



MORAL HOSTAGES

REFUGEE CO-OPERATION AND BURDEN- SHARING DURING THE INDOCHINESE REFUGEE CRISIS (1975-1996)

**THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF DPhil IN INTERNATIONAL RELATIONS IN THE
DEPARTMENT OF POLITICS AND INTERNATIONAL RELATIONS AT THE
UNIVERSITY OF OXFORD**

APRIL 2015

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WORD COUNT: 98, 732

ABSTRACT

Why were Southeast Asian states so successful in outsourcing the costs of refugee protection during the Indochinese refugee crisis (1975-1996)? By refusing to grant asylum unless other states guaranteed to resettle refugees, this dissertation argues that real and threatened mistreatment of refugees by the states of first asylum was decisive in explaining why other states agreed to resettle them.

Mistreatment of Indochinese refugees not only activated strategic concerns for the political stability of first asylum countries themselves but also affective concerns for refugee welfare. Concern about what would happen to refugees if they weren't resettled helped sustain resettlement long after doubts arose as to whether those fleeing were truly refugees. And in the final resolution of the crisis, a concern for refugee welfare made the return of non-refugees extremely controversial. By looking at the private and public framing of the Indochinese refugees as a collective action problem for governments to solve, it demonstrates the salience of mistreatment in explaining burden-sharing.

The study principally focuses on the actions of two major resettlement countries: the United States (the biggest in absolute terms) and Australia (the biggest in relative terms). Utilising extensive archival research, contemporary accounts and interviews with key policymakers of the period, it explores several distinct and important episodes over the duration of the outflow that reveal what motivated international assistance. This is descriptively important in adding to our knowledge of how refugees are treated as a question of international politics. The textual account of governmental motivation that is offered can also help test existing theoretical accounts of why governments cooperate to help refugees. Crucially, it shows that a humanitarian concern for refugee welfare both enabled and constrained co-operation.

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LIST OF ABBREVIATIONS

ASEAN	Association of Southeast Asian Nations
ADST	Association for Diplomatic Studies and Training
CAB	Cabinet Office (UK) Papers
CPA	Comprehensive Plan of Action
CCSDPT	Committee for Coordination of Services to Displaced Persons in Thailand
DDRS	Declassified Documents Reference System
DNSA	Digital National Security Archive
FCO	Foreign and Commonwealth Office Papers
FUS	Foreign Relations of the United States Papers
GBL	George H.W. Bush Library Papers
GFL	Gerald Ford Library Papers
ICIR	International Conference on Indochinese Refugees (June 1989)
ICRC	International Committee of the Red Cross
IGC	Intergovernmental Consultations Group
JCL	Jimmy Carter Library Papers
NAA	National Archives of Australia
PREM	Prime Minister's Office (UK) Papers
PLUSD	Public Library of U.S. Diplomacy Database
SRV	Socialist Republic of Vietnam
TNA	The National Archives (UK)
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
VVA	Vietnam Virtual Archive
WFP	Walter F. Mondale Papers
WCP	Wilson Center Papers

A NOTE ON CITATION

- ‘UNHCR:11:3.100.THA.SRV’ indicates ‘UNHCR Archives, Fonds 11, Series 3, *Refugees from Vietnam in Thailand*’ (UNHCR suffixes correspond to particular file titles)
- ‘NAA:A13075, 102’ indicates ‘National Archives of Australia, Series: A13075, File No. 102’. Most files do not have file numbers, however.
- ‘TNA FCO 58/2175 35’ indicates ‘The National Archives (UK), Foreign and Commonwealth Office, Series No. 58, Piece Number 2175, File No. 35’. Note, as with the Australian archives, many files are missing discrete file numbers.
- Where dates are missing I have estimated a date on the basis of surrounding documents.
- Where possible I have also endeavoured to name any sub-series or relevant collection that a document emanates from.
- An asterisk next to particular comments from interviews indicates that the comments are not for public attribution.

'If I say, "Row, or I'll tip the boat over and drown us both," you'll say you don't believe me. But if I rock the boat so that it *may* tip over, you'll be more impressed... [T]o make it work, I must really put the boat in jeopardy; just saying that I may turn us both over is unconvincing.'

- Thomas Schelling¹

1 INTRODUCTION

It was upsetting enough just to look through the wire at the boat people, many of them small children, and think that they may soon be towed out to sea again, and to probable death by starvation, drowning or cut-throat fisherman. Moreover, I know from experience that, when you interview refugees, asking them for their names and their stories, no explanation will get into their heads that you are only a journalist and not some kind of British Consul offering them an escape from their plight. That is a high price to pay for another harrowing boat people's interview, of a kind that the world now knows only too well.¹

- Richard West

The South China Sea was an immense pot all aboil...The government of Thailand declared itself overwhelmed by the flood of fugitives of diverse origin from across the border. Bangkok had become the news center of the world, and the lobbies of its hotels overflowed with journalists carrying cameras and heavy television equipment.²

- Gabriel García Márquez

1.1 THE PROBLEM

IN JOSEPH CONRAD'S *THE RESCUE*, he tells the story of a British vessel shipwrecked on the 'Shore of Refuge' in the Malay Archipelago. 'Refuge' here, as Conrad suggests, is a tenuous and fragile proposition. Awash with pirates, predatory colonialists and simmering with fierce ethnic tensions, safety is rarely around the corner. For the many millions of refugees who fled Indochina to neighbouring Southeast Asian states in the wake of the Indochinese wars, refuge was a similarly conditional reality. And the chilliness of that reception does much to explain the unprecedented and probably never-to-be-repeated response.

That the generous international response to the Indochinese stands apart from other post-war refugee crises needs little elucidation. Since 1975, the majority of all refugees who have been permanently resettled have first claimed refuge in a Southeast Asian state, most during the period of the Indochinese refugee crisis (1975-1996).³ From 1990 to early 1998, the

¹ Richard West, 'Ordeal of the Boat People' in *The Spectator* 30 June 1979, p. 9.

² Gabriel García Márquez, 'The Vietnam Wars' in *Rolling Stone* 29 May 1980 [available at: <http://www.rollingstone.com/culture/news/the-vietnam-wars-19800529#ixzz3T9k3PzvK>].

³ I use the term 'Indochinese refugee crisis' throughout this thesis to refer to the outflows of refugees from the three states of Indochina (Laos, Cambodia and Vietnam) from the period of 1975-1996, roughly coinciding with the end of the Vietnam War and the American recognition of Vietnam. As I will explore,

United States took in fewer refugees from the entirety of Africa (46,000) than it did from Laos (47, 417) or Vietnam (267, 871).⁴ It remains the only instance of resettlement from the developing world to the developed measured in the millions. And notwithstanding the capacity of events to defy predictions, may well remain so.

What motivated international assistance to the Indochinese is thus a question of enduring importance for scholars and practitioners of forced migration, humanitarian assistance and international politics more broadly.

Four inter-related questions lie at the heart of this thesis: (1) Why were Southeast Asian countries so successful in outsourcing the costs of refugee protection during this time?; (2) Why did resettlement endure for so long?; (3) Why, once agreed, did its resolution take so long?; and (4) What has its legacy been for refugee protection both globally and within the Southeast Asian region?

At first glance the somewhat-singular generosity of the international response to the Indochinese outflow seems surprising. The Philippines was the only Southeast Asian state to be a member of either the 1951 Refugee Convention or the 1967 Optional Protocol – the foundational legal instruments for the global refugee protection regime. And even then, it only joined in 1981. Why should countries that consciously resisted implementing the norm of asylum themselves still have enjoyed the reciprocal benefits of burden-sharing that accession to the treaties was meant to convey?

This thesis explores this dilemma and concludes that the explanation is a simple one: through actual and threatened mistreatment of refugees, Southeast Asian countries were able to shift the burden of dealing with refugees on to other states. This worked in two ways: first, it activated a humanitarian concern on the part of Northern states keen to preserve the often frail asylum granted in neighbouring states; and second, the dramatic and often brutal character of the response served only to prompt a strategic concern for the on-going political stability of first asylum states.

I do think that the description of the outflows as a 'crisis' mattered a great deal at key moments but to avoid confusion, I adopt the term throughout to describe the overall phenomenon.

⁴ 'What We Can Do for Africa' in *The New York Times* 25 March 1998, p. 23.

The assistance from donor states cannot be ascribed just to a general sense of the strategic importance of the ASEAN states or to an historically-informed sense of moral obligation left over from the wars in Indochina (although they both played a role.) Indeed, the fact that refugees hosted in Southeast Asian states today, nearly forty years since the fall of Saigon, continue to occupy a disproportionate share of spaces in the American refugee resettlement programme should alert us to the fact that there is probably another force at play.⁵ In 2010, for example, Thailand and Malaysia ranked second and third as the countries of origin for America's refugee resettlement programme despite ranking 15th and 36th respectively on a list of countries ranked by size of refugee populations.⁶ In 2013, 15,142 refugees were resettled from Malaysia to the United States – more than almost the entire number of refugees resettled from Syria to the U.S. since the Syrian Civil War commenced in 2011.⁷

By focusing primarily on the debates over one particular aspect of the response (resettlement) during one particular period (the Indochinese crisis) I hope to illuminate the complex causal relationships that have historically characterized patterns of refugee burden-sharing within the Southeast Asian region. Beyond this, understanding the more substantive moral and strategic considerations that underpinned the rationale for refugee protection is essential for appreciating both the substance and the form of decisions to assist in refugee protection. States don't always or exclusively act altruistically. But nor do they always act according to their economic self-interest. It is in the intersection of altruism and self-interest that generosity emerges.

The language of international morality is more than a cosmopolitan dream or journalistic shorthand. When we speak of international sympathy 'stirring', of moral consciences

⁵ In 2011, 17,367 of the 56,424 refugees that the United States accepted hailed from East Asia (almost exclusively from Thailand and Malaysia). This amounted to 31 per cent of admissions places going to countries that collectively hosted 1.8 per cent of the world's refugees in 2010. [United States Department of State 'Proposed Refugee Admissions for Fiscal Year 2013 – Report to the Committees on the Judiciary of the United States Senate and United States House of Representatives'; UNHCR, *UNHCR Statistical Yearbook 2010* (Geneva: UNHCR, 2012).] In 2012, more than half of the refugees resettled in the United States were from Bhutan or Burma (many of whom had first claimed asylum in Thailand or Malaysia.) 29,230 of a total of 58,238 were from Bhutan or Burma [figures from 'Proposed Refugee Admissions for Fiscal Year 2014 - Report to the Congress', available at: <http://www.state.gov/documents/organization/219137.pdf>].

⁶ By other measures of need, Thailand and Malaysia also ranked low. UNHCR provides three other indicia of need: the number of refugees per 1000 square kilometers (measuring population density); the number of refugees per 1000 inhabitants (measuring share of total population); number of refugees per \$US1GDP per capita (measuring the apparent economic capacity of a country to deal with inflows.) Thailand and Malaysia were not in the top 30 countries ranked by any of the criteria. [UNHCR Global Trends 2010 – available at: <http://www.unhcr.org/4ef9cc9c.html>].

⁷ UNHCR, 'Projected Global Resettlement Needs 2015' 24-26 June 2014, p. 8. [available at: <http://www.unhcr.org/543408c4fda.html>].

‘awakening’ or compassion ‘overflowing’ there is something active afoot. Albeit obliquely, this thesis hopes through its empirical detail to shade the contours of what that might be and highlight its importance for our understanding of international politics.

1.2 GENEROSITY AMIDST PARSIMONY

The global refugee regime (especially in its codified, post-war Refugee Convention sense) has historically revolved around two basic norms: first, the obligation of asylum which imposes on states a burden to shelter or ‘host’ anyone claiming to be fleeing persecution and second, the obligation of burden-sharing, the expectation of a state to assist in contributing to the costs of protecting refugees located on another state’s territory.⁸ For the most part, the obligation of asylum rests on the firm bedrock of deep legal and normative institutionalization whereas the obligation of burden-sharing resembles something closer to a gentleman’s agreement among states - a principled undertaking to assist but not one that can ever be conclusively relied upon.

