress receive assistance. In this instance, however, providing that assistance puts more lives in jeopardy. Humanitarian relief becomes a tool to accrue political power for one or the other political faction, to the detriment of the victims.[43]

Refugee self-management.

A number of traditional approaches to refugee problems have proved to have become ineffective or, at least not devoid of negative side-effects. The concept of refugee self-management is one.

Conventional wisdom requires that refugees should, as early and to the greatest extent possible, be directly involved in the management of their own lives. This participatory approach aims at ensuring the maximum cost-effectiveness of a relief program and safeguards the dignity of the beneficiaries[44]. Any observer on the Thai-Cambodian border can see how this concept, called here "Khmer self-management" has turned against those that were supposed to benefit from it, i.e., the camp population at large, and appears to have greatly benefited the few "managers".

It is true that many projects, from food distribution to self-sufficiency, have often failed for lack of refugee participation. Based on those experiences, implementing agencies, especially NGOs, have been advocating extensive participation of the beneficiaries in the design and management of the assistance to be provided. This approach has been followed from the very beginning in the Khmer border camps. Yet, the conclusion to draw from looking at those camps after over 10 years of existence is that this concept, however generous, may, if misused, actually worsen refugees' life. The problem was first reported in refugee camps in Pakistan where the distribution of relief has been done through the religious leaders[45]. In the Khmer border camps, the distribution of food and other relief items to an average of 300,000 persons amounts to 4.500 MT per month. UNBRO is not only responsible for the distribution; it must also monitor it. If done directly, these tasks would require hundreds of UN staff at prohibitive costs. The greater refugee participation in the process is also expected to bring considerable savings. To the dismay of the humanitarian agencies involved, some Khmer administrators responsible for the food distribution have often used food to consolidate their power over the population under their control. In the course of ten years, the amount of food diverted by these administrators to feed their soldiers or for their own benefit has been relevant.

> ". . .Rev. T. Donleavy: "Nous avons fait des réfugiés khmers un
> empire d'escrocs. L'aide humanitaire, si louable soit-elle, n'a réussi
> qu'à créer des camps de mendiants professionnels."[46]

The "refugee business".

The funds contributed by the international community to assist Indochinese refugees, since 1975, are considerable. If added to the actual costs incurred by governments for the local settlement of refugees, they reach several billion dollars. The main part of these funds has been entrusted to International Organizations (IOs), such as UNHCR or the International Organization for Migrations (IOM), or Non Governmental Organizations (NGOs), to implement the various programs. The management of these funds has required that these agencies field a large number of personnel. It has also brought them increased visibility and prestige.

Talking about the UNHCR, one of the previous High Commissioner said one day that it was the only organization he knew whose job was to get itself out of work. In reality, IOs and NGOs, as any other organized body, respond to the rules of nature that lead them to fight for their survival. The disappearance of the Indochinese refugee problem would be an extraordinary achievement. It would, however, also signal the disappearance or the retrenchment of many of the agencies providing some kind of assistance or services. There is a growing perception that, on the part of some, their support or lack thereof for innovative approaches, which may result in a real reduction of the problem, may be ultimately related to the fear for their own survival. These considerations may not be alien to the advocacy role of some agencies.

Since 1988, UNHCR has been preparing a contingency plan to assist in the repatriation of some 350,000 Cambodians in border camps. The intricacy of the political issues involved and the repeated upheavals of the peace process have made such a contingency planning a complex exercise. In turn, this has raised a number of issues which have remained unanswered:

- Voluntary repatriation is the only mode of return that UNHCR promotes and supports. In order to enable refugees to make this crucial decision, appropriate information on the situation and an environment free of pressures from any party must be available. To respond to this concern, the concept of a "neutral camp", away from the border camps, was launched in 1989 and found support in humanitarian quarters. It has, unfortunately, not been followed up, arguably because of the costs involved and the added logistical difficulties it would entail. Fears of a weakening of the non-communist factions are not alien to the lukewarm reaction of some governments to this proposal.

- UNHCR has also felt that it could only start the repatriation following the signing of a peace agreement and the go ahead from the UN Secretary General, after his assessment of the situation on the ground. Given these constraints, UNHCR reckons that it needs six to nine months of planning and preparations to be ready to start the operation. To any observer of the situation on the ground, it appears very clear that this

approach has two unplanned for and apparently contradictory results: a large number of camp residents may well have left by then by their own means[47]. At the same time, enticed by the prospect of receiving assistance from UNHCR for their repatriation, it is not unlikely that a number of Khmers living in Cambodia may now decide to send part or all their families to the border camps, to be assisted in their return.

Preparations, which need to be concentrated in those areas of Cambodia where the majority will return, have been hampered by the lack of infrastructure and the insecurity, but also by the political situation. Cambodia has been the victim of an international embargo which has primarily affected humanitarian work. Paradoxically, efforts to prepare for the return have been concentrated in Thailand rather than Cambodia. Thailand presents the great advantage to be easier of access than western Cambodia. Efforts have been concentrated where it was easier and politically less controversial, rather than where it was really necessary. Furthermore, the question arises whether it is right for the refugees wanting to return to be told to await in camps until relief agencies are ready, rather than expect an emergency oriented organization to be ready to assist whenever mass movements occur. A much vaunted part of the preparatory work has been the gathering of satellite images of western Cambodia: this was supposed to assist in identifying land available for the returning population. The question has not been asked whether many of those who are supposed to go back to tilling the land are indeed interested in doing so. After so many years in camps, it appears that most of the population will eventually look for menial work in urban agglomerations, closer to the camp life they have known, rather than returning to the rice fields. How urgent was it then to look for available land, when a large part of the intended beneficiaries is not even interested?

5. The Burmese dilemma.

Burmese refugees in Thailand have become the most visible part of a larger Burmese migrant and refugee population. There are an estimated 100.000 Burmese in Thailand. The vast majority has come in years past seeking work and better economic prospects.

Since 1988, pro-democracy movements in Burma, preceding but similar to the ones in China, have been the victims of a continuing repression. Yet, they have not benefitted from as much publicity or support. As a result of the wave of repression that followed, a few thousand, mostly students, sought refuge in Thailand. An initial sympathetic reception was quickly followed by increasingly restrictive measures in respect of these "illegal immigrants". Thailand's attitude towards this problem followed a two-track approach:

- On the one hand, some government quarters were sympathetic to the plight of the Burmese students, whose refugee claim appeared more valid than for most of the Vietnamese arriving at that time. Furthermore, they considered that it was in Thailand's interest to provide temporary asylum to Burmese refugee students, who would eventually belong to Burma's next political generation after the disappearance of the present one. Giving them fair treatment could be considered as a long term investment in the future of Burma's relationship with Thailand. For the authorities, the distinction between economic migrants and refugees, based on the long experience with the Indochinese refugees was easier to make, and the need to give the latter a humanitarian treatment was more conceivable. The number of beneficiaries would therefore remain small (some 2 to 5,000 of the estimated 100,000 Burmese in Thailand)

- On the other hand, military circles supported the position of those in the Thai government concerned with the threat to Thailand's security posed by this new influx. While the Indochinese refugees came from countries politically at odds with Thailand, the Burmese military authorities have been enjoying close personal ties with many of their Thai counterparts. Considerable financial interests involved in the exploitation of Burma's natural resources tilt the balance in favor of continued support to the authorities in Rangoon.[48]

In the course of 1990, following discussions with UNHCR, a possible arrangement was broached, whereby Thailand's support of a policy of "constructive engagement" vis-a vis Rangoon, rather than joining the embargo advocated by a number of western nations and organizations, would be balanced by granting a safe temporary asylum to Burmese refugees on condition that they undertake no political activity.

The students are only the latest arrivals in a wave of refugees from Burma seeking shelter in Thailand. Since the country's independence, a state of continuing war between the central authorities and ethnic minorities have resulted in a flow of Karen, Mon, Shan and other groups into Thailand, growing and ebbing according to the fortunes of war, itself subject to the alternation of the dry and rainy seasons. The Thai authorities tolerated this situation. The people were never officially granted refugee status, but the Thai government has allowed private voluntary agencies to provide limited relief on condition that it remained very discreet, if not unknown. More recently, the political activism of the students, and their increased visibility, were felt by the Thai as posing a threat to their privileged relationship with Rangoon.

UNHCR has continued its interviews of asylum seekers, to determine refugee status and provide relief. While UNHCR is mandated by the UN General Assembly to give International Protection to refugees, material assistance can only be provided at the request or with the consent of the concerned government. From the start, the Thai authorities were fully appraised of UNHCRs activities in favor of the Burmese refugees. They tolerated it, on condition that UNHCR cease to deliver individual certificates which were considered as an infringement of Thai national sovereignty and could be construed to be an implicit recognition by the Thai government of the refugee status and a legalization, by UNHCR, of the "illegal immigrants" stay in the country. Meanwhile, UNHCR was pushing forward an initiative which it believed could reconcile Thailand's security concerns with humanitarian imperatives. It entailed establishing a "safe area", in Thailand, where the Burmese refugees would be formally authorized to reside. This area would have to be located away from the border, to respond to concerns about the refugees' safety, and away from Bangkok, to respond to the authorities' concern about the political activism and high visibility of the students. Unlike a classical refugee camp, the "safe area" would be an open area, and the authorities would deliver papers legalizing the stay of the refugees in that area. Being an open area, UNHCR and other agencies providing relief would naturally have access. The students were to remain in that area in order to benefit from the legal status and the assistance.

This initiative drew the same criticism from the same quarters which had initially opposed the CPA. For some NGOs, for instance, nothing short of freedom of movement and freedom to express political opinions (i.e., demonstrate) in Bangkok against Rangoon would be acceptable. This position ignored Thai concerns as well as the reality of refugees living under the constant threat of abuse, arrest, detention and possibly deportation.

From the opposite quarters, it was felt more expeditious to deny access in Thailand or speedily return those who had managed to enter. This would also avoid frictions with Rangoon.

The plight of the Burmese refugees has continued worsening. Within the framework of a policy based on "constructive engagement", they can at best hope for temporary asylum, a legalization of their stay, and some assistance. Meanwhile, they are the victims of violence and live under constant fear of deportation.

The lack of support to UNHCRs initiative at a time when it could have been implemented, and a continued underestimating of the reality in favor of an utopian call to ethics is bound to lead to a repeat of the critical situation faced by Vietnamese Boat People in Thailand prior to the inception of the CPA. Whether it will lead to a similar breakthrough or a continued tragedy will depend on the extent to which the agencies involved repeat the same mistakes.

In the present context, the proposal for a "safe area" continues to be the only one which could provide the Burmese refugees with a measure of protection and assistance. The conditions submitted in 1989 by UNHCR to the Thai authorities for the creation of such a safe area remain valid, but the Royal Thai Government may well decide to establish the safe area out of its own budget and at its own conditions. These may include keeping UNHCR out of the picture, at a certain loss for the refugees.

CONDITIONS FOR THE CREATION OF A SAFE AREA IN THAILAND FOR BURMESE REFUGEES.

1. Concept of safe area.

In the context of the Burmese situation, the concept of safe area would relate to an area which would be identified by the Royal Thai Government (RTG) to provide temporary asylum to Burmese persons of concern to UNHCR. Such an area could be a town, district or any other administrative unit.

2. Location of the safe area.

The safe area would be located at a reasonable and safe distance from the Thai Burmese border.

3. Status of group.

The RTG would guarantee temporary asylum to the group. In this connection, there will be no risk of arrest, detention or deportation on account of illegal entry into the country.

4. Position of group within safe area.

Persons in the safe area would enjoy freedom of movement within the area. However, they would require authorization to travel outside the designated area. Such authorization may be granted by the designated authority within the area.

5. Documentation.

The RTG would issue identity papers to the persons in the safe area.

6. Access.

UNHCR and other such agencies designated by the RTG would be granted access to the safe area, to provide assistance and, if necessary, international protection, the Burmese refugee.

7. Assistance.

In addition to basic assistance, the Burmese refugee students would be helped, to the extent possible, in the furthering of their studies.

6. For a Global CPA.

"...We are now close to a new way of addressing the refugee problem that could be used elsewhere. What we have seen in Hong Kong, (in relation to the arrival of Vietnamese boat people), I also feel will come to Europe and Africa. If we don't work with those who aren't refugees, we won't be able to protect the refugees..."[49]

The approach that led to the creation and implementation of a CPA for the Vietnamese Boat People represents a model that can be duplicated elsewhere, to tackle similar situations, where the tangle of refugees and migrants and political and humanitarian concerns combine to lead inexorably towards a large scale crisis.

Origins of mass movements of population.

A cursory look at the newspapers reflects the growing fears of developed and developing countries alike, of being invaded by a multitude of people in search of asylum or better living standards. The limits of hospitality and solidarity appear to have been reached.

The main reasons that push people to leave their homes and flee can be classified under different broad categories, but, in the traditional pattern, poverty is the main thread. Poverty is linked to demographic pressure in a seemingly vicious circle. Poverty reduction has become the focus of major national and international efforts. The World Bank and UNDP have focussed their recent reports on the issue underlining its complexity and urgency.

- Demographic pressure.

At present levels, demographic pressure remains a key element of mass movements of population. According to UNDP [50], there are 1.2 billion poor people in developing countries. In the next decade, the developing countries overall growth rate is expected to be 2% per year, compared with 0.5% for the industrial countries. One of the consequences of the conjunction of industrialization and demographic growth, has been rural exodus and uprooting.

- Movement South to North. and East to West.

The migration from rural areas to the cities within countries, has been matched by a movement from developing countries, summarily grouped under the term "South", to industrialized ones, the "North". Dramatic changes in Eastern Europe and the Soviet Union are replacing the old climate of "East-West" confrontation with the likelihood of a large movement of people from East to West. Paradoxically, newly found freedoms can also trigger population flows. They make travelling abroad easier by lifting controls or restrictions on departures. In a way, they encourage people to migrate and seek better economic opportunities. They are not fleeing from persecution, but rather, they are drawn towards better prospects. The dream of a better life, accentuated by the pervasiveness of the media and the image it gives of the "North", as well as the ease to travel across continents, continues attracting people towards the wealthier countries.

The efforts to reduce poverty and explosive population growth, and the search for sustainable development have been the subject of scores of books, research and proposals. They have brought to light other elements of a more complex nature whose impact still needs to be fully assessed.

- Environmental factors.

It is only in recent years that the effects of environmental degradation, such as desertification or deforestation, or other similar occurrences, have been linked to the displacement of populations. They have become an issue of global concern. Still, the belief that natural resources are inexhaustible is hard to dispel. There is, however, a growing awareness of the impact of the destruction of rain forests on the climate and on man. Yet, in poor countries, this awareness cannot stop further destruction caused by the fight for mere survival or for financial gain. "Desertification", "green-house effect", "global warming", "the ozone hole" and other newly coined terms reflect an emerging concern for the scarcity of non-renewable natural resources and the destruction of the ecosystem. The survival and development of entire populations hinges on the assumption of an everlasting availability of those resources. Yet, if basic resources, such as water or land, become scarce, territories can become unfit to sustain large groups. The media has already illustrated the tragedy of drought and famine in Africa; floods and typhoons in Bangladesh; and the impact of the destruction of the rain forest in the Amazon.

Opinions are not unanimous on the reality and possible long-term effects of pollution, deforestation and use of certain products on our environment. There is no doubt, however, that a change in traditional climatic patterns, followed by a marginal rise of the sea-level, would threaten the habitat and basic livelihood of millions of people and would displace additional masses of people.

. . ."It is ironic that significant environmental degradation is usually caused by poverty in the South and by affluence in the North... Poverty and population pressures in developing countries force people to cultivate ever more marginal lands...Three quarters of the poor people in the South live in ecologically fragile zones, and around 14 million have become environmental refugees - driven from their homes by ecological degradation. . ."[51]

Environmental factors added to other traditional problems combine in "pushing" the people to migrate. But, less conspicuously, environmental issues also play a role in the changing of attitudes of traditionally generous immigration and refugee-receiving countries.

In recognition of these new challenges, one of the items on the agenda of the forthcoming "Earth Summit", known also as the UN Conference on Environment and Development, which will take place in Rio de Janeiro from 1 to 12 June 1992 will refer to *"environmental refugees"*, in the context of environment and development.

There are presently no UN agencies mandated to assist those "environmental refugees". UNHCR cannot assume responsibility, and, to the extent that environmental degradation often results in a "slow" natural disaster, it is not realistic to expect the UN Disaster Relief Organization to take charge.

Environmental crises also provide an illustration of the difficulty in continuing to make a distinction between man-made and natural disasters. If nature is the cause of events like earthquakes or droughts, Man, by indiscriminately destroying the ecological balance, is equally responsible for many of the "natural" disasters. Behind most of the food shortages in Africa, man is the cause as much as nature. "Hunger by misrule", as some have called it, characterizes famine caused by political or military actions. Droughts only compound other disasters governments bring upon their populations.

- Local conflicts.

The threat of total nuclear annihilation may have become remote, and the end of the Cold War opens an era of extraordinary opportunities for humankind. However, local or regional conflicts, unfortunately, are here to stay. The distinction between civilians and fighters is becoming harder to make: people caught in a conflict are forced to take sides or to flee though they often are ignorant of the reasons for the confrontation.

The sophistication of modern weapons, and their abundance, tend to turn any local conflict into a human tragedy of major proportions: the invasion of Afghani-

stan or Kuwait, for instance, has caused the displacement of millions of people. The conflicts may be limited geographically or in time, but their aftermath is often compounded by the intrusion of other elements, such as natural disasters or food shortages.

Premises of a new approach

The process of democratization in a number of refugee-originating countries should result in a marked decrease of the outflow of people fleeing persecution. However, this process of change, by rupturing long established political, economic and social systems, is fostering situations where unemployment, scarcity of basic products and poverty increase, rather than decrease. People fleeing for "a well-founded fear of persecution" are replaced by a larger number of those seeking economicimprovement . Yet, among the latter, a few may still claim refugee status. This is, to a large extent, similar to the situation found in 1988 amongst Vietnamese Boat People. In that context, the Comprehensive Plan of Action has strived to adopt a global approach, integrating humanitarian concerns with political and economic interests. Faced with a similar crisis, but on a much larger scale, could the same approach contribute to an alleviation, if not a solution of the problem? Is it possible to design a CPA of wider reach which manages to defuse the crisis, allay the fears of western governments, and, at the same time, safeguard the foundations of Humanitarian Law ?

The following recommendations should serve as a basis for the new approach:

- Such Comprehensive Plan of Action must involve, on an equal basis, countries originating mass migrations movements, receiving countries and the widest number of other countries and organizations that are in a position to contribute to the solution. It must integrate a series of measures, which address the "root-causes" of the crisis as well as its consequences. This set of measures must be *humanitarian*, (provision of short-term emergency relief), *political* and *economic* (changes necessary in the country of origin and international measures to bring them about), and *psychological*. Preventive measures aimed at avoiding future influxes must be associated with curative measures addressing the existing situation.