Global refugee burden-sharing is and always has been characterized by deep inequalities. States in the global South host a disproportionate share of refugees. Even amongst Northern states, there are stark differences in the numbers of refugees that various countries accept. The most obvious measure of this is the number of refugees that Northern countries accept for resettlement (as distinct from people who arrive claiming asylum). In the five years between 1997 and 2002, for example, the United Kingdom accepted no refugees for resettlement whereas the United States accepted 398, 440.⁹ Japan accepted just 622 whereas Canada accepted 65, 945. This is usually a function of geographic accident (the United Kingdom is much more accessible to those who wish to claim asylum than North America) or cultural sensitivity (Japan remains a society largely closed to immigrants).

Yet partiality in burden-sharing has only been indirectly observed or asserted rather than directly explained. Many have noted that the pattern in Southeast Asia has always better resembled one of *burden-shifting*, rather than *burden-sharing* but there has been precious little

⁸ While the basis for ‘twin norms’ has ample legal and political genealogy, the articulation of ‘twin norms’ can best be attributed to Alexander Betts, *Protection by Persuasion* (Ithaca, NY: Cornell University Press, 2009).

⁹ Figures from Eiko Thielemann, ‘Burden Sharing: The International Politics of Refugee Protection’ Working Paper 134, March 2006, p. 21.

work done to explain how or why that is.¹⁰ James Milner has examined the other side of the coin in his work on why African countries fare poorly from the distribution of the office of the United Nations High Commissioner for Refugees (UNHCR)'s funds and resettlement places. He attributes it largely to the nature of the relationship between African states and the international donor community and the 'strategies employed by African host states.'¹¹ The 'strategies employed' are, as he goes on to suggest, really the strategies that are *not* employed. There are often considerations of neighbourliness and hospitality that take some tools off the table (though this more a general tendency than an ironclad law of African states' refugee policies).

Differences in the character of refugee flows, the different economic impact of refugees, different levels of UNHCR support and different host country policies make cross-country comparisons of international assistance for refugee protection difficult. But the almost uniquely generous response to the Indochinese refugee crisis was noticed at the time. Not long after the First Conference on Indochinese refugees in 1979, the PLO Representative in Geneva, Daoud Barakat, telephoned the High Commissioner to protest both the 'wide publicity and the speed' with which the United Nations had acted when 'on the question of Palestine refugees over the past 30 years, the UN had, by contrast, remained completely passive and inactive.'¹²

African states too objected to what they saw as the disproportionate concentration of resources on helping the Indochinese. In 1979, fully half of UNHCR programme funds were spent in Southeast Asia.¹³ At the annual meeting of the UNHCR Executive Committee in

¹⁰ Several others have termed this relationship 'burden-shifting', notably Andrew Shacknove, 'From Asylum to Containment' in *International Journal of Refugee Law* (1993), Vol. 5, p. 531 and Viti Muntarhorn, 'Refugee Problems and Developing Countries: Between Burden Sharing and Burden Shifting' (Conference Paper, World Congress on Human Rights, December 10-15, 1990). Michael Kagan prefers the term 'responsibility shift' in 'We Live in a Country of UNHCR: the UN Surrogate State and Refugee Policy in the Middle East' in *New Issues in Refugee Research* No. 201 (Geneva, UNHCR Policy Development and Evaluation Service) February 2011. Several scholars have come to see contemporary Australian policies in such terms: see, for example, Savitri Taylor, 'The Pacific Solution or a Pacific Nightmare? The Difference Between Burden Shifting and Responsibility Sharing.' in *Asian-Pacific Law and Policy Journal* (2005) Vol. 6, No. 1, pp. 1-43 and Susan Kneebone's idea of 'responsibility shifting' in 'The Bali Process and Global Refugee Policy in the Asia Pacific Region' in *Journal of Refugee Studies* (2014) Vol. 27, No. 4, pp. 596-618.

¹¹ James Milner, 'Refugees, the State and the Politics of Asylum in Africa' (Basingstoke: Palgrave Macmillan, 2009), p. 39.

¹² UNHCR:11:2, International Conference on Indochina, 'Memorandum - Relations with the Palestine Liberation Organisation', 19 July 1979.

¹³ TNA FCO 58/2175 35, 'Letter - Call on UN High Commissioner for Refugees - PHR Marshall to NCR Williams' 24 September 1980.

1980, the British delegate reported back that ‘the Africans showed keen interest in the distribution of UNHCR’s resources, clearly dissatisfied that three times as much was going to Asia with less than a third of Africa’s refugees.’¹⁴ One Australian diplomat cabled home:

there is a strong feeling within the African group that, relative to other refugee situations, particularly Asia, the Africans have been disadvantaged... the [budget] figure for Asia still exceeded that for Africa by over \$100 million in spite of the fact that the number of refugees in Africa is so much higher.¹⁵

The differences were, after all, rather stark. In 1980, Tanzania hosted roughly as many refugees as Thailand but its per capita GDP measured just over a quarter of Thailand’s.¹⁶ Pakistan hosted over three times as many refugees as Malaysia with a per capita GDP measuring just 17% of Malaysia’s.¹⁷ Yet almost no refugees were resettled from either Tanzania or Pakistan.

In late 1978, Richard Holbrooke, then the Assistant Secretary of State for East Asian and Pacific Affairs, spoke of the ‘record 10,000 boat people’ who had arrived in Malaysia in the first fortnight of October.¹⁸ Yet this was not even the record for 1978. Just a few months earlier, between April and June, 200,000 Burmese Muslims had fled to Bangladesh; 18,000 making the trip in a single day.¹⁹ Crucially, however, the difference when it came to the preferential treatment of the Indochinese above other worthy groups in need of refuge at the time was, as Suhrke and Klink argue, that the ASEAN states ‘were unwilling to absorb the social, economic, and political costs of accepting the Vietnamese on a long-term basis.’²⁰ Even though there were tensions between the local population in Pakistan and the newly-

¹⁴ TNA FCO 58/2175 2 ‘United Kingdom Delegation Report on the 30th Session of the UNHCR Executive Committee’, 17 October 1979.

¹⁵ NAA: A14075, ‘Report on UNHCR Executive Committee’, 19 October 1979.

¹⁶ United States Committee for Refugees (USCR) figures available from *Integrated Network for Societal Conflict Research* ‘Forcibly Displaced Populations 1964-2008’ dataset available at: www.systemicpeace.org (Thailand: 165,000; Tanzania: 168,000); GDP Figures from United States Department of Agriculture Economic Research Service, ‘Historic Real Per Capita GDP Values’ dataset available at: www.ers.usda.gov/data-products/international-macroeconomic-data-set.aspx (Thailand: \$888; Tanzania: \$282).

¹⁷ Ibid, (Malaysia: 135,000; Pakistan: 402,000); (Malaysia: \$2,290; Pakistan: \$385).

¹⁸ Richard Holbrooke, Speech to Boston World Council, 16 November 1978 [Quoted in Noam Chomsky and Edward S. Herman, *After the Cataclysm* (Nottingham: Spokesman Press, 1979) p. 54].

¹⁹ Ibid.

²⁰ Astri Suhrke and Frank Klink, ‘Contrasting Patterns of Asian Refugee Movements: the Vietnamese and Afghan Syndromes’ in *Centre for Migration Studies Special Issue* Vol. 5, No. 3, pp. 85-102, p. 90

arrived refugees, 'the decision to extend hospitality to the Afghans was a genuine one, supported at virtually all levels of the population.'²¹

It would be easy to assert that the different treatment was just a function of the different importance that donor states attached to Southeast Asian countries. In part, that might explain a large part of why refugees were resettled from Thailand and not Bangladesh. But, as this thesis will show, that would be an incomplete story.

That Southeast Asia might be different should not surprise us. As David Kang notes, Southeast and East Asia are regions that profoundly challenge the ordinary predictions of theories of international relations.²² The patterns of interaction are often profoundly different from the Eurocentric state system. It should come as no surprise to anyone if it seems that Asian states are 'preoccupied with issues that European nations for the most resolved long ago such as internal conflict or questions of legitimacy... [as] Asia has different historical traditions, different geographic and political realities and different cultural traditions.'²³

1.3 WHY YESTERDAY'S REFUGEE CRISES MATTER TODAY

A paradox lies at the heart of the memory of the Indochinese refugee crisis. On the one hand, governments are all too keen to burnish their humanitarian legacies by pointing out and commemorating their extraordinary generosity in accepting so many Indochinese refugees.²⁴ On the other hand, those same governments readily distinguish contemporary refugee outflows as different in kind, degree or scale so as to avoid taking on similarly large commitments.

²¹ Gerald Walzer, 'UNHCR Operations in Pakistan in the Early 1980s' in *Refugee Survey Quarterly* (2008) Vol. 27, No. 1, p. 42.

²² David Kang, 'Getting Asia Wrong: The Need for New Analytical Frameworks' in *International Security* (2003) Vol. 27, No. 4, pp. 57-85. See also Alice Ba's account of 'The ASEAN Paradox and IR Theory' in *[Re]Negotiating East and Southeast Asia* (Stanford: Stanford University Press, 2009), pp. 17-41.

²³ Kang, 'Getting Asia Wrong', p. 84.

²⁴ As Julia Gillard, the then-Australian Prime Minister, suggested on the floor of the Australian Parliament in 2011 when asked about contemporary Australian treatment of refugees: "Many of us would represent electorates in this place that are home to either refugees from those original waves or their sons and daughters, and they have made a remarkable contribution to this country. We get the opportunity on various days of celebration for the Vietnamese community to make that point directly to them and their community leaders." [*Hansard Parliamentary Debates*, Australian House of Representatives, 20 September 2011, p. 10806].

That the memory of the crisis still matters nearly forty years after the fall of Saigon is obvious. In late 2014, a private member's bill came before the Canadian parliament that sought to designate April 30 as a national day to commemorate the Indochinese exodus. Rather than fade into legislative obscurity, it sparked a minor diplomatic incident between Canada and a Vietnamese government incensed with the 'negative and selective portrayal' of Vietnam that the 'Journey to Freedom Act' implied.²⁵

Understanding the international politics of the Indochinese outflow should thus be a vital goal for scholars of international politics. 'With some obvious exceptions (most notably the work of Astri Suhrke), accounts of the international response to the Indochinese outflow tend towards the autobiographical or journalistically anecdotal. These are not unimportant but they sometimes struggle to see the forest for the trees when evaluating larger questions of state motivation.'²⁶ These are not unimportant but they sometimes struggle to see the forest for the trees. W. Courtland Robinson, a former refugee advocate and worker, has written the most definitive work on the crisis with the explicit aim of 'recording the story of the crisis.'²⁷ Yet his account is largely focused on the role of the UNHCR in responding to the crisis and was subtitled 'the Indochinese Exodus and the International Response' only because the publisher thought mentioning the UNHCR specifically would be too limiting.²⁸ Valerie Sutter in the *Indochinese Refugee Dilemma* provides a useful account of the issue up until the end of 1988 although her primary purpose is to simply outline and collate the various foreign policy and national interests at play for various actors in the crisis.²⁹ Gil Loescher and John Scanlan provide a useful capsule account of how the Indochinese figured within the broader patterns of American post-war refugee policy but it finishes in the mid-1980s and it is predominantly concerned only with the American dimension of the crisis.³⁰ There is also a

²⁵ 'Obscure Senate bill infuriates Vietnam, sparks diplomatic spat with Canada' in *The Globe and Mail* 5 December 2014 [available at: <http://www.theglobeandmail.com/news/politics/obscure-senate-bill-infuriates-vietnam-sparks-diplomatic-spat-with-canada/article21966166/?cmpid=rss1>].

²⁶ The somewhat journalistic tone of many accounts has a strong occupational logic: many journalists during the early stages of the crisis later wrote longer treatments. See, for example: Bruce Grant, *The Boat People: An 'Age' Investigation* (Harmondsworth: Penguin Books, 1979); Barry Wain, *The Refused: The Agony of the Indochina Refugees* (New York: Simon and Schuster, 1981); William Shawcross, *The Quality of Mercy* (New York: Simon and Schuster, 1983); Nancy Viviani, *The Long Journey: Vietnamese Migration and Settlement in Australia* (Carlton: Melbourne University Press, 1984) and *The Indochinese in Australia 1975-1995: From Burnt Boats to Barbecues* (Melbourne: Oxford University Press, 1996).