- Mass movements of population, including refugees, are not only humanitarian issues. They must figure prominently in the political agendas of governments and international organizations. Humanitarian and Development aid should be merged, to form part of a single, integrated approach, aimed, inter alia, at reducing large-scale movements of population.

- NGOs, which have become major players, must also expand the scope of their concerns, going beyond neutrality and actions of limited scope, to acknowledge and participate openly in the politics of humanitarian aid. To the extent that humanitarian aid has become highly political, NGOs' responsibilities do not stop any more at providing relief or implementing small scale projects. Their expanded role is also related to their political impact and the awareness that the effectiveness of individuals, or single governments, is limited by the size of contemporary crisis. In the multilateral and coordinated approach now required, NGOs and the UN Agencies have become equals and complementary. NGOs have acquired greater rights, but also greater responsibilities which they must equally accept.

- Refugee movements must remain clearly distinct from other mass movements of population. They have a "political density" that migrants do not have. In many instances, (Cambodia, Afghanistan), refugees have become the determinant that tips the scale in favor of a peaceful settlement or not.

The CPA: Economic Measures

If the issue to address concerns primarily economic migrants, economic measures play a key role in facing the problem. The following is a list of tools that are likely to be most effective in light of recent experience:

· *Using new parameters.*

The traditional parameters, such as GNP growth or per capita income, are insufficient to provide an accurate indication of the state of the nations and their populations. An important new tool is the Human Development Index (HDI) and related Human Freedom Index, elaborated by UNDP[52]. As a social indicator of development, the HDI provides a more accurate picture of situations which may trigger a mass movement of economic or other migrants. It integrates the concept of quality of life and it raises for the first time, through the Human Freedom Index, the issue of human rights and democracy as essential and inter-related components of development. Reducing poverty and providing greater economic opportunities in developing countries have become a major issue, not exclusively out of humanitarian concern, but in terms of migrations and policy as well.

· *Anti-poverty programs and food security.*

In recent years, a consistent pattern has emerged. If food shortages are not exclusively the cause of sudden population outflows, they often exacerbate the situation. Ensuring food security for populations in areas prone to famine or malnutrition is a priority. Recent proposals aim at the establishment of food stockpiles close to famine prone areas, so as to speed the mobilization and distribution of resources in case of emergencies. Emergency food relief, while essential, requires a careful assessment of the causes of the shortages and of the local market conditions[53]. The danger exists that misdirected food aid becomes damaging, in the long term, by discouraging local production or disrupting local markets. Food is not neutral: it is a major humanitarian tool, but it has also become a political instrument if not an outright weapon. Its possible use or misuse must be carefully evaluated.

· *Food for work and public work programs.*

In contrast with food relief, food for work requires the active participation of the beneficiaries in programs aiming at providing basic food in exchange for an activity which is supposed to serve the victims and upgrade their environment (roads, water works and other infrastructure). It is also an attempt to avoid the creation of "aid dependency", which is often the undesired side-effect of humanitarian intervention. While not apt to solve the crisis in areas where large segments of population are affected, food for work projects provide positive assistance and are critical in ensuring the preservation of the dignity of the individuals affected and their sense of "belonging" to a society and to a land.

· *Support to the "informal sector".*

Large segments of economic activity go unreported, if not unnoticed, for lack of proper indicators. They have been regrouped under the heading of "informal sector". It may be small trade at street corners, manufacturing or recycling of basic items, and it occurs mainly at the level of individuals or families. Yet, in economies with a disrupted rural sector and a non-existent service sector, this parallel economy enables large numbers of individuals to survive, and sometimes, even to thrive. Credit support strategies for the informal sector are getting increasing backing, not only from NGOs, but from governments and institutions such as the World Bank. Income generating projects and profit-oriented activities are a key to the strategy to fight poverty.

· *Traditional systems of social security.*

Demographic pressure and limited or misdirected resources make it almost impossible for developing countries to provide a social safety net. Traditional, non-

governmental based systems of social insurance should be encouraged to play a greater role. They may not by themselves solve the issue of poverty, but they should be expanded and supported to the extent that they have proved to be often more effective than food aid and food for work, in protecting people during times of hardship.

> . . ."If financial resources and economic opportunities do not travel towards people, one major result is that people travel towards opportunities. . ."[54]

Providing food security and employment are critical steps aimed at "rooting" people to their land. Attempts to slow down or discourage rural exodus by compulsive measures have generally failed. The trans-border movement of people seeking better economic opportunities is more likely to be put in check by larger and better targeted development assistance than by restrictive or punitive measures. Industrialized countries already have 14 million economic refugees from developing countries, and the ranks are growing.

· A different development aid policy.

More aid...

Developed countries will have to provide a greater portion of their GNP towards development aid. Few countries have reached the proposed target of 0.7% of their GNP. In recent years, development assistance provided by industrial country donors has represented only about 5% of their military expenditures. Industrial countries contribute an average of 0.32% of their GNP to development aid and the US 0.15%. The prime importance of such aid cannot be over-emphasized.[55] In 1988, official development aid represented half the receipt of external capital by developing countries. For countries such as Mozambique, Gambia or Guinea Bissau, it represented over 50% of their GNP. However, this has prompted concern about the creation of an "aid dependency syndrome", whereby aid becomes necessary just to maintain existing subsistence levels. It appears to have done much less to reduce poverty than it should and could have done. Yet, aid remains a crucial tool for development, especially when directed at key sectors such as health and education. Unfortunately, positive examples are countered by instances where aid actually stifled development and self-reliance.

Conditional aid...

It is in the interest of the industrialized countries to increase their level of Overseas Development Assistance. With the experience resulting from past failures, this aid must be provided selectively and conditionally. "Conditional aid" has acquired a negative connotation: it has, to date, been translated as aid provided by donors under certain prerequisites, which, more often than not, have benefited the donor, rather than the recipient. The beneficiaries are clearly reluctant to accept constraints tied to the provision of bilateral or multilateral aid, seen as an intrusion in their national sovereignty, an imposition from the stronger on the weaker. On the other hand, unconditional

aid, has often resulted in the construction of "cathedrals in the desert"; in a boost of armaments; increased corruption; violations of human rights; and consolidated dictatorships. A global CPA would necessitate a different kind of conditional aid: not to the immediate benefit of the donor government, but include a set of prerequisites aimed at truly reducing poverty in the recipient countries. Aid would be "imposed" to develop certain sectors of the economy, (the informal sector, for instance); to discourage corruption and a run for armaments; to ensure food security; and encourage the respect of basic human rights and ecology. The United Nations can be requested to support or sanction aid to governments of developing countries, in accordance with their respect of certain international norms, inter alia in the field of human rights, and following some standards of development. Conversely, it would also have the power to put on notice donors that would provide aid for purposes contrary to established parameters and objectives. The Human Development Index and related Human Freedom Index have already been the subject of strong criticism on the part of some recipients of aid, arguing that the indexes reflect Western standards of ethics. Such an argument cannot justify condoning serious and repeated violations of fundamental Human Rights. The two UN indexes, which will be progressively fine tuned and improved, should serve as the key parameters.

· *Liberalization of trade.*

In industrialized countries, borders appears to be closing down, not only for people, but also for goods originating in developing countries. A greater trade flow from South to North translates into greater employment in the former, thereby reducing migratory pressures. GATTs efforts are concentrated towards this objective, and the latest round of discussions is of critical importance for the achievement of this objective. However, for governments of the industrialized countries, the temptation of protectionism is high, especially in periods of economic recession. It may bring short-term relief to their voters, but at the cost of much more serious and extensive problems in the not too distant future.

The CPA: Political Measures.

· *An enhanced role for the United Nations.*

Recent initiatives, aimed at reducing the sovereign right of States, in favor of the victims, coincide with a return in strength of the ideals and role of the United Nations Organization and its Secretary General. The United Nations in its peace-keeping or

peace-restoring role has successfully undertaken to assist in the following instances: organization of national elections in Namibia and in Haiti; respect of Human Rights in El Salvador; protection and assistance of minorities in Iraq. In Central America, this role is the fruit of negotiations and subsequent agreement with the government directly concerned. UN Security Council Resolution 693(1991), of 20 May 1991, decided to create a United Nations Observer Mission in El Salvador, (ONUSAL) to monitor all agreements concluded between the Government and the armed opposition, Frente Farabundo Martí para la Liberación Nacional (FMLN), not the least being those concerning the respect of Human Rights in the country. It is an "active monitoring" role, which provides for a "droit de regard" of the United Nations in the Salvadorean judicial sector, in relation to Human Rights violations.

The recent establishment of a safe-haven zone in Iraq is part of a more assertive role expected from the UN in humanitarian emergencies. In this case, it is not the result of a process of negotiation with the State concerned, but of military pressure. It is a rare case where such a measure has been enforced through military means for humanitarian and peace-keeping purposes. The Security Council Resolution, while restating: ..."the commitment of all Member States to the sovereignty, territorial integrity and political independence of Iraq", goes on "...insisting that Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and to make available all necessary facilities for their operations...and demands that Iraq cooperate with the Secretary General to these ends..."[56]

In the forthcoming referendum in Western Sahara, the UN is expected to play an even greater role, in what could be the birth of a new country:

> "...The Special Representative of the Secretary General will be responsible for maintaining law and order in Western Sahara during the transitional period...He will accordingly monitor closely the manner in which the authorities involved carry out their day-to-day responsibility for other aspects of the administration of the Territory during the transitional period..."[57]

To what extent States will be willing to see their sovereign rights reduced remains to be seen.