²⁷ Robinson, *Terms of Refuge*, p. viii.

²⁸ Private correspondence with author, 21 August 2014.

²⁹ Valerie Sutter, *The Indochinese Refugee Dilemma* (Baton Rouge: Louisiana State University Press, 1990).

³⁰ Gil Loescher and John Scanlan, *Calculated Kindness* (New York: The Free Press, 1986), pp. 102-187.

rich thread of personal accounts produced by those involved in the outflow that are more in the vein of narrative-history-cum-personal-reminiscence.³¹ There are a few more conventionally 'social scientific' accounts of the crisis but these typically focus only on particular dimensions or periods of the crisis.³² Even the larger particularity of how the Southeast Asian region has dealt with issues of forced migration has for the most part escaped scholarly attention.³³ What work that has been done on refugees in Southeast Asia has largely been anthropological with the honourable exception of a small legal literature devoted to the question of why Asian countries have resisted signing on to the Refugee Convention.³⁴

The passage of time adds a few things. First, as this project bears out, access to archival material helps verify the veracity of public statements against the private deliberations and communications of decision-makers, as well as understand how states interpreted each others' communications and intentions differently. Second, time brings perspective and the opportunity to reflect on how state behaviours were synchronous with or divergent from larger strategic patterns observable only over the *longue durée*. And third, history proves a

³¹ See, for example, Keith St Carmail, *Exodus Indochina* (Heinemann: Auckland, 1983), Lesleyanne Hawthorne (ed.), *Refugee: the Vietnamese Experience* (Melbourne: Oxford University Press, 1982), Lynellan D. Long, *Ban Vinai: The Refugee Camp* (New York: Columbia University Press, 1983) One exception to this is Larry Clinton Thompson's *Refugee Workers in the Indochina Exodus, 1975-1982* which does attempt to situate the personal experiences of those working to assist the Indochinese within the context of larger political forces of the time. Judith Kumin has similarly provided a detailed account of the origins of the Orderly Departure Program (with which she was personally involved in running): Judith Kumin, 'Orderly Departure from Vietnam: Cold Anomaly or Humanitarian Innovation?' in *Refugee Survey Quarterly* (2008) Vol. 27, No.1, pp. 104-118.

³² Janina Dacyl's *Between Compassion and Realpolitik* (Stockholm: University of Stockholm, 1992) seeks to account for the variation in first asylum countries' responses to the outflow but the 14 different variables that she asserts explain the pattern of burden-sharing offer us little general insight. Barry Stein provided a useful survey overview of newly institutionalised refugee resettlement programs in the early 1980s but was largely agnostic on the main political thrusts for such programs ['The Commitment to Refugee Resettlement' in *Annals of the American Academy of Political and Social Science* (1983) Vol. 467, pp. 187-201]. Lester Zeager has sought to use game theory to better understand the willingness of resettlement countries to assist in his highly stylised account: 'The Role of Strategic Threats in Refugee Resettlement: The Indochinese Crisis of 1978-79' in *Rationality and Society* (2002) Vol. 14, No. 2, pp. 159-191.

³³ One notable exception is Howard Adelman, (ed.), *Protracted Displacement in Asia* (Aldershot: Ashgate, 2008).

³⁴ Some mention must be made of the literature on why Southeast Asian states have resisted formal legal commitments to refugee protection, which catalogues the arguments that Southeast Asian states have used to resist signing legal instruments like the Refugee Convention. See, for example, Sara Davies, *Legitimising Rejection* (Leiden: Martinus Nijhoff Publishers, 2008) and 'The Asian Rejection? International Refugee Law in Asia' in *Australian Journal of Politics and History* (2006) Vol. 52, No. 4, pp. 504-518; Petrice Flowers, 'The International Refugee Convention: National Identity as a Limitation on Compliance' in François Crépeau et al. (eds.), *Forced Migration and Global Processes* (Lanham: Lexington Books, 2006), pp. 13-34.

useful means to judge the value of more recent theoretical contributions to our understanding of what animates the international politics of refugee assistance.

The value of historical analysis for testing larger theories of international relations is a point worth elaborating on. Not only should we seek to understand what value those theories theory hold for our understanding of the Indochinese response but we should ask what the Indochinese response reveals about the value of those theories. As Stephen van Evera contends, the traditional political science bias in favour of the creation and testing of theory is misguided, if theories are never tested then what are they for?³⁵ This goal very much informs the way that this thesis deploys more conventionally socially-scientific theory. Measuring the predictions of more general political theories against the often messy and thorny character of political reality provides a valuable means of probing their strengths and limitations. It can help recalibrate our theories or generate fresh perspectives on empirical plausibility.³⁶

This has some obvious limits, however. Attitudes to refugees are different today to a Cold War context, and even an immediately post-Cold War context for that matter. But one of the signal virtues of an historically-informed approach is that it can remind us of how particular and contingent certain apparently fixed attitudes are and help trace the lingering effects of the past felt in the present.³⁷ What an historical approach can also do is set out the continuities between the past and contemporary policies of refugee protection. As some have recognised, the tacit acceptance of 'bad behaviour' during the Indochinese crisis has directly informed contemporary policies.³⁸ But things might also be different. Irene Khan, a former senior staffer at UNHCR and Director-General of Amnesty International, suggests somewhat pessimistically: "If the Indochinese outflow happened today, then they would be

³⁵ Stephen van Evera, *Guide to Methods for Students of Political Science* (Ithaca: Cornell University Press, 1997), pp. 92-93.

³⁶ See, for example, Mark Trachtenberg's work in assessing the empirical plausibility of 'audience costs' within larger debates over tying hands as a 'signaling' strategy in international crisis negotiations: 'Audience Costs: An Historical Analysis' in *Security Studies* (2012) Vol. 21, pp. 3-42.

³⁷ David Armitage and Jo Guldi make an important call for historians and social scientists to enlarge their temporal horizons: 'a return to the *longue durée* is imperative because many short-range histories have only a limited impact on the surrounding discipline... [it is] only by scaling our inquiries over such durations can we explain and understand the genesis of contemporary global discontents' ['The Return of the *Longue Durée*: An Anglo-American Perspective' in *Annales. Histoire, Sciences Sociales* (2015) Vol. 70 No. 2 (forthcoming)].

³⁸ Peter Billings, Anthony Cassimatis with Melissa Dooris, 'Irregular Migration, Refugee Protection and the 'Malaysian Solution'' in Angus Francis and Rowena Maguire (eds.), *Protection of Refugees and Displaced Persons in the Asia Pacific Region* (Farnham: Ashgate, 2013) p. 139.

taking boats across the region, turning up in the Mediterranean on boats and maybe the response would be different.”³⁹

The Indochinese outflow is ripe for revisiting and revision, which probably explains why the first stirrings of a more comprehensive and rigorous historical treatment of the Indochinese exodus are already afoot through various studies of national foreign policy making.⁴⁰ It is from this point that this study embarks.

1.4 THE ARGUMENT

How and why states agree to share in the burden of refugee protection is a topic of enduring and renewed interest. Most international relations scholarship centres on three explanatory variables: interests, ideas and power. Yet none of these alone can really explain the demonstrated partiality in the pattern of refugee cooperation in Southeast Asia during the Indochinese refugee crisis.

Resettling refugees is a costly policy for those countries that pursue it, which is why most countries prefer not to.⁴¹ First, separate from any direct costs involved in resettlement, it involves bestowing social membership on individuals and granting them associated rights and privileges. Second, accepting large numbers of refugee can incite nativist tensions and lead to political unrest. Third, given that most resettlement countries have laws that allow for family reunion, bringing one refugee often means bringing a whole family over time. These costs were rarely far from the mind of the resettlement states during the Indochinese outflow.

So why, in the case of the Indochinese, was the United States prepared to resettle more than 883,317 Vietnamese refugees, 152,748 Cambodians and 251,284 Laotians?⁴² Or Australia prepared to resettle 163,415 Vietnamese, 17,605 Cambodians and 10,239 Laotians? Why did resettlement continue for so long? And why was it finally concluded in the protracted way that it was?

³⁹ Interview, 24 July 2014.

⁴⁰ See, for example: Rachel Stevens, ‘Political Debates on Asylum Seekers during the Fraser Government, 1977-1982’ in *Australian Journal of Politics and History* (2012) Vol. 58, No. 4, pp. 526-541; Katrina Stats, ‘Welcome to Australia? A reappraisal of the Fraser Government’s approach to refugees, 1975-1983’ in *Australian Journal of International Affairs* (2015) Vol. 69, No. 1, pp. 69-87.

⁴¹ In 2015, just 27 countries have formal resettlement programmes for refugees.

⁴² Figures are from W. Courtland Robinson, *Terms of Refuge* (New York: Zed Books, 1998), ‘Appendix 2’.

In answering these larger questions, this thesis sets out two contentions: first, that Southeast Asian countries were able to successfully threaten to cease providing first asylum which engaged an affective moral concern on the part of donor states, and second, that the selective and uncertain nature of refugee protection in the region also served to amplify existing the strategic concerns and interests of resettlement states regarding their relationships with the first asylum states. These might be rephrased crudely as a structural condition (the region simply mattered more to potential donor states) and an agency condition (host states were successful in deliberately earning the assistance of other states in dealing with the burden). But, thinking of the issue simply in terms of structure and agency strips away the unique way in which concerns in resettlement states about both the welfare of individual refugees and the order and stability of the states of first asylum intersected and proved mutually-reinforcing.

Critical to my account is a simple proposition: a protective concern for the treatment of Indochinese refugees in the states of first asylum does much to explain why so much international assistance was forthcoming. Even if Northern resettlement states had chequered records on fulfilling their humanitarian obligations to refugees themselves, actual and threatened mistreatment of refugees by Southeast Asian states was noticed and responded to.

What mistreatment of refugees by Southeast Asian countries during Indochinese outflow did was to serve to signal that the burden of refugees was one that threatened their on-going security and heightened concerns in Northern states that refugees would be treated poorly and might even die. I am far from the first to observe the conditionality of asylum during the Indochinese crisis. The definitive work on the crisis is titled 'Terms of Refuge' presumably because the quality of refuge was a matter of near-constant negotiation. What I hope to be the first to conclusively show is that a genuine protective concern for refugee welfare did shape the donor response in important ways. I contend that it is the only way we can really explain why countries assisted, why they assisted for so long, and why it proved so troubling to bring an end to the outflow.

Critically, mistreatment of refugees in Southeast Asian countries was more than just neglect or an absence of welcome. It was often deliberate. A secret Thai cabinet decision dating back to 1977 (reaffirmed in 1981) and subsequently still in place confirms that Thai officials

should push refugee boats back if they seek to arrive in Thai waters.⁴³ Pushing refugees back across borders, towing their boats out to sea or interning them in invidious conditions all might make a certain amount of unilateral sense or satisfy certain domestic constituencies. But they are also actions which have international consequences.

Southeast Asian states' status as non-signatories probably mattered on the margins as they were less obviously hypocritical when abridging the rights of those claiming asylum. Yet I am broadly agnostic on this question. It is hard to ignore the fact that membership in most human rights treaty regimes largely reflects pre-existing interests rather than necessarily fosters new ones. Gerald Walzer, a former Deputy High Commissioner at UNHCR and head of UNCHR in Thailand, remembers from having served in Thailand that the absence of the Convention only went so far in explaining state behaviour:

I don't think it would have been any different [if they were a part of the Convention]. When I was in Pakistan they weren't part of the Convention either. I don't think anyone from UNHCR would like me to say that.... I don't think it would have kept them from doing what they did. Or allowed them to do it differently.⁴⁴

Pierre Jambor, Walzer's successor in Thailand, similarly suggests "it's one thing when you have to deal with a handful of people in an isolated set of cases. It's another thing when you're dealing with mass influxes. Papers and conventions become relative at that point."⁴⁵ Yet the pessimism of current⁴⁶ and former⁴⁷ UNHCR diplomats that the Southeast Asian countries would ever sign and implement the Refugee Convention suggests that it is not just an omission on their part, but rather a sense that formal membership in the Convention would exert some sort of independent causal effect on their behavior. Most obviously, they didn't wish to seem hypocritical when impinging upon refugee protection. Measuring the valence of hypocrisy is always hard but it is reasonable to suggest that states that resisted assuming legal obligations were (and are) less likely to be seen as hypocritical when breaching them.