If the UN is expected to be a key actor in the efforts to maintain peace and respect of human rights, it must play a critical role in the efforts to prevent or reduce the problems created by large-scale movements of population which can turn into "migratory disasters". It would encompass early warning, quick emergency reaction and a dynamic search, through a CPA mechanism, for long term, multi-lateral solutions. These additional tasks make it all the more urgent to adopt a new approach.

· *"Early Warning" system.*

The need for a system enabling governments and the UN to become aware of a potential outflow of population has already been the subject of a number of studies and reports. The UN is in a unique position: it has offices in all the countries of the world and has personnel qualified in all the areas of relevance. Indeed, the amount and quality of existing relevant information is impressive. Within the UN system, a number of agencies have developed their own mechanisms. Efforts are focussed towards a proper integration and a fruitful use of the available information. Some agencies have, within their areas of competence, created entire data systems; others participate in a more indirect manner. The following is a succinct summary of existing resources, within the UN system:

- The UN University has designed a system, the Global Early Warning System for Displaced persons, (GEWS), trying to integrate global modelling, through the use of computers:

It has 4 categories of indicators:
        - destruction of the environment,
        - failures in development,
        - absence of peace and security,
        - violations of human rights,

The system is capable of "forecasting" which could prove useful in contingency planning. It is presently being developed, to cover some 150 countries. The GEWS could, in the future, provide an early indication of those areas or countries where one or a combination of several of the above factors would show an increased likelihood of mass movements of population.

Amongst the several systems existing within the UN agencies, it is worthwhile to mention a few, if only to stress the wealth of information available and the need for greater coordination.[58]

- UNEP has a program, called EARTHWATCH, which is expected to provide an environmental assessment and early warning of environmental hazards. As part of this program, UNEP has established the "Global Environment Monitoring System", (GEMS), which provides a data bank on a number of inter related environmental issues. These instruments, which were created following the 1972 UN Conference on Human Settlements, could play a relevant role within the framework of the initiatives to be taken during the 1990s which have been declared the "International Decade for Natural Disasters Reduction".

- FAO participates within the framework of the "Global Information and Early Warning System", (GIEWS), by integrating information received from governments, field offices and WFP, NGOs and donor agencies, on impending food shortages and possible emergency food needs. It includes a crop assessment and analysis of a wide range of socio-economic indicators, including population movements. In addition, remote sensing is also being integrated.

- WMO supports a program, named World Weather Watch (WWW), which provides, distributes and processes data related to meteorological elements. Analyses and forecasts are done in real time and can assist in the monitoring and early warning of weather phenomena that could give rise to emergencies.

- In 1987, as part of the efforts undertaken to streamline the UN system, the Office for Research and the Collection of Information (ORCI) was established. Its mandate is to centralize publicly available data and identify threats to peace at an early stage. It could function as a catalyst to advance the early warning capacity of the United Nations system.

EARLY WARNING SYSTEMS WITHIN THE UNITED NATIONS SYSTEM.

AGENCY	SYSTEM	PURPOSE
UNU	GEWS	Global model for Early Warning
FAO	GIEWS	Food Shortages - Possible food needs
UNEP	EARTHWATCH	Environmental assessment
UNEP	GEMS	Databank on Environment
WMO	WWW	Weather Analysis - Forecast in real time
ORCI		Centralize data - Provide Analysis - Identify threats to peace

N.B.: Explanation of the abbreviations:

FAO:	Food and Agriculture Organization
GEMS:	Global Environment Monitoring System
GIEWS:	Global Information and Warning System
GEWS:	Global Environment Warning System
ORCI:	Office of Research and Collection of Information
UNEP:	United Nations Environment Program
UNU:	United Nations University
WMO:	World Meteorological Organization
WWW:	World Weather Watch

. Establish "Country-risk assessments" for migratory movements.

The wealth of information available within the UN system and the establishment of a mechanism to use it are the key elements of an early warning system. It is now necessary to develop an integrated model to ensure the timely use of the information by ORCI, in its capacity as a coordinating and monitoring central office. Internal rivalries between agencies and the political sensitivity of some of the information may explain why these efforts are still at a conceptual stage. A private sector approach to the issue under study could greatly improve the early warning capacity. Banking and financial institutions routinely perform "risk assessment" analysis, for individual clients, national or multinational enterprises or countries. Similarly, on the basis of available data within the UN system, ORCI should aim to provide a *"country risk assessment"* map, related to mass movements of population. This assessment, regularly updated, would include factual data, as well as political and social analysis.

The model should include most of the elements identified above as possible triggers of large scale population movements (see p.63). On the horizontal axis, quantifiable factors, such as demographic growth, the level of education and health services available, environmental factors would provide an indication of the impact of such elements in the triggering mass movements of population. The vertical axis would attempt to quantify a certain number of subjective factors, such as the extent to which individual human rights were constrained by elements such as religion, ideology or nationalism.

Countries with tolerant and liberal governments, but at the lower end of development may originate a large number of migrants seeking better economic conditions. On the contrary, a country with a high level of services provided to its population, together with a limited role played by factors such as ideology or nationalism may not provoke large population outflows. An intermediate situation would be the one of countries providing a relatively high level of services to their population, but at the same time where ideology or religion play a relevant role. Such countries may originate a large number of refugees. The UNDP Human Development Indicator, and the Human Rights Index would be important instruments to quantify the impact of factors such as religion or ideology, and the quality of the governments in economic, social and human rights terms. Environmental and natural factors, such as drought cycles and proneness to floods, typhoons, or earthquakes would also be integrated.

The pre-positioning of relief supplies in selected strategic areas and the training of local personnel in relief management systems would be linked to indications provided by the model of high risk areas. Development assistance targeted at those high risk areas would also contribute to a reduction of the risks.

A "Country Risk Assessment " Map.

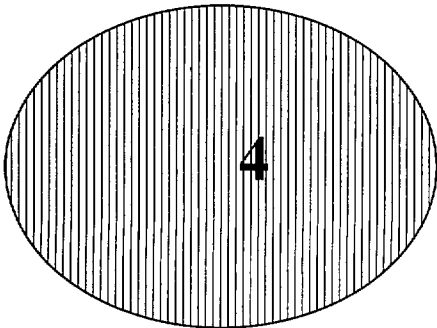**STRONG INFLUENCE OF: RELIGION, IDEOLOGY, NATIONALISM**

1
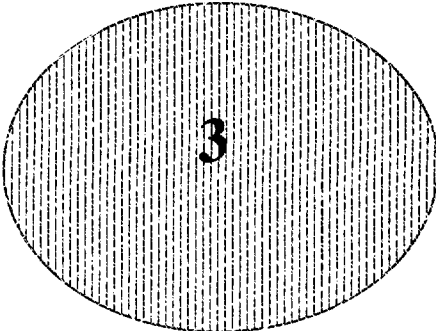
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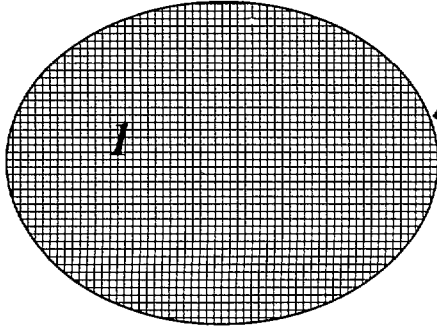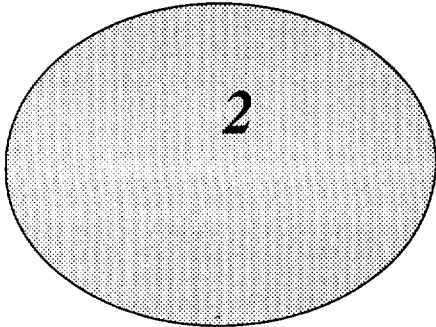
Negative factors: high demography

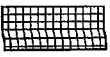**—** and unemployment;

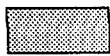destruction of environment; low HDI rating

+

Positive Elements:demography, environ-
ment, employment. High rating with the
Human Development Index. (HDI)

4

3

—

WEAK INFLUENCE OF: RELIGION, IDEOLOGY, NATIONALISM

1 Countries located in this area are prone to large scale movements of population, composed of refugees as well as migrants.

2 Countries located in this area could originate large scale movements, mostly refugees.

3 Countries located in this area are NOT prone to large scale movements of population.

4 Countries located in this area are likely to originate large scale movements of economic migrants

3. For a Lao CPA.

Turning to the Lao refugees, one could argue that the issue has been overshadowed by the international attention given to the Cambodians and Vietnamese ones. This may have been a blessing in disguise, as less interference from extra regional actors may actually give more chance of success to the search for durable solutions.

For 16 years, third country resettlement has been the only viable durable solution for the Lao refugees. Since 1975 till mid-1991, nearly one hundred and eighty thousand Lao have been resettled while only seven thousand have voluntarily repatriated.[31] Third country resettlement has cost hundreds of millions and one is left to wonder whether the placement of Lao in Argentina, Africa or China, in an effort to internationalize the problem, has indeed been beneficial to the refugees or has contributed in any way to solving the overall problem.

Created as part of the CPA, a trilateral mechanism, sponsored and organized by UNHCR, has involved, at regular intervals, meetings of Thai and Lao officials, focussed on means to accelerate voluntary repatriation of Lao refugees. Some of them, essentially hill tribes, have spent over 16 years of their life in camps. Most of the teenagers were born and raised in the camps. The piecemeal efforts of the past, directed at finding durable solutions, have reached their limits. The present situation shows that there were still over 60,000 Lao in camps at the end of 1991. According to a recent survey,[32] it can be estimated that up to 40,000 of them may opt to, or have no other alternative than return home. At the present agreed ceiling of return of 300 or even 500 per month, at least seven years would be needed to conclude the repatriation, supposing that there are no new arrivals or that the natality rate, one of the worlds highest, decreases. This is clearly not acceptable, in human terms for the tens of thousands still in camps, nor for the country of asylum. The need for a Lao CPA has become undisputed.