⁴³ Interview, Robert van Leeuwen, 18 July 2014; see also NAA:A1838:3004/10/3, Cable, Washington to Canberra, WH20173, 'Inter-Governmental Consultations - Indo-Chinese Refugees', 3 August 1982.

⁴⁴ Interview, 23 February 2015.

⁴⁵ Interview, 10 March 2015.

⁴⁶ "They're always worried that they're going to set a precedent that they're de facto signing the convention. They don't want a crack in the door to suggest they're doing so". Interview, Rick Towle, 17 February 2015.

⁴⁷ "They have absolutely no intention of signing the convention, even now". Interview, Jean-Noel Wetterwald, 24 February 2015.

In asking why resettlement endured for so long, there is a certain attractiveness to the straightforward answer. As Rick Towle, a senior UNHCR diplomat, puts it, when pondering why resettlement continued for so many years: “a big part of it was just inertia when it was up and running. Some of these lobby groups are pretty powerful.... There was an alignment of interests.”⁴⁸ Yet inertia only takes us so far in explaining the unprecedented generosity towards the Indochinese. From an early point, many resettlement governments thought that those fleeing Indochina had weak claims to being conventional Convention refugees. The threat that first asylum of any sort would be curtailed, however, was justification enough to keep taking them. This was particularly because a return to Vietnam was viewed as impossible by both the states of first asylum and the resettlement states.

In arguing for the importance of affect in driving the willingness to assist, how should we reconcile a concern for refugee welfare with state practice that suggests otherwise? As tens of thousands of Indochinese refugees were being resettled in the United States in the early 1980s, thousands of Haitians were being forcibly interdicted and returned to Haiti. Although they are distinct moments in time and thus distinguishable on that basis, the more persuasive argument is simply that states follow different logics of response according to the circumstances of the flow. As Teitelbaum and Weiner explain, ‘refugee flows are regarded by governments as a humanitarian issue if the refugees are going to another country, but as a security issue if the refugees are crossing their own borders.’⁴⁹ The more distant any spectral threat to one’s own security, the more readily a humanitarian impulse might be channelled.

Second, the lack of a distinction in claims for protection between Cubans and Haitians is often overblown, and ignores that there were important differences in the claims of the respective groups to refugee status, notwithstanding the individual suffering of each. Victor Palmieri, the U.S. Refugee Coordinator at the time of the Mariel boatlift and subsequent Haitian interdiction, contends that the ‘never acknowledged’ fact that one group fitted within American refugee law and the other did not best explains the variation in treatment.⁵⁰

Third, at the time, the resettlement states felt strongly that aggressive actions on the edges of international law that might be undertaken today were beyond the legal pale then. The

⁴⁸ Interview, 17 February 2015.

⁴⁹ Michael Teitelbaum and Myron Weiner, *Threatened Peoples, Threatened Borders* (New York: W.W. Norton, 1995), p. 30.

⁵⁰ Interview, 1 September 2014.

Australian Cabinet Memorandum recommending Australian assistance at the height of the pushbacks in July 1979, for example, noted that:

It would be inconsistent with Australia's international legal obligations and its declared humanitarian commitment towards refugees... [and] from the foreign policy perspective, it would not be feasible for Australia to contemplate turning the boat people away from Australian shores. In view of our image as a developed technologically advanced and still under-populated country, such steps would be courting international pariah status; our position in Third World eyes would be untenable; we would be vulnerable to criticism on humanitarian and racial grounds; and given that we have lectured ASEAN countries about their responsibilities as countries of first asylum, we would be open to charges of hypocrisy.⁵¹

By exploring several different episodic moments of refugee cooperation during the Indochinese outflow, I hope to illuminate the complex strategic interactions that informed the decision of states to assist one another. Plainly there were many important domestic inputs that governed Northern state assistance towards Indochinese refugees. Much as with other refugee groups today, concerns about the affinity of any candidate group for resettlement with a host state might have subtly and not-so-subtly affected the decision to resettle.⁵² Much as today, lobbying by particular ethnic groups can skew resettlement quotas, interest-group politics might have made a difference at the margins.⁵³ These are not the focus of the thesis, however. Partly this is because they played less of a role than commonly thought. But primarily because what unites the different episodes discussed is a vision of international cooperation on refugee issues that attributes a greater role for emotion and humanitarian impulses in shaping policy.

1.5 REFUGEES AND INTERNATIONAL RELATIONS

For the most part, International Relations theorists have typically spent little time studying refugee issues. Refugees are seen as peripheral to the everyday currency of international politics, only indirectly engaging the real motors of the international system: power, interests

⁵¹ NAA: A12930, 'Cabinet Memorandum No. 380 - Indo-Chinese Refugees' 11 July 1979.

⁵² See, for example, Daniel J. Steinbock, 'Qualities of Mercy: Maximizing the Impact of U.S. Refugee Resettlement' (2003) in *University of Michigan Journal of Law Reform* Vol. 36, No. 4, pp. 951-1006.

⁵³ See, for example, Patrick J. Haney and Walt Vanderbush, 'The Role of Ethnic Interest Groups in U.S. Foreign Policy: The Case of the Cuban American National Foundation' in *International Studies Quarterly* (2002) Vol. 43, No.2, pp. 341-361; Lamis Abdelaaty, 'Competing with Refugees: The Politics of Generosity and Rejection' Working Paper, September 15 2014, University of California, Santa Cruz, p. 1.

and identity. Myron Weiner noted in 1992 that the 'standard works in international relations and in the political economy of international relations do not discuss international migration and refugee flows.'⁵⁴ Christopher Mitchell noted even earlier that 'political science and international relations scholarship came rather late to the study of international migration.'⁵⁵ There have been rich advances in the last decade but there is still much to be gained from applying the analytical prisms of international relations to the study of forced migration.

What work that has been undertaken generally falls into six discrete camps: (1) a literature that examines the nature of international cooperation on refugee issues;⁵⁶ (2) a literature that looks at the security consequences of forced migration;⁵⁷ (3) a literature that looks at the role of the UNHCR (and more recently, 'global refugee policy' or the 'global refugee regime') within international politics;⁵⁸ (4) a literature that utilises comparative politics to evaluate differences in state practices towards refugees across countries, often with a distinctly policy-minded focus;⁵⁹ (5) a critically-minded constructivist literature that pays devotes especial attention to the contingent categorisation of 'refugees' and tries to understand the larger power dynamics lurking beneath;⁶⁰ (6) and an historically-minded literature that looks more

⁵⁴ Myron Weiner, 'Security, Stability, and International Migration' in *International Security* (1992) Vol. 17, No. 3, fn. 13, p. 97.

⁵⁵ Christopher Mitchell, 'International Migration, International Relations and Foreign Policy' in *International Migration Review* (1989) Vol. 23, No. 3 [pp. 681-708], p. 681.

⁵⁶ See, for example, Alexander Betts, *Protection by Persuasion* (Ithaca, NY: Cornell University Press, 2009); Gil Loescher, *Beyond Charity* (Oxford: Oxford University Press, 1993); Astri Suhrke, 'Burden-sharing during emergencies: the logic of collective action versus national action' in *Journal of Refugee Studies*, 11 (4), pp. 396-415; Eiko Thielemann, 'Between interests and norms: burden-sharing in the European Union' in *Journal of Refugee Studies*, 16 (3), 1998, pp. 253-73.

⁵⁷ See, for example, Myron Weiner, *The Global Migration Crisis* (New York: Harper Collins, 1995); Barry Posen, 'Military Responses to Refugee Disasters' in *International Security* (1996) Vol. 21, No.1, pp. 72-111; Stephen Stedman and Fred Tanner, *Refugee Manipulation* (Washington: Brookings Institution Press, 2003); Sarah Kenyon Lischer, *Dangerous Sanctuaries* (Ithaca: Cornell University Press, 2005); Gil Loescher and James Milner, *Protracted Refugee Situations: Domestic and International Security Implications* (Abingdon: Routledge, 2005); Idean Salehyan and Kristian Skrede Gleditsch, 'Refugee Flows and the Spread of Civil War' in *International Organization* (2006) Vol. 60, No. 2, pp. 335-366; Kelly Greenhill, *Weapons of Mass Migration* (Ithaca: Cornell University Press, 2010); Daniel Krmaric, 'Refugee Flows, Ethnic Power Relations, and the Spread of Conflict' in *Security Studies* (2014) Vol. 28, pp. 182-216.

⁵⁸ See, for example, Anne Hammerstad *The Rise and Decline of a Global Security Actor* (Oxford: Oxford University Press, 2014); Alexander Betts, 'Regime Complexity and International Organisations: UNHCR as a Challenged Institution' in *Global Governance* (2013) Vol. 19, No. 1, pp. 69-81; Alexander Betts, Gil Loescher and James Milner, *UNHCR: The Politics and Practice of Refugee Protection*, 2nd Edition, (London: Routledge, 2012); Michael Barnett and Martha Finnemore, *Rules for the World* (Ithaca: Cornell University Press, 2004), esp. Ch.4; Gil Loescher, *The UNHCR and World Politics* (Oxford: Oxford University Press, 2001).

⁵⁹ See, for example, James Milner, *Refugees, the State and the Politics of Asylum in Africa* (Houndmills: Palgrave Macmillan, 2009); Alexander Betts, *Survival Migration* (Ithaca: Cornell University Press, 2013); James Milner, '

⁶⁰ See, for example, Roger Zetter, 'More Labels, Fewer Refugees: Remaking the Refugee Label in an Era of Globalization' in *Journal of Refugee Studies* (2007) Vol. 28, No. 3, pp. 172-192; B.S. Chimni, 'The

holistically at the evolution in political and state practice towards 'refugees' over time, often examining the 'refugee' as a constituent element of the international system.⁶¹ Increasingly, however, scholars are turning to history (particularly of the Cold War era) to better understand the international politics underpinning refugee protection.⁶²

Studying refugees has typically involved a 'bottom-up' perspective that places people at the centre of its analysis. This draws heavily on anthropological and ethnographic inspirations and tends towards the ideographic. Yet, as Loescher and Betts note, 'there is also a need for a 'top down' level of analysis in order to understand the macro-structures that influence states.'⁶³

In that spirit, this project is firmly rooted in the first limb of existing IR work on refugee issues: the literature that seeks to explain the how and why of international cooperation. Because so many accounts only really examine the supply side of forced migration exploring the important question of why people uproot themselves and what impacts that can create, demand-side accounts explaining why countries accept refugees for resettlement are especially valuable.⁶⁴ The best of these accounts explore cooperation at a systemic level and involve trying to understand the fact and not the volume or nature of cooperation.⁶⁵

Refugees are not only an important site of international strategic interaction but also strategic interaction directly shapes outcomes for refugees. Paying attention to how cooperative

Geopolitics of Refugee Studies: A View from the South' in *Journal of Refugee Studies* (1998) Vol. 11, No. 4, pp. 350-374.

⁶¹ See, for example, Emma Haddad *The Refugee in International Society* (Cambridge: Cambridge University Press, 2008); Sandra Lavenex, *The Europeanisation of Refugee Policies: Between Human Rights and Internal Security* (Aldershot: Ashgate, 2001); Karen Jacobsen, 'Livelihoods in Conflict: The Pursuit of Livelihoods by Refugees and the Impact on the Human Security of Host Communities' in *International Migration* (2002) Vol. 40, No. 5, pp. 95-123; Peter Nyers, *Rethinking Refugees*, (Abingdon: Routledge, 2006); Katy Long, *The Point of No Return: Refugees, Rights and Repatriation* (Oxford: OUP, 2013); Ian Clark, *The Vulnerable in International Society* (Oxford: OUP, 2013) .

⁶² See, for example, Meredith Oyen's work which explores how 'policy toward refugees in Asia was an important element in U.S. foreign policy' in "Thunder Without Rain": ARCI, the Far East Refugee Program, and the U.S. Response to Hong Kong Refugees' in *Journal of Cold War Studies* (2014) Vol. 16, No. 4, pp. 189-221; Stephen Macekura explores Salvadoran refugees in "For Fear of Persecution": Displaced Salvadorans and U.S. Refugee Policy in the 1980s in *Journal of Policy History* (2011) Vol. 23, No. 3, pp. 357-380; Carl J. Bon Tempo, *Americans at the Gate: The United States and Refugees during the Cold War* (Princeton, NJ: Princeton University Press, 2008); Chi-Kwan Mark, "The 'Problem of People': British Colonials, Cold War Powers, and the Chinese Refugees in Hong Kong, 1949-62," *Modern Asian Studies* (2007) Vol. 41, No. 6, pp. 1145-1181

⁶³ Alexander Betts and Gil Loescher, *Refugees in International Relations* (Oxford: OUP, 2011), p. 3.

⁶⁴ Amongst the richest types of these accounts are Phil Orchard, *A Right to Flee* (Cambridge: Cambridge University Press, 2014); Claudena Skran, *Refugees in Interwar Europe* (Oxford: Clarendon Press, 1995).

⁶⁵ See, for example, Betts, *Protection by Persuasion* (2009).

dynamics evolved (and stayed the same) in the context of the Indochinese outflow affords us a rich opportunity to better understand the character of the international politics that lie behind refugees. While the UNHCR plays an important role in global refugee cooperation, my focus is more on the inter-governmental relationships and the 'high politics' of refugee protection. There are few, if any, studies that explore how refugee protection is a site of contestation and bargaining at the highest levels of government.

This thesis, then, not only brings the frameworks of international politics to an important area of international concern but also it brings an under-studied and important international question and series of episodes to the field of international politics. Burden-sharing on refugee issues is a substantively important problem due to its effects on broader political stability and the potential for large-scale loss of human life. A better understanding of the complex causal relationships that historically characterised the largest single instance of burden-sharing since the Second World War offers the potential to illuminate a range of important theoretical issues for scholars of international relations too.

First, an examination of the apparently uneven distribution of costs and benefits of cooperation raises important questions for our understanding of international cooperation. That poorer, smaller Southeast Asian states over the two decades of the Indochinese outflow were able to successfully induce Northern states and international institutions to assist them informs our understanding of the power of weak states to overcome apparent disadvantages of bargaining power. This has been profitably explored with respect to war⁶⁶ and international economic relations.⁶⁷ But these accounts have rarely extended to matters of humanitarian cooperation.

Second, the focus on the patterns of inter-governmental bargaining over Indochinese refugees can better aid our historical understanding of both the international politics of the Southeast Asian region and the role that humanitarian norms have played in shaping state policy. The continued resistance of many Southeast Asian states to institutionalise refugee

⁶⁶ See, for example, Ivan Arreguín-Toft 'How the Weak Win Wars' in *International Security* (2001) Vol. 26, No. 1, pp. 93-128; Andrew Mack, 'Why Big Nations Lose Small Wars: The Politics of Asymmetric Conflict' in *World Politics* (1975) Vol. 27, pp. 175-200.

⁶⁷ See, for example, Amrita Narlikar, 'International Trade and Developing Countries: Coalitions in the GATT and WTO' (London: Routledge, 2003), Peter Drahos, 'When the weak bargain with the strong: Negotiations in the World Trade Organization' in *International Negotiation* (2003), Vol. 8, pp. 79-109).

protection, for example, stands against Whiggish accounts of a liberalising trend afoot.⁶⁸ We have observed in several different issue areas that conduct outside the ordinary norms of international society can be perversely rewarded.⁶⁹ Whether international assistance has serves or undercut humanitarian ends is a central question for international politics.⁷⁰ It is the humanitarian dilemma writ large: to assist the needy while turning a blind eye to their hosts or to avoid the moral hazard altogether?

Finally, understanding a distinct regional episode has consequences in explaining the distinctly regional patterns of refugee cooperation that endure to this day. Increasingly, regional differences in the structures and practices of refugee protection are emerging as fundamental cleavages in international efforts to assist refugees. This makes sense. Partly because contemporary refugee movements are almost exclusively regional.⁷¹ But also because regions differ in the intensity of legal protection, the propensity for cross-border solidarity in burden-sharing and the depth of cooperation in controlling and preventing irregular flows. Latin America has typically not lacked for solidarist burden-sharing, Southeast and South Asia have typically exhibited little.⁷²

1.6 METHODOLOGY

Raul Hilberg, the eminent historian of the Holocaust, long contended that the best way to understand big themes was to start small. As he put it: "I have never begun by asking the big questions, because I was always afraid that I would come up with small answers."⁷³

⁶⁸ See, for example, Hiro Kastumata, 'ASEAN and Human Rights: Resisting Western Pressure or Emulating the West?' in *The Pacific Review* (2009) Vol. 22, No. 5, pp. 619-637.

⁶⁹ See, for example, Fiona Terry's account of how humanitarian support has facilitated the militarisation of refugee camps, prolonging conflicts: *Condemned to Repeat?* (Ithaca: Cornell University Press, 2002).

⁷⁰ Alan Kuperman argues that humanitarian intervention, for example, creates a moral hazard whereby rebels are incentivised to be even more violent so as to elicit intervention [Alan Kuperman, 'The Moral Hazard of Humanitarian Intervention: Lessons from the Balkans' in *International Studies Quarterly* (2008) Vol. 52, pp. 49-80.] See also, Timothy W. Crawford and Alan J. Kuperman, eds., *Gambling on Humanitarian Intervention* (Abingdon: Routledge, 2008).

⁷¹ Matthew Gibney, 'Forced Migration, Engineered Regionalism and Justice Between States' in Susan Kneebone and Felicity Rawlings-Sanaei (eds.), *New Regionalism and Asylum Seekers* (New York: Berghahn Books, 2007), p. 57.

⁷² See, for example, Tristan Harley, 'Regional Cooperation and Refugee Protection in Latin America: A 'South-South' Approach' in *International Journal of Refugee Law* (2014) Vol. 26, No.1, pp. 22-47.

⁷³ Quoted in Claude Lanzmann, *Shoah* (New York: New Yorker Films, 23 October 1985).

The methodology of this thesis is distinct. First, in the absence of compelling, theoretically-informed accounts of the Indochinese crisis, I seek to canvas more general theories both of cooperation on refugee issues and of foreign policy more generally to better explain the specific international reaction to the Indochinese outflow. Second, I use the Indochinese experience to test the explanatory value of more general theories of refugee cooperation, especially as regards burden-sharing. Even though my primary focus is simply to better explain the international politics and bargaining behind the Indochinese outflow, the inability of existing theories to really account for the texture of interaction raises important questions about their more general applicability. But I cannot pretend that it in any way invalidates them. I see the Indochinese prism as a useful opportunity to discuss some of their more general limitations rather than as an opportunity to displace them altogether. I am not seeking to advance a more general theory of my own and then testing it against a single (albeit important) case study.

An historically-inclined project like this one might just look like 'narrative' to more positivist social scientists. But deploying an historical focus to narrate and evaluate a series of distinct episodes relating to the same set of refugee populations is driven by the desire to capture the texture of political interaction in a way that a larger-N or quantitative analysis could not. I embrace Sil and Katzenstein's call for international relations to better allow for 'analytic eclecticism,' which, as they note, can 'capture the interactions among different types of causal mechanisms normally analysed in isolation from each other within separate research traditions.'⁷⁴ Equally, in so doing, I am conscious that any claims I seek to advance about the more generalisable patterns of international refugee politics that the Indochinese crisis reveals would, from a positivist perspective, be vulnerable to the frailty of having 'selected on the dependent variable'. Such criticisms are valid but perhaps misplaced given my ambition is skewed more towards using theory to better understand the Indochinese crisis rather than directly theorising using only the Indochinese crisis.

But even if I were to accept the positivist critique, there are still dividends to be realised by digging around in single case studies as a predicate step for more general theorising. Following Barbara Geddes, selecting cases on the dependent variable is 'ideal for digging into the details of how phenomena come about... for developing insights... [and identifying]

⁷⁴ Rudra Sil and Peter Katzenstein, 'Analytic Eclecticism in the Study of World Politics' in *Perspectives on Politics* (2010) Vol. 8, No. 2, p. 412.

plausible causal variables'.⁷⁵ The virtue of a longer, historically-minded project like this with several different distinct episodes is that it can serve as a means of identifying and discovering empirical relationships that potentially could apply elsewhere.⁷⁶

In setting out the role that mistreatment played in the willingness of resettlement countries to provide assistance, it is important to further elaborate on why we should privilege what might more readily be seen as necessary rather than sufficient causes (sufficient causes being the typical currency of most international relations scholarship). First, as Douglas Dion has noted, the danger of looking only for sufficient conditions for state action is that we miss the important necessary conditions that predate them.⁷⁷ Analytical rigour would be better served by starting earlier when evaluating causation. Real and threatened mistreatment of Indochinese refugees might not have readily and always ensured resettlement states acted to assist. But it typically did. And absent it, as the various episodes discussed in the thesis set out, it is unlikely they would have at all. Second, pure single-variable explanations are never really shown to be necessary or sufficient for an outcome, even in historical contexts that seem more readily self-contained. Even the advocates of a more positivist approach to causation such as George and Bennett agree that any rigorous exploration of causation would first explore the relationship of a variable to 'conjunctions of variables that are themselves necessary... for an outcome.'⁷⁸ This project is not conceived to measure causal effect but merely to set out a plausible causal mechanism.⁷⁹ It is to excavate the complex interactions that underpinned a pattern of cooperation. What it lacks in exactitude it makes up for in rich approximation.

Given that I seek to explore both the importance and limits of communication and persuasive interactions between individuals and states, an historically-informed approach offers the capacity to best capture the texture of the interactions that I seek to understand. This approach draws much from conventional social scientific 'process-tracing' where 'evidence that a given stimulus caused a given response can be sought in the sequence and

⁷⁵ Barbara Geddes, 'How the Cases You Choose Affect the Answers You Get: Selection Bias in Comparative Politics' in *Political Analysis*, Vol. 2, No.1, (1990), pp. 131-150.

⁷⁶ Arend Lijphart, 'Comparative Politics and the Comparative Method' in *The American Political Science Review*, Vol. 65, No. 3 (1971), p. 683.

⁷⁷ Douglas Dion, 'Evidence and Inference in the Comparative Case Study' in *Comparative Politics* (1998) Vol. 30, No. 2, pp. 127-145.

⁷⁸ Alexander George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences* (Cambridge: MIT Press, 2005), p. 26.

⁷⁹ See John Gerring, 'The Case Study: What it is and What it does' in Robert E. Goodin, (ed.), *The Oxford Handbook of Political Science* (Oxford: OUP, 2009), p. 1145.

structure of events and/or in the testimony of actors explaining why they acted as they did.⁸⁰ To the extent that ‘process-tracing’ and ‘history’ are different at all (which there are good reasons to doubt), the difference is in emphasis: my focus is as much in seeking to understand how particular policies were justified as it is in explaining the narrower question of why they took the form that they did. Moreover, because I seek to understand strategic interaction, the language of strategic interaction thus takes on greater significance.

The evidence marshalled in this thesis reflects this ambition. I draw on just under fifty semi-structured interviews, a wide variety of contemporary sources, multiple archives in different countries and an array of public and private documents to put together my account.

1.6.1 INTERVIEWS

One of the principal ways that I have constructed my account is through the extensive use of interviews. I have sought to select interview subjects from different countries (over ten), periods and institutions to cover the many different stakeholders involved in the events I describe.

Resource constraints have meant that the vast majority of these interviews were conducted over the phone rather than in person. The diverse locations that many subjects reside in (and have retired to) would have made it logistically impossible to interview them in person. The interviews were ‘semi-structured’ in the sense that, where possible, I sent a range of questions and subjects for discussion in advance and framed most questions in an open-ended fashion designed to extract as much information as possible from interviewees based on their privileged position within the policy-making process. Given that many of the events that I was inquiring about were nearly forty years ago, this served as an important memory aid for some interview subjects. In each case (with the exception of three interviews undertaken when this project was at an MPhil stage) I identified myself as a doctoral researcher and explained that I would seek to use and attribute any comments unless they explicitly requested comments to be ‘off the record’. Several interviewers agreed to allow attribution for particular comments in the thesis but have requested anonymity if any of the same comments are published. Where appropriate, I have noted this. Typically, the interviews I conducted lasted somewhere between one hour and one and a half hours. The longest was two and a half hours and the shortest was approximately half an hour. By

⁸⁰ Van Evera, *Guide to Methods*, p. 65.

conducting interviews over the phone I could use my computer to type accurate live transcriptions of our conversations.