It will entail taking new elements specific to the Lao situation into account: the most obvious ones are linked to the characteristics of the hill tribes' culture and their recent tumultuous history. In addition to the typical problems related to returning refugees having spent years in camps and the possible "dependency syndrome", the necessity for environmentally sound projects enabling the previously nomadic, "slash and burn" hill tribe returnees to sedentariness is imperative. The limits of traditional voluntary repatriation efforts, aiming at individuals or families, have been reached. Attempts are being made to encourage repatriation of groups composed by clusters of people having, in the course of their camp life developed affinities similar to extended family links. The return of large numbers, (500 to 1000)

at the same time will require UNHCR and the NGOs concerned to look at the problem in a much more coordinated way. Laos' absorption capacity cannot be increased simply by building more reception centers, with NGOs continuing to provide basic and supplementary relief and limited vocational skills training. Small, self-contained and economically profitable projects must be designed and implemented. Their success will in turn encourage more volunteers to apply for repatriation.

In order to do so, a number of steps need to be followed, which would include the convening of a meeting, along the lines of the one that took place in Thailand in 1988 under the Ford Foundation auspices, gathering key operating officials from Laos, Thailand, a number of donor or otherwise concerned countries, (USA, Japan, Canada, Australia, France, a Scandinavian one), IGOs (EEC, ADB, IOM), IOs (UNDP, UNICEF, UNHCR) and some selected NGOs. The objective of the meeting would be to prepare a draft, along the lines of the existing CPA, based on a 3 to 5 years time frame and including agreed upon objectives and the respective roles expected from the participants.

On the basis of the survey undertaken in 1990-91 in the Hmong camps[33], some 40,000 have expressed an interest in returning. This would imply an average of 10,000 returns per year for the next four years. In view of the scope of the operation and the lack of infrastructure and financial support in Laos, a major cooperative effort is required, from all the organizations involved (international, inter-governmental and non-governmental), to prepare the ground and provide employment. It will also require the establishment of a coordinating mechanism, within Laos, to facilitate what will be a major and complex operation. This Plan must integrate political and economic measures, enabling the Lao ethnic groups presently in refugee camps to return home in safety and dignity. The use of refugees by different entities for military or political actions against the established government in Vientiane must cease. Activities in the camps must be geared to prepare for the return and be integrated with projects in Laos in the targeted areas of return. Education and vocational training would be the mainstay of such programs. In equal measure, the plan must facilitate the integration between relief assistance at an early stage of the return, provided by UNHCR and NGOs, and longer term development assistance, provided by UNDP, EEC, the World Bank or ADB, bi-lateral and non-governmental aid. A mass information campaign, both in the camps and in Laos, should be aimed at encouraging early voluntary returns and re-integration. A mechanism to ensure the holding of regular meetings to assess and steer the implementation of the Lao CPA should be established.

The CPA: Psychological measures

The role and importance of subjective factors, in triggering or sustaining large scale movements of population, has not received the attention it deserves.

The relevance of the mass information campaign in the success of the Vietnamese CPA should encourage the formulation of a strategy which would include the extensive use of the mass media, to prevent or alleviate massive populations outflows. The media campaign would have a dual objective: provide, to the migrant or the prospective migrant, an accurate picture of the chances of being admitted in another country and of the problems of integration he or she would face, and encourage returns by publicizing those measures that could benefit those who return.

To the extent that psychological factors play a major role in the decision of individuals to move, a well planned and comprehensive information campaign can be the decisive factor in reversing the trend of mass movements.

Proposal of a CPA for Europe.

Europe is presently a flash point.[60] It is not far-fetched to imagine that large number of former USSR citizens, Eastern Europeans, or Africans will continue attempting to migrate, legally, or, if not possible, illegally, to Europe. The immediate reaction of the governments concerned is to strengthen measures aimed at restricting the admission of aliens in their territories. This same pattern is bound to repeat itself between poor and rich countries in other parts of the world. So far, the reaction from the wealthier countries appears to be an attempt to build walls at their borders. These walls are made of fear, xenophobia, racism and intolerance. A cooperative, multi-pronged approach should, at the earliest, gather all concerned countries, under the aegis of the UN, to agree on measures aimed at preventing or attenuating such massive movements, not by repression, but by immediately assisting prospective migrants to improve the quality of their life in their own countries. In the short term, this may appear to be costlier and less effective than amending laws and restricting admissions at the borders. Yet, the example of the failure of the United States in controlling the flow at its southern border shows that building walls does not stop people from climbing over them.

A Proposal.

The United Nations should take the initiative to organize a conference, on the model of the CPA, gathering around a table all the EEC countries, Central and Eastern Europe, the former USSR, countries from the periphery of Europe and major economic agencies, regional and international.

The first step should be the constitution of a small, informal working group, to meet in the fall of 1992, to proceed along the blueprint of the meetings that led to the formalization of the CPA for the Vietnamese Boat People.

The group's objective would be to summarize the concerns of receiving countries as well as countries of origin and establish a set of measures aimed at discouraging mass population movements. These measures would have to be a combination of restrictive elements, (e.g. accelerated refugee eligibility procedures and lower benefits to asylum seekers), and positive elements, both at the micro and macro levels (e.g. food relief, quick impact projects, etc...). These measures would require the agreement and support from countries of origin if they are to be successful.

A second stage, towards the beginning of 1993, would be the gathering of a preparatory conference, to consolidate the consensus on the proposed CPA for Europe. The last step would be the convening of an international conference to formalize the agreement. Amongst the multiple elements to be integrated, a mass information campaign and food relief would have to be initiated as soon as possible. On the economic front, efforts should be made to identify, in the countries of origin, priority areas to be developed so as to anchor their own population and to serve as poles of development for the rest of the country. The objective would be to scale down cross-border migration, leading to a localized migration within national borders, which could then be tackled by developing economic "poles of development".

7. Conclusion

It is paradoxical that, at a time when momentous changes are occurring, which could usher the world into a "New International Order", a looming crisis, caused by large-scale population movements, is being tackled by single countries in a haphazard manner and mostly by increasingly restrictive measures. Generations of historians defended the thesis that freedom could bloom only after a certain level of wealth had been reached by the population at large. Recent events have inverted the terms of this vision: freedom has preceded wealth. It has enabled millions to leave their places of origin, or to contemplate doing so, mainly for economic reasons. These movements should be the focus of coordinated efforts by wealthier nations under the aegis of the United Nations to provide poorer ones with the means to offer to their population ways to satisfy their basic needs and aspirations without having to be uprooted. This does not simply call for increased generosity, but, rather, for "enlightened self-interest". It is not a matter of charity towards human beings in need; rather, it is a shrewd evaluation of the costs to industrialized countries of large-scale uncontrolled migration. In the short term, this policy could help stem the displacement of large numbers. At the beginning of this century, Henry Ford discovered that by paying his factory workers higher wages, he enabled them to buy the cars he was producing, therefore boosting his market. This axiom is eminently applicable to the present situation. In the longer term, it is an investment that will yield many times its value.

There have been recently calls for a "new Marshall Plan" for Eastern Europe or for the USSR. Whether or not this is the solution, it certainly highlights the magnitude of the effort required which goes beyond the capacity of any single country. Unfortunately, the counterpoint to these proposals has been the adoption, by several countries, of measures aimed essentially at protecting their borders and their market by forceful means. In the short term, this may satisfy a segment of the voting population. However, these measures will not make a dent in the issues at stake. Worse still, they are eroding the very foundations of humanitarian and refugee law.

Faced with a seemingly intractable problem such as the Vietnamese Boat People, the CPA has provided an innovative approach that has at last brought a solution. In similar circumstances in the past, the application by the countries concerned of unilateral, restrictive measures, only added to the suffering. Similarly, in the case of mass migration, projections indicate that people, in the future, pushed by famine, unemployment and poverty, and pulled by the bright lights of the wealthier countries, will not be stopped by the measures so far applied to deter or restrain the flow. The problem will only grow in size and the toll in human suffering will increase.

It is in the present vacuum that the proposal for a Comprehensive Plan of Action, on a global scale, is being made. There appears to be no alternative model which could better address the problem of existing and potential mass movements of population.

In Southeast Asia, the success of the CPA cannot only be measured in the context of the Vietnamese Boat People issue. It has also markedly contributed to the restoration of a climate of cooperation and trust amongst erstwhile enemies, i.e. ASEAN and Vietnam. It is hoped that the CPA will also lead to the economic development of those areas of Indochina which have been the main source of large scale migrations.

The recent progress achieved by a number of countries on the road towards democracy and greater individual freedom will not, unfortunately, signal an end to refugee problems. The underlying principles that led to the drafting of the refugee Convention and Protocol and to the creation of UNHCR are still valid. But, drowning in a tidal wave of migrants and abusive refugee claims, the agencies created to protect and assist refugees are in the throes of a crisis that could lead to their stunted effectiveness, if not outright demise. For these emergency-oriented institutions, the challenge comes from within. It is necessary to proceed with urgency to an overhaul of the entire system. The role and place of humanitarian agencies in the contc porary world will require a thorough process of rethinking. While morals will have to guide the process, it will also require a sense of vision to provide the concerned nations and agencies with a blueprint for the future. In this complex puzzle, nations will have to shake off their fears and their indolence and reassess the notion of self interest. The United Nations may yet find its most important role to play. But the institutions are only as good as the people that compose them and the ideals that drive them. Our governments and the United Nations shall be judged by future generations on their sense of vision and leadership at the gates of a new millennium.