Interviews were obtained in several different ways. First, working with archival documents allowed me to identify key decision-makers. If I could not find a publically available contact for a particular person I typically just contacted an institution that they were associated with (universities, think tanks and, in the case of one former British diplomat, the U.K. Scotch Whisky Association) in order to initiate contact. Second, I asked most interview subjects who else that they thought might offer illuminating insights into the period and events and pursued their leads. While this strategy might readily lead to confirmation bias it was a necessary means of making contact with several important figures. Finally, the selection of interview subjects was significantly influenced by who remains to talk. Many figures that might have been able to best corroborate accounts or explain events have passed away or are at an advanced age and unavailable for interview. Regrettably, mortality intervened to stymie more than one scheduled interview.

1.6.2 ARCHIVES

Especially for the earlier period covered by this thesis, archival sources have provided me with a rich, textural picture of strategic interaction. They have also allowed me to triangulate the oral accounts that I have received in interviews with documentary evidence.

I draw on over ten archives in four different countries covering three governments (the United States, Australia and the United Kingdom) and one international institution (UNHCR). Dealing with archives is an inevitably partial exercise. First, what gets preserved (or, more worryingly censored or not preserved) can easily reflect the pre-existing agendas and whims of the already-powerful. This is less of a problem for national archives with more standardised practices of document preservation. For the UNHCR archives in Geneva, however, preservation has been a more discretionary exercise.⁸¹ Second, it can be hard to infer larger strategic motivations from within the four corners of any one document.⁸² Third, processing constraints and access limitations mean that particularly for the later period covered by this thesis, the archival records are significantly more partial. Even for the earlier

⁸¹ Lee McDonald, 'Research Access for 1971-1984 Archival Records at UNHCR' in *Refugee Survey Quarterly* (2008) Vol. 27, No.1, pp. 118-120.

⁸² See especially 'Chapter 5 – Working With Documents' in Marc Trachtenberg, *The Craft of International History* (Princeton: Princeton University Press, 2006), pp. 140-168.

period, Cabinet deliberations (as distinct from the documents they relied upon) relating to admitting Indochinese refugees, for example, remain removed from public access.⁸³ Finally, despite my best efforts, the archives of ASEAN and the various national governments of the Southeast Asian region, remain closed to researchers almost without exception.⁸⁴

1.6.3 CONTEMPORARY ACCOUNTS

Complementary to my interviews and archival work I also rely heavily on an array of contemporary accounts of events, usually in newspapers of record or government documents such as Congressional hearings or Parliamentary debates.

Given that a central focus of this project is on how the refugee problem was framed and what that implied for cooperation, these accounts are vital in establishing the salience of particular factual understandings in decision makers' minds. Language is purposive and the justifications used matter for shading the contours of larger interests and motivations.

Finally, it should be clear what this project is not. It is not a comprehensive history of the Indochinese refugee crisis or necessarily any one actor's response to the crisis. Nor is it really about Indochinese refugees themselves. What it is instead is an attempt to better understand what motivated international assistance to the Indochinese, how that was channelled and filtered by the prospects of mistreatment in the states of first asylum and to show how ultimately the same forces that propelled generosity made the resolution of the crisis difficult.

This means that there is undoubtedly something rather stylised in this account. Southeast Asian countries like Thailand witnessed very substantial refugee flows during the Indochinese crisis and the temporary refuge they provided to the many hundreds of thousands who claimed it far from heartlessly indifferent. My hope is that I can illuminate that at various instances, however, that there was a strategic logic to mistreatment. I don't suggest that actual and threatened mistreatment was always the single consistent instrument of Thai bargaining. Tej Bunnag, the former Thai foreign minister, likes to tell a story about

⁸³ Inasmuch as this applies to the Australian case, interviews and other sources have confirmed that the strategic rationales set out in documentary Cabinet submissions were little disputed in actual discussions.

⁸⁴ The few works of diplomatic history related to the region and the period that have been able to use governmental archives have typically leveraged national association or an official position to gain access. See, for example, Ang Cheng Guan's *Lee Kuan Yew's Strategic Thought* (London: Routledge, 2013) and *Southeast Asia and the Vietnam War* (London: Routledge, 2010).

how the Thai Foreign Minister who was the rapporteur at the Bandung Conference in 1955 giving rise to the Non-Aligned Movement was also the same individual who had signed the Manila Pact giving rise to SEATO just a year earlier in 1954. As he sees it, it speaks to a larger theme: “Thai foreign policy is always very consistent in its inconsistency... [and] has always moved in such a way as not to have all your eggs in one basket.”⁸⁵ Richard Childress, the Director for Asian Affairs on the National Security Council for most of Ronald Reagan’s presidency, recalls that in the wake of the American withdrawal from Vietnam, there was a “sort of paranoia at the top of the Thai Government” for many years thereafter.⁸⁶

The fact that refuge was provided in such a selective and contingent manner to different groups at different times is of more than passing interest. The very uncertainty of refugee protection played a role in consistently inviting international assistance.

1.7 STRUCTURE

Because the aim of this study is to better understand the pattern of strategic interaction that defined the international response to the Indochinese refugees, my focus is broadly chronological. Rather than break out my study into atomised accounts of the experiences of particular resettlement states, groups of refugees or states of first asylum, I have instead sought to focus on the three distinct phases of the international response (the initiation, maintenance and termination of assistance) in a more synthetic fashion, focusing on important episodes within each phase that speak to the larger cooperative patterns at play. Much particularity is undoubtedly lost in this approach but it is my hope that much is gained too.

Chapter Two (‘What motivated assistance to the Indochinese?’) offers a general survey of existing social scientific explanations for how and why states solve the collective action problem of assisting in sharing the burden of refugee protection. It directly tests these theories against the pattern of interaction and behaviour exhibited in the response to the Indochinese outflow. It then sets out the two forces that largely shaped assistance towards the Indochinese: impulses of compassion and a preference and concern for order.

⁸⁵ Tej Bunnag, ‘Thai Foreign Policy in Long Term Perspective’ Speech at Georgetown University School of Foreign Service in Qatar, 21 January 2015, available at: <http://qatar.sfs.georgetown.edu/files/thai-foreign-policy-long-term-perspective-his-excellency-dr-tej-bunnag>.

⁸⁶ Interview, 6 March 2015.

Chapter Three ('How real and threatened mistreatment shaped the international response')

sets out how mistreatment translated to burden-sharing. In particular, it sets out how the diagnostic and prognostic framing of the collective action problems presented by the Indochinese refugee flow served to shape the pattern of the international response in important ways. It then sets out how we know that mistreatment was salient for relevant decision-makers in resettlement states. Finally, it sets out several structural characteristics of refugee policy-making that justify the thesis' focus on diplomatic and governmental elites.

These considerations then guide the approach of the three following empirical chapters. In each chapter, I seek to explore the role that mistreatment played in shaping the willingness of resettlement states to assist. Each chapter represents a substantially different phase and should be seen as analytically distinct even though a certain level of inertia and path dependence might explain how resettlement endured. By tracing the intergovernmental interactions, I show that strategic concerns about refugee welfare and political order were amplified by the possibility and reality of mistreatment, ultimately inducing resettlement states to assist in sharing the burden of refugee flows. Moreover, I demonstrate that in the final period of the crisis, those affective concerns about refugee welfare also served to constrain and delay its resolution.

Chapter Four ('Responding to a Crisis') 1975-1980 explores the period leading up to and including the first major international agreement on refugee burden-sharing within Southeast Asia: the Geneva Conference on International Refugees (the 'First Geneva Conference') convened under the 'good offices' of the United Nations Secretary-General, Kurt Waldheim, in Geneva on 20 and 21 July 1979. The Chapter proceeds by first evaluating the pattern of refugee resettlement after the end of the Vietnam War for what it reveals about state motivation. Second, it examines the immediate context of international assistance and refugee flows leading up to the Conference. Third, it looks at how mistreatment magnified existing strategic concerns about regional order and the fate of particular groups of refugees on the part of donor countries.

Chapter Five ('Managing a Crisis') 1980-1987 sets out how the countries of first asylum used real and threatened mistreatment as a means of burden-shifting well after the passage of the 1979 crisis. Second it looks at how perceptions of mistreatment framed the decisions of resettlement states to assist. Then it explores two distinct aspects of the resettlement state response that demonstrate the salience of concerns over first asylum: (1) the consultations between the resettlement states within the Intergovernmental Consultations Group (IGC);

and (2) the inter-agency disputes that arose within the United States over the perceived need to screen asylum seekers for their claim to refugee status. Finally, it concludes by evaluating competing explanations for the generosity of resettlement.

Chapter Six ('Ending a Crisis') 1988-1996 examines the Comprehensive Plan of Action (the 'CPA') agreed upon in 1989 at another large international conference held in Geneva, this time under the auspices of the UN High Commissioner for Refugees. The Chapter begins by outlining the context leading up to the formulation and agreement of the CPA. Second, it outlines the role that mistreatment played in accounting for the continued engagement of the resettlement states. Third, it examines at some length the most controversial aspect of the CPA: the disputes over involuntary repatriation. Finally, it concludes with a detailed evaluation of the theory that the CPA's success in overcoming collective action problems lay in the importance of 'cross-issue persuasion.'

Chapter Seven (The Legacy of the Indochinese Refugee Crisis) explores the larger question of how we should assess the impact of the response to the Indochinese outflow in the present. First, it contends that its principal legacy was to alter collective and institutional understandings of the value of resettlement as a durable solution. Second, it ponders whether the experience of the crisis inured the states of the region to the adoption of formalised legal protection for refugees. Third, it explores the puzzle of why after a period of enduring, sustained (and celebrated) cooperation, refugee protection remains almost an exclusively unilateral concern for Southeast Asian states.

Finally, by way of a Postscript, I consider from the basis of the Indochinese experience whether putative mistreatment of refugees might potentially be a factor explaining burden-sharing towards refugee-hosting states more generally, outline areas for further research and proffer some limited, historically-informed policy recommendations.

1.8 TERMINOLOGY

1.8.1 ACTORS

'Refugee'

'Refugee' is more a term of art than a term of science. When referring to refugees throughout this work, I am using the term in its broadest sense to indicate someone who seeks to claim

refugee in another country. Plainly some refugees have better claims than others to fitting the technical requirements of the official Convention definition of someone with a well-founded fear of persecution. Yet it makes little sense to think in these terms when the Convention does not apply. In Thailand, for example, asylum seekers are technically 'illegal immigrants' and the term 'refugee' does not exist. The official designation for such people is 'displaced person' (*phu opphayop*) which is someone 'who escapes from dangers due to an uprising, fighting, or war, and enters in breach of the Immigration Act.'⁸⁷ The idea of a single 'Indochinese' refugee programme also simplifies things too readily. There were many different programmes for the different groups of Indochinese. A Cambodian outside a UNHCR camp had very limited prospects for resettlement compared to a Vietnamese boat person, for example.⁸⁸

'Southeast Asian states'/States of 'First Asylum'

While the frame of reference is anchored in the broader region, this project really focuses on the experience of Thailand and Malaysia in dealing with their refugee burdens. And even then, it is much more heavily weighted towards Thailand because that is where most of the refugees fled to. Even at the height of the Indochinese refugee crisis, for example, the other ASEAN states witnessed dramatically fewer refugee arrivals. They were also decidedly less organised in their response.⁸⁹ Due to their proximity to refugee-producing states in Indochina and Burma, Thailand and Malaysia were the states in the region most affected by refugee arrivals.

Their historic treatment of refugees was roughly similar too. Both countries denied a right to asylum, instead granting only temporary refuge to those who sought it. Both countries at various points made their protection of refugees conditional on offers of resettlement elsewhere. And most critically, both countries persistently resorted to unorthodox (and often illegal) means of deterring refugee flows by turning back boats or through the involuntary deportation of refugees without processing.