Annex 1: Final draft of 1989 CPA

DRAFT COMPREHENSIVE PLAN OF ACTION

1.   <u>Clandestine Departures</u>

Extreme human suffering and hardship, often resulting in loss of lives, has accompanied organized clandestine departures. It is therefore imperative that humane measures be implemented to deter such departures, which should include the following:

(a). Continuation of official measures directed against those organizing clandestine departures, including clear guidelines on these measures from the central government to the provincial and local authorities.

(b).   Mass media activities at both local and international level, focussing on:

- the dangers and hardship involved in clandestine departures

- the institution of a status determination mechanism under which those determined not to be refugees shall have no opportunity for resettlement

- absence of any advantage, real or perceived, particularly in relation to third country resettlement, of clandestine and unsafe departures

- encouragement of the use of the regular departure and other migration programmes

- discouraging of activities leading to clandestine departure

(c).   In the spirit of mutual cooperation, countries concerned shall consult regularly to ensure effective implementation and coordination of the above measures.

2.   Regular Departure Programmes

In order to offer a preferable alternative to clandestine departures, emigration from Vietnam through regular departure procedures and migration programmes such as the current Orderly Departure Programme (ODP) should be fully encouraged and promoted.

> Emigration through regular departure procedures and migration programmes should be accelerated and expanded with a view to making such programmes the primary and eventually the sole modes of departure.

In order to achieve this goal the following measures will be undertaken:

(a).   There will be a continuous and widely publicized media campaign to increase awareness of regular departure procedures and migration programmes for departure from Vietnam.

(b).   All persons eligible under regular third country migration programmes, Amerasians, and former re-education centre detainees will have full access to regular departure procedures and migration programmes. The problem of former re-education centre detainees will be further discussed separately by the concerned parties.

(c).   Exit permits and other resettlement requirements will be facilitated for all persons eligible under regular departure procedures and migration programmes.

(d).   Vietnam will fully cooperate with UNHCR and IOM in expediting and improving processing, including medical processing, for departures under regular departure procedures and migration programmes and will ensure that medical records of those departing comply with standards acceptable to receiving countries.

(e).   Vietnam, UNHCR, IOM and resettlement countries will cooperate to ensure that air transportation and logistics are sufficient to move expeditiously all those accepted under regular departure procedures and migration programmes.

(f).	If necessary, countries in Southeast Asia through which people emigrating under regular departure procedures and migration programmes must transit will, with external financial support as appropriate, expand transit facilities and expedite exit/entry procedures in order to help facilitate increased departures under such programmes.

3.	Reception of New Arrivals

All those seeking asylum will be given the opportunity to do so through the implementation of the following measures:

(a).	Temporary refuge will be given to all asylum-seekers who will be treated identically regardless of their mode of arrival until the status determination process is completed.

(b).	UNHCR will be given full and early access to new arrivals and will retain access, following the determination of their status;

(c).	New arrivals will be transferred, as soon as possible, to a temporary asylum centre where they would be provided assistance and full access to refugee status determination process.

4.	Refugee Status

The early establishment of a consistent region-wide refugee status determination process is required and will take place in accordance with national legislation and internationally accepted practice. It will make specific provision, inter alia, for the following:

(a). Within a prescribed period, the status of the asylum-seeker will be determined by a qualified and competent national authority or body, in accordance with established refugee criteria and procedures. UNHCR will participate in the process in an observer and advisory capacity. In the course of that period, UNHCR shall advise in writing each individual of the nature of the procedure, of the implications for rejected cases and of the right to appeal the first level termination.

(b).   The criteria will be those recognized in the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, bearing in mind to the extent appropriate the 1984 Universal Declaration of Human Rights and other relevant International instruments concerning refugees, and applied in a humanitarian spirit taking into account the special situation of the asylum-seekers concerned and the need to respect the family unit. A uniform questionnaire developed in consultation with UNHCR will be the basis for interviews and shall reflect the elements of such criteria.

(c).   The Handbook on Procedures and Criteria for Determining Refugee Status edited by UNHCR will serve as an authoritative and interpretative guide in developing and applying the criteria.

(d).   The procedures to be followed will be in accordance with those endorsed by UNHCR's Executive Committee in this area. Such procedures will include, inter alia:

- the provision of information to the asylum-seekers about the procedures, the criteria and the presentation of their cases;

- prompt advice of the decision in writing within a prescribed period;

- a right of appeal against negative decisions and proper appeals procedures for this purpose, based upon the existing laws and procedures of the individual place of asylum, with the asylum-seekers entitled to advice, if required, to be provided under UNHCR auspices;

UNHCR will institute, in co-operation with the Governments concerned, a comprehensive regional training programme for officials involved in the determination process with a view to assuming the proper and consistent functioning of the procedures and application of the criteria, taking full advantage of the experience gained in Hong Kong.

5.   Resettlement

Continued resettlement of Vietnamese refugees benefiting from temporary refuge in Southeast Asia is a vital component of this plan of action.

from the camps, "voluntarily." It serves the dubious purpose, however, of pretending that a parallel and efficient government has been controlling and administering part of the Cambodian territory.

Humanitarian agencies are faced with an impossible choice: the principles of humanity, neutrality and impartiality make it imperative that all civilian populations in distress receive assistance. In this instance, however, providing that assistance puts more lives in jeopardy. Humanitarian relief becomes a tool to accrue political power for one or the other political faction, to the detriment of the victims.[43]

Refugee self-management.

A number of traditional approaches to refugee problems have proved to have become ineffective or, at least not devoid of negative side-effects. The concept of refugee self-management is one.

Conventional wisdom requires that refugees should, as early and to the greatest extent possible, be directly involved in the management of their own lives. This participatory approach aims at ensuring the maximum cost-effectiveness of a relief program and safeguards the dignity of the beneficiaries[44]. Any observer on the Thai-Cambodian border can see how this concept, called here "Khmer self-management" has turned against those that were supposed to benefit from it, i.e., the camp population at large, and appears to have greatly benefited the few "managers".

It is true that many projects, from food distribution to self-sufficiency, have often failed for lack of refugee participation. Based on those experiences, implementing agencies, especially NGOs, have been advocating extensive participation of the beneficiaries in the design and management of the assistance to be provided. This approach has been followed from the very beginning in the Khmer border camps. Yet, the conclusion to draw from looking at those camps after over 10 years of existence is that this concept, however generous, may, if misused, actually worsen refugees' life. The problem was first reported in refugee camps in Pakistan where the distribution of relief has been done through the religious leaders[45]. In the Khmer border camps, the distribution of food and other relief items to an average of 300,000 persons amounts to 4.500 MT per month. UNBRO is not only responsible for the distribution; it must also monitor it. If done directly, these tasks would require hundreds of UN staff at prohibitive costs. The greater refugee participation in the process is also expected to bring considerable savings. To the dismay of the humanitarian agencies involved, some Khmer administrators responsible for the food distribution have often used food to consolidate their power over the population under their control. In the course of ten years, the amount of food diverted by these administrators to feed their soldiers or for their own benefit has been relevant.

> ". . .Rev. T. Donleavy: "Nous avons fait des réfugiés khmers un
> empire d'escrocs. L'aide humanitaire, si louable soit-elle, n'a réussi
> qu'à créer des camps de mendiants professionnels."[46]

The "refugee business".

The funds contributed by the international community to assist Indochinese refugees, since 1975, are considerable. If added to the actual costs incurred by governments for the local settlement of refugees, they reach several billion dollars. The main part of these funds has been entrusted to International Organizations (IOs), such as UNHCR or the International Organization for Migrations (IOM), or Non Governmental Organizations (NGOs), to implement the various programs. The management of these funds has required that these agencies field a large number of personnel. It has also brought them increased visibility and prestige.

Talking about the UNHCR, one of the previous High Commissioner said one day that it was the only organization he knew whose job was to get itself out of work. In reality, IOs and NGOs, as any other organized body, respond to the rules of nature that lead them to fight for their survival. The disappearance of the Indochinese refugee problem would be an extraordinary achievement. It would, however, also signal the disappearance or the retrenchment of many of the agencies providing some kind of assistance or services. There is a growing perception that, on the part of some, their support or lack thereof for innovative approaches, which may result in a real reduction of the problem, may be ultimately related to the fear for their own survival. These considerations may not be alien to the advocacy role of some agencies.

Since 1988, UNHCR has been preparing a contingency plan to assist in the repatriation of some 350,000 Cambodians in border camps. The intricacy of the political issues involved and the repeated upheavals of the peace process have made such a contingency planning a complex exercise. In turn, this has raised a number of issues which have remained unanswered:

- Voluntary repatriation is the only mode of return that UNHCR promotes and supports. In order to enable refugees to make this crucial decision, appropriate information on the situation and an environment free of pressures from any party must be available. To respond to this concern, the concept of a "neutral camp", away from the border camps, was launched in 1989 and found support in humanitarian quarters. It has, unfortunately, not been followed up, arguably because of the costs involved and the added logistical difficulties it would entail. Fears of a weakening of the non-communist factions are not alien to the lukewarm reaction of some governments to this proposal.

- UNHCR has also felt that it could only start the repatriation following the signing of a peace agreement and the go ahead from the UN Secretary General, after his assessment of the situation on the ground. Given these constraints, UNHCR reckons that it needs six to nine months of planning and preparations to be ready to start the operation. To any observer of the situation on the ground, it appears very clear that this

7. Laotian Asylum-Seekers

In dealing with Laotian asylum-seekers, future measures are to be worked out through intensified trilateral negotiation between UNHCR, Laos, and Thailand with active support and cooperation of all parties concerned. These measures should be aimed at:

> (a). maintaining safe arrival and access to the screening process; and

> (b). Accelerating and simplifying the process for both the return of the screened out and voluntary repatriation to Laos under safe, humane and UNHCR monitored conditions.

Together with other durable solutions, third country resettlement continues to play an important role with regard to the present camp populations of the Laotians.

8. Implementation and Review Procedures

Implementation of this plan of action is a dynamic process that will require continued coordination and possible adaptation to respond to changing situations. In order to ensure effective implementation of this plan, the following mechanisms shall be established:

> (a). UNHCR, with the financial support of the donor community, will be in charge of continuing liaison and coordination with concerned governments and intergovernmental as well as non-governmental organizations to implement this plan of action.

> (b). A Steering Committee will be established based in Southeast Asia consisting of representatives of all governments making specific commitments under this plan of action. This Steering Committee will meet periodically under the chairmanship of the UNHCR to discuss implementation of this plan of action. The Steering Committee may establish sub-committees as necessary to deal with specific aspects of the plan implementation, particularly with regard to status determination, return and resettlement.

(c). A regular review arrangement will be devised by UNHCR, preferably in conjunction with the annual Executive Committee session, to assess progress in implementation of this plan of action and consider additional measures to improve the plan's effectiveness in meeting its objectives.

Index of Abbreviations.

CPA : Comprehensive Plan of Action
FAO : UN Food and Agriculture Organization
GATT : General Agreement on Tariffs and Trade
GEMS : Global Environment Monitoring System
GEWS : Global Early Warning System
GIEWS : Global Information and Early Warning System
ICRC : International Committe of the Red Cross
ILO : International Labour Organization
IO : International Organizations.
IOM : Inter-governmental Organization for Migrations
MINURSO : UN Mission for the Referendum in Western Sahara
NGO : Non Governmental Organisation
OAU : Organisation of African Unity
ONUSAL : UN Observer Mission in El Salvador
ORCI : Office for Research and the Collection of Information
UN : United Nations
UNBRO : United Nations Border Relief Operation
UNDRO : United Nations Disaster Relief Organization
UNEP : UN Environment Program
UNHCR : United Nations High Commissioner for Refugees
UNU : United Nations University
UNTAC : United Nations Transitional Assistance to Cambodia
VNBPs : Vietnamese Boat People
WFP : World Food Program
WMO : World Meteorological Organization
WWW : World Weather Watch

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Notes.

[1] From: Principles Concerning the Treatment of Refugees, adopted by the Asian-African Legal Consultative Committee in Bangkok, (1966):
"Art. 3 (1): A State has the sovereign right to grant or refuse asylum in its territory to a refugee."

[2] Stoltenberg, T.: Speech given at the UN Conference of Least Developed Countries. 3-14.9.1990 - Paris

[3] Source: UNHCR. This figure does not include internally displaced persons, estimated by UNDP in its 1991 Report, to amount to some 14 million.

[4] see: Zolberg, Suhrke, Aguayo: "Escape from Violence" - Oxford University Press - 1989 - New York.

[5] Saddrudin Aga Khan, paragraph 87, Op. cit

[6] The "Schengen Agreements", signed on 19 June 1991 by six European countries are a source of concern to humanitarian agencies, who fear that it may actually threaten asylum to refugees. Recent declarations in France, Germany and Italy, appear to bear these concerns.

[7] International Herald Tribune, 12/4/1991

[8] UNGA Resolution 428(V) of 14 December 1950

[9] Rufin,J.C.: . . ."L'action humanitaire n'est pas hors de la politique, elle la prolonge. . . L'aide humanitaire est la continuation de la politique par d'autres moyens que la guerre..."
"Le Piège - Quand l'humanitaire remplace la guerre" J.C. Lattes - 1986 - Paris.

[10] Vernant,J.:" The Refugees in Post-World War." - Allen University - 1953 - London

[11] See: International Herald Tribune,23 April 1991.
"Refugee Crisis: Disorder on an unprecedented scale". by Clyde Haberman

[12] The Horn of Africa is an often quoted example. In recent years, thousands have died of starvation in Somalia, Sudan and Ethiopia, when the central government, fighting a secessionist movement, did not let food and relief reach the population outside its control.

[13] see Bettati,M.et AL.: "Le Devoir d'Ingérence." Denoel. - 1987 Paris

[14] UN Resolutions adopted on the reports of the Third Committee. 43/131, dated 8 December 1988 and 45/100, dated 14 December 1990, titled: "Humanitarian Assistance to victims of natural disasters and similar emergency."

[15] see UNDP 1991 Report, p.50 op.cit.

[16] see Mus,P.: Vietnam, Sociologie d'une guerre.- Editions du Seuil. 1953 Paris.

[17] Hazan,P. :Art. Cit.:
... "Les organisations humanitaires prétendent naviguer loin des récifs de la politique. Mais soumises aux pressions des Etats,ne sont elles pas amenées,parfois,à trahir leurs généreux idéaux? Dans des conditions de politisation extrême, une étique humanitaire est-elle seulement possible? L'exemple de la frontière thaï-cambodgienne, oú, depuis dix ans,les "secours humànitaires "sont intégrés à l'effort de guerre de la résistance khmère,incite au scepticisme..."

[18] see Wain,B.: Op. cit.

[19] see: Pack,M.: op.cit.

[20] see: Chanda,N and Wain,B.:Op. cit.

[21] Chanda,N: Op.cit.: "...Since we refused to go to the countryside to produce as farmers, "a Cholon businessman explained, "and since sooner or later we would have fled anyway, the government decided it might as well collect our gold and let us go." In the summer of 1978 the Vietnamese Public Security Bureau set up offices in coastal towns in the South to build boats and dispatch the Chinese (or Vietnamese posing as Chinese) after collecting a hefty fee in gold and dollars. The operation, dubbed by Western diplomats in Hanoi as "Rust Bucket Tours Inc.," might have been responsible for generating in two years close to a quarter million boat people, thirty to forty thousand of whom perished at sea . . ."

[22] see also: Wain,B.: Op. cit. and Widgren,J.: "Mais oú sont passés les Boat People?" Article published in the supplement of Libération, 22.6.1991

[23] The example of the Afghan refugee crisis in Pakistan from 1979 onwards, is representative.
". . . The Afghan conflict brought benefits to the Pakistani Government that helped compensate for the risks and additional costs of hosting a refugee population of nearly three million people. It meant external recognition and material support for a country that some observers believed was in the verge of disintegration in the early 1980s. The military government's international image, tarnished by the 1979 execution of the

former prime minister and poor human rights record, improved, as Pakistan emerged as the front-line state against Soviet expansion in Afghanistan and a generous home for millions of refugees. . ."
from: Zolberg, Suhrke, Aguayo, op. cit.

[24] "...The most expensive medicine in Vietnam last August were pills for sea-sickness..." Garcia Marquez, G. in: "The Vietnam Wars", article, Rolling Stone, 29 May 1980

[25] As a result by protests from the UNHCR Representative in Thailand, at the beginning of 1988, UNHCR officials were prohibited access to the coast where boat people were landing. The authorities justified this decision by stating that UNHCRs presence was acting as a "magnet". Written expressions of concern from The High Commissioner went unanswered.

[26] "First Asylum for the Vietnamese Boat People: a Regional Response to Policy Development and Coordination of Services."
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[27] The "Dialogue Partners" of ASEAN include the following: USA, Australia, New Zealand, Canada, Japan, and the EEC. In the course of these regular meetings, ASEAN as a block meet successively with each of their "partners."

[28] See Annex 1:Summary of discussions of the Seminar on first Asylum for Vietnamese Boat People, sponsored by the Ford Foundation.
Cha Am 1988. Op. Cit.

[29] See Annex 1: Final Draft of the CPA.

[30] See article: "KL to continue denying Vietnam refugees entry" Bangkok Post - 19.8.1991

[31] Source: UNHCR - Indochinese and asylum seekers in Thailand, as of 28 February 1991.

[32] See Conroy,T.: Highland Lao Refugees. Repatriation and resettlement preferences in Ban Vinai camp, Thailand. The Ford Foundation. October 1990.

[33] See Conroy, T. op.cit.

[34] Source: UNBRO

[35] Mysliwiec,E.: Punishing the Poor. The International isolation of Kampuchea. Oxfam - 1988 Oxford.

[36] See also Rufin,J.C. Op. cit.

[37] Shawcross,W.: The Quality of Mercy
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[38] See also Luciolli, E.:" Background of the relief assistance to Phnom Penh since 1979 ", in the papers of the International Conference on Vietnam today: assessing the new trends. organized by the Institute of Asian Studies - Chulalongkorn University - Thailand, which took place in Bangkok from 1-3 September 1988

[39] This and the following results from interviews with various officials, involved at the time in the operation.
See also: Shawcross,W: "Thais are reluctant hosts to 300.000 Cambodians." The Washington Post, 19.3.1980, and the author's subsequent book: "The quality of Mercy", op.cit.

[40] Chanda,N.: Brother Enemy; The war after the war.
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[42] Dr. Miles, S., as quoted by MAT, B.: in "The weight of this sad decade" - in : "Back to a future?" CCSDPT - Bangkok 1990

[43] In the course of 1990, UNBRO and the NGOs involved in the border relief operation announced to the faction leaders that the decision had been taken NOT to provide assistance in the "newly liberated areas."