'Resettlement States'/ 'Northern States'

⁸⁷ Hazel Lang, *Fear and Sanctuary* (Ithaca: Southeast Asia Program Publications, 2002), p. 92.

⁸⁸ Robinson, *Terms of Refuge*, p. 189.

⁸⁹ Jim Schill, the coordinator of American refugee resettlement efforts in Indonesia in 1979 observes that 'Indonesians didn't want [refugees] either but they just weren't as sophisticated in their methods of deterrence as the Thais and Malaysians' [Interview, 15 August 2014].

In the same vein, I largely focus on the reactions of two particular Northern States: the United States and Australia (a not especially northern Northern state). There are important similarities between the United States and Australia: both are English-speaking constitutional democracies, both are immigrant nations, both are wealthy countries, both have fought side by side in many conflicts. There are also important differences too: Australia is of the region when America is not, America is a superpower and Australia is a 'middle power', Australia hews much more firmly to its British roots whereas America threw off the shackles of British control early and violently. The American 'penchant for high purpose' correlates with a popular mythology that is, as Henry Albinski puts it, notably more idealistic, expansive and evangelical than Australia's.⁹⁰

The value of a study that is anchored (but not limited) to these two countries is obvious. But it does have limitations. The substantial resettlement of refugees in Canada and France, in particular, would be vital elements in a more complete accounting of the policies of states assisting. But at key points, the resettlement states converged in important ways. Australian attitudes were largely mirrored by the Canadians. While the Canadian experience might have proved an easier test for the role of compassion, in some ways given the possibility of 'self-insurance' proving a more meaningful motivation for Australia than Australia is the 'harder case'.

Nevertheless, a comparison of how the two countries converged and diverged in the resettlement of Indochinese refugees helps us answer the broader question of which factors mattered most when they agreed to resettle them. And the larger attention to the international interactions and context of their policy-making helps illuminate how their experiences came to be representative of resettlement states at large.

1.8.2 DEFINING ACTION

What do I mean when I talk about how a relationship between 'refugee mistreatment' and 'burden-sharing' leading to 'burden shifting' during the Indochinese refugee crisis?

'Mistreatment'

⁹⁰ Henry S. Albinski, 'Responding to Asia-Pacific Human Rights Issues: Implications for Australian-American Relations' in *Australian Journal of International Affairs* (1996) Vol. 50, No. 1, pp. 43-58.

Mistreatment of refugees and those who claim refugee status can take many forms: desultory housing conditions, police harassment, the denial of avenues of justice. But most obviously, in the case of the Indochinese, it arose through a denial of the right to *non-refoulement*. *Non-refoulement* is the 'foundation stone' of the global refugee regime.⁹¹ As a principle of customary international law, states are (and were during the Indochinese outflow) obliged to refrain from returning any person claiming asylum to the state from which they are fleeing. But it has come to mean more than a mere prohibition and now extends to at least a minimal right to non-rejection.⁹² Real or threatened *refoulement* of refugees was decisive in explaining the willingness of donor states to assist over the course of the Indochinese outflow.

It is best to think of behaviour that breaches the norm of *non-refoulement* on a spectrum. Steering boats bearing asylum seekers away from your country while they are still in international waters is something of a grey area. But pushing people back across a border into a state from which they have fled is certainly in breach of a state's obligations on the plane of international law. Establishing how the principle works through time is legally tricky too; there are good reasons to think that a state's obligation to offer asylum can and should not endure forever.⁹³

To the extent that I use 'mistreatment' as an explanatory tool, however, it is not in a legal or necessarily material sense but in a perceptual sense. In the case of the early outflow, it was because Thailand pushing refugees back across a border or Malaysia towing rickety boats back out to sea was perceived by many individuals in resettlement states to be both tragic and wrong that I think mistreatment matters. Thus mistreatment both occurred and was threatened. This is why I speak of mistreatment both as a real and potential phenomenon. The threats of first asylum states to mistreat refugees hung like a sword of Damocles over the whole length of the crisis. As Mike Molloy, one of the central figures in co-ordinating the Canadian response to the early outflow remembers of Thai and Malaysian attitudes that:

⁹¹ Goodwin-Gill and McAdam frame the broad prescription of *non-refoulement* thus: 'that no refugee should be returned to any country where he or she is likely to face persecution, other ill treatment or torture'. [Guy Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (Oxford: Oxford University Press, 2007) 3rd ed., p. 201.]

⁹² Ibid, p. 208.

⁹³ Jean-François Durieux and Jane McAdam, 'Non-refoulement through Time: the Case for a Derogation Clause to the Refugee Convention in Mass Influx Emergencies' in *International Journal of Refugee Law* (2004) Vol. 16, No. 1, pp. 4-24.

their ability to make people die in large numbers was always there. You'd get the reports from the missionaries coming in about going down to the beach to harvest the bodies each day for burial... We never doubted their resolve. They would have no compunction about pushing people off. It's a vicious area. This is not a warm and cuddly part of the world... It was something that was always in our minds and we knew we couldn't do anything about it.⁹⁴

On 'burdens', 'shifting' and 'sharing'

What the 'burden' of refugees to be shared actually involves is not always clear.⁹⁵ It can involve direct financial assistance with the costs of managing refugee camps and refugee determination processes. Or even more simply, helping countries to feed, clothe and shelter the refugees that they house. But most obviously, burden-sharing can involve resettling refugees.

Resettlement is a useful prism to judge burden-sharing because it represents a much greater burden for donor states than the other traditional durable solutions (voluntary repatriation and local settlement). Resettlement involves both financial expense and questions of social membership. Donor states are not only just spending money to protect their welfare but they are also inviting them to be members of their society. As Alison Brysk contends, 'sheltering refugees is the single most direct and immediate measure states can take to assist the victims of human rights abuse.'⁹⁶ This is especially so because refugees are typically 'needy foreigners, who often hail from hostile zones and incompatible cultures, and have no natural constituency within host nations.'

I conceive of the provision of resettlement spaces as the main measure of 'burden-sharing'. This merits attention because it is clearly the most costly form of assistance to donor states (bestowing social membership) and the most clearly beneficial to any host states (removing the needy entirely) short of them preventing any arrivals to begin with. The actual presence of refugees is the main burden that refugee advocates argue needs sharing so it makes sense to focus on where the people move to. Similarly, when speaking of 'burden shifting,' I mean the opposite: actions and strategies undertaken to avoid bearing the burden of hosting people.

⁹⁴ Interview, 2 April 2015.

⁹⁵ And plainly refugees are not always a burden to host states: see, for example, Alexander Betts, Louise Bloom, Josiah Kaplan, Naohiko Omata, 'Refugee Economies: Rethinking Popular Assumptions' (Report, Oxford Refugee Studies Centre, 20 July 2014).

⁹⁶ Alison Brysk, *Global Good Samaritans* (Oxford: Oxford University Press, 2009), p. 22.

When this thesis engages a larger discussion of 'burden-sharing' it is not to set out its own fully-specified vision of how and why states choose to assist. Rather, it uses the experience of burden-sharing in response to the Indochinese to evaluate many of the theoretical propositions set out by various theories of refugee burden-sharing. This raises an important question: is it ever valid to suggest that resettlement could be a prism through which to judge the virtues of larger theories of burden-sharing on refugee matters?

There are a few objections worth noting. First, some might contend that the historic and contemporary rarity of resettlement (approximately 1 in 400 refugees gets resettled globally each year) means that it would tell us little about any putative global skew in refugee assistance. Yet as a proportion of Northern government spending on refugee assistance, it still rivals and often exceeds donations to the UNHCR, responsible for the care and protection for over 10 million refugees. For example, the United States donated to \$US1.041 billion to UNHCR in 2013 (the largest donation and more than a quarter of the total UNHCR budget).⁹⁷ But it spent \$US1.117 billion on its own resettlement program for roughly 70,000 refugees.⁹⁸ Plainly, resettlement spending represents an extraordinarily significant portion of Northern state spending on global refugee protection. Second, some might argue that the politics of resettlement is very different to the broader politics of international refugee protection as it more often relies on an assessment of the likely fit between a host state and a refugee rather than assessments of the particular protective needs of any given refugee. But this objection is more apparent than real. In diverse, immigrant countries like the United States and Australia, almost all ethnicities are represented even if in small numbers. And in the selection of which refugees to take, there is no shortage of candidate populations who would both fit in well enough and willingly accept resettlement. Third, it could be argued that the goal of refugee resettlement has shifted significantly in the last thirty years (an outcome often attributed to the Indochinese experience, as will be explored). Where once it was considered as one of three 'durable solutions', now it is seen as the least preferred, reserved only for situations of protracted displacement. This probably matters less for our understanding of burden-sharing than it seems to. Most refugee situations are protracted. More than half of the refugees officially under the care of the

⁹⁷ UNHCR Global Report 2013 - Donor Profiles, UNHCR, [available at: <http://www.unhcr.org/539809e80.html>].

⁹⁸ 'Proposed Refugee Admissions for Fiscal Year 2014', US Department of State, [available at: <http://www.state.gov/documents/organization/219137.pdf>].

UNHCR exist in declared conditions of protracted displacement.⁹⁹ Given that, we should seek to better understand the international context for the largest contemporary resettlement of refugees. Finally, even if compelling, these are all claims that just limit the extent of, rather than displace, my claim that Southeast Asian countries benefited in unexpectedly large ways from the global refugee regime during the Indochinese outflow.

⁹⁹ UNHCR defines a protracted refugee situation as one in which 25,000 or more refugees of the same nationality have been in exile for five years or longer in a given asylum country. Based on this definition, it is estimated that some 6.3 million refugees (54%) were in a protracted situation by the end of 2013. These refugees were living in 27 different host countries and there were 33 overall protracted situations. [UNHCR Global Trends 2013 - available at: <http://www.unhcr.org/5399a14f9.html>].

2 WHAT MOTIVATED ASSISTANCE TO THE INDOCHINESE?

A DISJUNCTURE BETWEEN 'POLITICS' AND 'PRINCIPLES' is a recurrent thread in most characterisations of what drives international cooperation on refugee issues. For Harrell-Bond, it is 'the tensions between political imperatives and international humanitarian obligations.'¹⁰⁰ For Loescher, it is a conflict 'between the political self-interest of states as well as... humanitarian interests.'¹⁰¹ For Teitelbaum, refugee policy invariably involves an invidious choice between 'strategic and security interests', 'national economic interests', 'ideological interests' and 'humanitarian concerns.'¹⁰² Against concrete interests, it would seem humanitarian considerations can only ever be concerns.¹⁰³ What can we learn from general accounts of cooperation on refugee issues that can help us understand the Indochinese experience? And how does the Indochinese experience challenge such general accounts?

The decision to admit refugees is one that seemingly dramatizes the choice between hard heads and soft hearts. Typically, forced migration scholars have always converged on the same conclusion: that 'the interests and priorities of the most powerful have generally

¹⁰⁰ Barbara Harrell-Bond, 'Refugees and the International System: The Evolution of Solutions' (RSC Working Paper, Refugee Studies Centre, University of Oxford, June 2 1995), p. 2.

¹⁰¹ Gil Loescher, *Beyond Charity* (New York: OUP, 1993), p. 180.

¹⁰² Michael Teitelbaum, 'Immigration, Refugees, and Policy' in *International Organization* (1984) Vol. 38, No.3, p. 444-445.