[44] See: UNHCR Handbook For Emergencies, Chapter 12; Field level management

[45] Guest, I.: The UNHCR at 40; Refugee Protection at the Crossroads. Lawyers Committee for Human Rights. 1991 - New York.
"... The UNHCR was forced to distribute its food through rebels, creating a whole category of unscrupulous middle-men (known as "food maliks"). The UNHCR had no accurate way of counting heads or ensuring that food went to the neediest. Afghan rebels used the camps as bases between raids into Afghanistan. Forcible recruitment was widespread. Even relief officials were harassed by fundamentalists among the refugees. . ."

[46] Koechlin, J.: "Réfugiés:M. Hocké plaide pour la durée."
Article - Journal de Genève. 31.5.1990

[47] See article: "The road back" by R. Tasker, in The Far Eastern Economic Review, 26 September 1991

[48] See: Lintner, B.: "Outrage" - White Lotus - Bangkok 1990

[49] Stoltenberg,T.: Op. cit.

[50] UNDP 1990 Report Op. cit..

[51] UNDP 1991 Report op.cit.

[52] UNDP: Human Development Report 1990.New York, 1990 Oxford University Press UNDP: Human Development Report 1991. New York, 1991 Oxford University Press

[53] See Korten, D. op.cit.

[54] UNDP 1991 Report. Op. cit.

[55] The World Bank 1990 Report. Op.cit.

[56] UN Security Council Resolution 688(1991), of 5 April 1991.

[57] UN Security Council Resolution 690 (1991), of 29 April 1991 and the Secretary General Report to the Security Council, S/21369, dated 18 June 1990.

[58] See: Cuénod,J. : Report on Refugees, Displaced Persons, and Returnees. Unpublished report, Geneva - 1991.

[59] Urquhart, B. and Childers,E.: A World in need of leadership: Tomorrow's United Nations. - Dag Hammarskjold Foundation - 1990 Sweden.
see also Cuénod,J. op. cit.

[60] In 1990, 1.3 million Eastern Europeans left their countries.

[13] see Bettati,M.et AL.: "Le Devoir d'Ingérence." Denoel. - 1987 Paris

[14] UN Resolutions adopted on the reports of the Third Committee. 43/131, dated 8 December 1988 and 45/100, dated 14 December 1990, titled: "Humanitarian Assistance to victims of natural disasters and similar emergency."

[15] see UNDP 1991 Report, p.50 op.cit.

[16] see Mus,P.: Vietnam, Sociologie d'une guerre.- Editions du Seuil. 1953 Paris.

[17] Hazan,P. :Art. Cit.:
... "Les organisations humanitaires prétendent naviguer loin des récifs de la politique. Mais soumises aux pressions des Etats,ne sont elles pas amenées,parfois,à trahir leurs généreux idéaux? Dans des conditions de politisation extrême, une étique humanitaire est-elle seulement possible? L'exemple de la frontière thaï-cambodgienne, oú, depuis dix ans,les "secours humànitaires "sont intégrés à l'effort de guerre de la résistance khmère,incite au scepticisme..."

[18] see Wain,B.: Op. cit.

[19] see: Pack,M.: op.cit.

[20] see: Chanda,N and Wain,B.:Op. cit.

[21] Chanda,N: Op.cit.: "...Since we refused to go to the countryside to produce as farmers, "a Cholon businessman explained, "and since sooner or later we would have fled anyway, the government decided it might as well collect our gold and let us go." In the summer of 1978 the Vietnamese Public Security Bureau set up offices in coastal towns in the South to build boats and dispatch the Chinese (or Vietnamese posing as Chinese) after collecting a hefty fee in gold and dollars. The operation, dubbed by Western diplomats in Hanoi as "Rust Bucket Tours Inc.," might have been responsible for generating in two years close to a quarter million boat people, thirty to forty thousand of whom perished at sea . . ."

[22] see also: Wain,B.: Op. cit. and Widgren,J.: "Mais oú sont passés les Boat People?" Article published in the supplement of Libération, 22.6.1991

[23] The example of the Afghan refugee crisis in Pakistan from 1979 onwards, is representative.
". . . The Afghan conflict brought benefits to the Pakistani Government that helped compensate for the risks and additional costs of hosting a refugee population of nearly three million people. It meant external recognition and material support for a country that some observers believed was in the verge of disintegration in the early 1980s. The military government's international image, tarnished by the 1979 execution of the

former prime minister and poor human rights record, improved, as Pakistan emerged as the front-line state against Soviet expansion in Afghanistan and a generous home for millions of refugees. . ."
from: Zolberg, Suhrke, Aguayo, op. cit.

[24] "...The most expensive medicine in Vietnam last August were pills for sea-sickness..." Garcia Marquez, G. in: "The Vietnam Wars", article, Rolling Stone, 29 May 1980

[25] As a result by protests from the UNHCR Representative in Thailand, at the beginning of 1988, UNHCR officials were prohibited access to the coast where boat people were landing. The authorities justified this decision by stating that UNHCRs presence was acting as a "magnet". Written expressions of concern from The High Commissioner went unanswered.

[26] "First Asylum for the Vietnamese Boat People: a Regional Response to Policy Development and Coordination of Services."
Cha-Am, Thailand. 25-28 May 1988
see also: Pack,M.: The Human dimension of long term Encampment: Vietnamese Boat Refugees in First Asylum Camps. Op. cit.

[27] The "Dialogue Partners" of ASEAN include the following: USA, Australia, New Zealand, Canada, Japan, and the EEC. In the course of these regular meetings, ASEAN as a block meet successively with each of their "partners."

[28] See Annex 1:Summary of discussions of the Seminar on first Asylum for Vietnamese Boat People, sponsored by the Ford Foundation.
Cha Am 1988. Op. Cit.

[29] See Annex 1: Final Draft of the CPA.

[30] See article: "KL to continue denying Vietnam refugees entry" Bangkok Post - 19.8.1991

[31] Source: UNHCR - Indochinese and asylum seekers in Thailand, as of 28 February 1991.

[32] See Conroy,T.: Highland Lao Refugees. Repatriation and resettlement preferences in Ban Vinai camp, Thailand. The Ford Foundation. October 1990.

[33] See Conroy, T. op.cit.

[34] Source: UNBRO

[35] Mysliwiec,E.: Punishing the Poor. The International isolation of Kampuchea. Oxfam - 1988 Oxford.

[36] See also Rufin,J.C. Op. cit.

[37] Shawcross,W.: The Quality of Mercy
Simon and Schuster. 1984 New York.

[38] See also Luciolli, E.:" Background of the relief assistance to Phnom Penh since 1979 ", in the papers of the International Conference on Vietnam today: assessing the new trends. organized by the Institute of Asian Studies - Chulalongkorn University - Thailand, which took place in Bangkok from 1-3 September 1988

[39] This and the following results from interviews with various officials, involved at the time in the operation.
See also: Shawcross,W: "Thais are reluctant hosts to 300.000 Cambodians." The Washington Post, 19.3.1980, and the author's subsequent book: "The quality of Mercy", op.cit.

[40] Chanda,N.: Brother Enemy; The war after the war.
McMillan 1986 New York

[41] In 1977, the Thai Foreign Ministry issued a White Book, detailing Khmer Rouge atrocities against Thai border villages.

[42] Dr. Miles, S., as quoted by MAT, B.: in "The weight of this sad decade" - in : "Back to a future?" CCSDPT - Bangkok 1990

[43] In the course of 1990, UNBRO and the NGOs involved in the border relief operation announced to the faction leaders that the decision had been taken NOT to provide assistance in the "newly liberated areas."

[44] See: UNHCR Handbook For Emergencies, Chapter 12; Field level management

[45] Guest, I.: The UNHCR at 40; Refugee Protection at the Crossroads. Lawyers Committee for Human Rights. 1991 - New York.
". . . The UNHCR was forced to distribute its food through rebels, creating a whole category of unscrupulous middle-men (known as "food maliks"). The UNHCR had no accurate way of counting heads or ensuring that food went to the neediest. Afghan rebels used the camps as bases between raids into Afghanistan. Forcible recruitment was widespread. Even relief officials were harassed by fundamentalists among the refugees. . ."

[46] Koechlin, J.: "Réfugiés:M. Hocké plaide pour la durée."
Article - Journal de Genève. 31.5.1990

[47] See article: "The road back" by R. Tasker, in The Far Eastern Economic Review, 26 September 1991

[48] See: Lintner, B.: "Outrage" - White Lotus - Bangkok 1990

[49] Stoltenberg,T.: Op. cit.

[50] UNDP 1990 Report Op. cit..

[51] UNDP 1991 Report op.cit.

[52] UNDP: Human Development Report 1990.New York, 1990 Oxford University Press UNDP: Human Development Report 1991. New York, 1991 Oxford University Press

[53] See Korten, D. op.cit.

[54] UNDP 1991 Report. Op. cit.

[55] The World Bank 1990 Report. Op.cit.

[56] UN Security Council Resolution 688(1991), of 5 April 1991.

[57] UN Security Council Resolution 690 (1991), of 29 April 1991 and the Secretary General Report to the Security Council, S/21369, dated 18 June 1990.

[58] See: Cuénod,J. : Report on Refugees, Displaced Persons, and Returnees. Unpublished report, Geneva - 1991.

[59] Urquhart, B. and Childers,E.: A World in need of leadership: Tomorrow's United Nations. - Dag Hammarskjold Foundation - 1990 Sweden.
see also Cuénod,J. op. cit.

[60] In 1990, 1.3 million Eastern Europeans left their countries.