¹⁰³ This is a broader debate about humanitarianism too. Theorists of humanitarianism frequently note its binary relations to politics and the way humanitarian organisations strategically construct themselves as 'apolitical' and distant from the political realm. See, for example, Michael Barnett and Thomas Weiss, (eds.), *Humanitarianism in Question* (Ithaca: Cornell University Press, 2008), p. 4; Daniel Warner, *The Politics of the Political/Humanitarian Divide* in *International Review of the Red Cross* (1999), Vol. 81, no. 833, pp. 109-118.

prevailed over moral obligations concerning international responsibility,¹⁰⁴ that 'in practice, political considerations take priority over humanitarian concerns'¹⁰⁵ and that refugee policy is 'consciously and... explicitly a handmaiden of foreign policy.'¹⁰⁶ B.S. Chimni puts it even more forcefully: 'humanitarian factors do not shape the refugee policies of the dominant states in the international system.'¹⁰⁷

The resigned sense that political skulduggery frequently trumps humanitarian virtue is a thread that runs through accounts of the Indochinese refugee crisis too. For Valerie Sutter, the crisis was ultimately defined by 'the tensions among competing national interests and between those interests and humanitarian concerns.'¹⁰⁸ For Courtland Robinson, the 'Indochinese exodus has... offered all too many examples of the brutal and indifferent forces that buffet refugee lives.'¹⁰⁹ For William Shawcross, the whole episode was a 'dismal drama... [in which] nearly all the players used humanitarianism as a fig leaf for either the poverty or the ruthlessness of their politics.'¹¹⁰

Yet why states ultimately chose to resettle refugees is never really specified in detail beyond slightly vague allusions to 'domestic politics and foreign policy considerations.'¹¹¹ The disconnect between our general theories of refugee cooperation and our specific accounts of the Indochinese outflow is all the more reason to test the value of the general theories.

¹⁰⁴ Harrell-Bond, 'Refugees and the International System', p. 2

¹⁰⁵ Tahl Tyson, 'The Refugee Act of 1980: Suggested Reforms in the Overseas Refugee Program to Safeguard Humanitarian Concerns from Competing Interests' in *Washington Law Review* (1990) Vol. 65, pp. 921-938, p. 921.

¹⁰⁶ Kathleen Newland, 'The Impact of U.S. Refugee Policies on U.S. Foreign Policy: A Case of the Tail Wagging the Dog' in Michael S. Teitelbaum and Myron Weiner (eds.) *Threatened Peoples, Threatened Borders* (New York: Norton, 1995), p. 190.

¹⁰⁷ B.S. Chimni, 'From Resettlement to Involuntary Repatriation: Towards a Critical History of Durable Solutions to Refugee Problems' in *Refugee Survey Quarterly* (2004) Vol. 23, No.3, pp. 55-73, p. 58.

¹⁰⁸ Valerie Sutter, *The Indochinese Refugee Dilemma* (Baton Rouge: Louisiana State University Press, 1990) p. 218.

¹⁰⁹ W. Courtland Robinson, *Terms of Refuge* (London: Zed Books, 1998) p. 290.

¹¹⁰ William Shawcross, *The Quality of Mercy* (London: André Deutsch, 1984), p. 414.

¹¹¹ Gil Loescher, *Beyond Charity* (New York: OUP, 1993), p. 156.

There are many powerful accounts of why states choose not to accept refugees for settlement (largely centred on the absence of ethnic or cultural affinities) but the answers to why they do cannot just be the converse (i.e. the presence of ethnic affinity.)¹¹² Knowing that help for refugees is contingent on the caprices of politics tells us less than we think about how and why inchoate concerns for refugees is translated into resettlement.

This chapter seeks to bridge that divide and outlines how affective, humanitarian concerns (which are often stylised out of general accounts of refugee cooperation) were every bit as relevant in shaping the international response towards the Indochinese as more self-interested strategic concerns. The Chapter proceeds in two parts. First, it seeks to identify the theoretical gaps in our more general understanding of why states assist in refugee burden-sharing (especially as they apply to resettlement). It divides existing theories into two clusters (regime-centred theories of cooperation and state-centred theories of cooperation) and tests their propositions against the pattern of the international response to the Indochinese. Identifying the absence of a non-instrumental rationale for refugee assistance, it asks what we can take from larger debates over costly humanitarian action. Thus recognising the importance of more basic humanitarian impulses, I then set out what I see as the twinned motivation for assistance towards the Indochinese refugees: compassion and order.

2.1. APPLYING THEORIES OF BURDEN-SHARING

The prominence of discussions of ‘burden sharing’ in the global refugee regime may, as Gregor Noll suggests, be the product of it being a phrase ‘attractively void of precise meaning.’¹¹³ But there is a real question at play that ought matter for understanding the

¹¹² Myron Weiner, 'People and States in a New Ethnic Order' in *Third World Quarterly* (1992), Vol. 13, No. 2, pp. 317-333.

¹¹³ Gregor Noll, 'Prisoners' Dilemma in Fortress Europe: On the Prospects for Equitable Burden-Sharing in the European Union' (1997) in *German Yearbook of International Law*, Vol. 40, pp. 405-437, p. 418.

response to the Indochinese: how and why do states divide and distribute responsibility for those seeking protection? Devising a compelling causal logic as to why states accept refugees in some instances but not others may be an almost irreducibly complex task. Different reasons matter at different times for different actors in different decision making environments. But some theories are better than others. And a granular attention to the pattern of international interaction in the Indochinese case offers us the opportunity to at least approximately distinguish which ones.

In this section, in order to understand what best explains the response to the Indochinese, I will be surveying two distinct families of explanation for what they might generally reveal about how and why states might assist in helping other states in sharing the costs of the refugee burden: (1) regime-based theories that seek to account for why some cooperative mechanisms for refugee protection succeed and others fail; and (2) state-based theories for why states have an interest in refugee protection. This division is slightly artificial and the family resemblances between theories might be more those between cousins than brothers but they are still genetically similar. Regime-based theories start from different premises and are inquiring as to what the character of the collective action problem that refugees pose is and what that implies for state behaviour. State-based theories conceive assistance towards refugees in far more conventionally instrumental terms, are largely just framing refugee policy as an ordinary question of foreign policy, and see assistance as driven by pre-existing policy interests or configurations of domestic actors. In so doing, I will seek to set out the difficulties of applying those frameworks to the Indochinese experience.

2.1.1. REGIME-CENTRED THEORIES

2.1.1.1. REFUGEE PROTECTION AS A PUBLIC GOOD

The most rigorous and fully-specified explanations for why states cooperate on refugee matters are those that begin by seeking to try and apply an institutionalist lens to the question of why one state might assist another in dealing with refugee inflows. This typically starts by trying to better understand what sort of 'public good' refugee cooperation (broadly understood) resembles. Mancur Olson's theory of collective action and public goods has been profitably applied to many issues in the international arena, notably to the provision of defence.¹¹⁴ Beyond defence, the contributions of states to international organisations or to cooperative international efforts such as peacekeeping have also been fruitful fields of inquiry.¹¹⁵

From this, two themes are clear: first, that the nature of the good has an important impact on state behaviour and, second, that the nature of the organization providing the good matters too. An international organisation that can provide more private benefits to a state is much more likely to succeed in generating cooperation.¹¹⁶

Debates over refugee burden-sharing have largely converged on an understanding that the collective provision of refugee protection looks most like an impure public good that offers some limited private benefits (sometimes labelled a 'joint product model' public good).¹¹⁷ The benefits of providing refugee protection are non-excludable but donor states do get

¹¹⁴ See, for example, Mancur Olson and Richard Zeckhauser, 'An Economic Theory of Alliances' in *Review of Economics and Statistics* (1966), Vol. 48, pp. 266-79; Andrew Bennett, Joseph Lepgold and Danny Unger, 'Burden-Sharing in the Persian Gulf War' in *International Organization* (1994) Vol. 48, No. 1, pp. 39-75.

¹¹⁵ See, for example, Gi-Heon Kwon, 'The Declining Role of Western Powers in International Organizations: Exploring a New Model of U.N. Burden Sharing' in *Journal of Public Policy* (1995), Vol. 15, No. 1, pp. 65-88; Hirofumi Shimizu and Todd Sandler, 'Peacekeeping and Burden-sharing, 1994-2000' in *Journal of Peace Research* (2002), Vol. 39, No. 6, pp. 651-668.

¹¹⁶ Lisa Martin, 'Interests, Power and Multilateralism' in *International Organization* (1992) Vol. 46, No. 4, pp. 765-792.

¹¹⁷ See, for example, Alexander Betts, 'Public Goods Theory and the Provision of Refugee Protection: The Role of the Joint Product model in Burden-Sharing Theory' in *Journal of Refugee Studies* (2003) Vol. 16, No. 3, pp. 274-296; Steven Roper and Lilian Barria, 'Burden Sharing in the Funding of the UNHCR: Refugee Protection as an Impure Public Good' *Journal of Conflict Resolution* (2010), Vol. 54, No. 4, pp. 616-637.

some private benefits. But the precise nature of the private benefits that a state enjoys is a matter of dispute. Roper and Barria, for example, suggest that states often contribute to resettlement in order to seek the private benefit of helping their own NGOs attract resettlement resources.¹¹⁸ The state as a cipher for NGOs seems slightly implausible, however. States that already have large numbers of NGOs working on refugee protection are probably already more committed to refugee protection to begin with. Betts identifies two distinct (but linked) 'state-specific security benefits' that help explain states' voluntary contributions to refugee agencies: historic cultural affinities (usually colonial) and the presence of relatively high numbers of asylum seekers from that country.¹¹⁹ Britain, for example, reserves a significant portion of its contributions for former colonies and they also happen to be the places from where it admits a relatively high proportion of its asylum seekers. France similarly focuses its contributions on francophone countries. The power of colonial relationships is unsurprising.¹²⁰ These are just general correlations, however, and are probably more suggestive of a desire for states to use the UNHCR to discourage onward movement of asylum-seekers (as Betts notes) than of the interests that really drive state behaviour.¹²¹

One of the problems besetting institutionalist accounts of cooperation is that it becomes very difficult to account for norms-based or altruistic assistance. Eiko Thielemann (borrowing from March and Olsen's logics of 'consequence' and 'appropriateness' dichotomy)¹²² notes that two logics help us understand the motivation for one state's willingness to assist another in dealing with the burden of refugees. He suggests that states

¹¹⁸ Roper and Barria, 'Burden Sharing in the Funding of the UNHCR', pp. 624-625.

¹¹⁹ Betts, 'Public Goods Theory', pp. 288-291.

¹²⁰ In a study of foreign aid distribution, Alesina and Dollar note that former colonial status is the most important indicator of aid receipts and that 'a non-democratic former colony gets about twice as much aid as a non-colony': Alberto Alesina and David Dollar, 'Who Gives Foreign Aid to Whom and Why?' in *Journal of Economic Growth* (2000) Vol. 5, p. 55.

¹²¹ Betts, 'Public Goods Theory', p. 292.

¹²² James March and Johan Olsen, 'The New Institutionalism: Organizational Factors in Political Life' in *American Political Science Review* (1984) Vol. 78, No.3, pp. 734-749.

make either 'an instrumental rational choice' or a 'norms-based approach' in deciding to contribute.¹²³ The consequentialist incentives to assist are either because cooperation provides positive-sum benefits or represents a form of mutual insurance should the donor state one-day face a refugee influx. The norm-based approach sees behaviour as driven by either group solidarism ('the recognition of special obligations between the members of a group') or an other-regarding altruism ('to promote the wellbeing of other members of the group.')¹²⁴ Thielemann's notion of dual logics driving refugee protection is a useful one (that I later adapt) but he only really thinks of solidarism as between potential asylum-granting states not as between resettlement states and countries of first asylum or between resettlement states and various groups of refugees. Moreover, Thielemann's framework is unnecessarily mutually exclusive. Not only do states act for norms-based and instrumentally-rational reasons, but they also act for reasons of particular affinity and general humanitarian concern. In a more recent work, he seems to be hinting that a state's willingness to accept the burden of refugee protection probably has much more to do with its 'commitment to particular norms and the protection of certain rights.'¹²⁵

Kevin Hartigan has attempted to fuse the twin logics of self-interest and altruism in showing how the UNHCR facilitated the matching of norms to interests in Central America in the 1980s, leading Honduras and Mexico to grant refuge to Central American refugees.¹²⁶

UNHCR's involvement in Honduras and Mexico was not 'despite their national interests... [rather it] encouraged their policymakers to pursue existing interests through refugee

¹²³ Eiko Thielemann, 'Between Interests and Norms: Explaining Burden-Sharing in the European Union' in *Journal of Refugee Studies* (2003) Vol. 16, No. 3, pp. 253-273.

¹²⁴ Ibid, p. 258. See also Eiko Thielemann, 'Symbolic Politics or Effective Burden-Sharing? Redistribution, Side-payments and the European Refugee Fund' in *Journal of Common Market Studies* (2005) Vol. 43, No.4, pp. 809-810.

¹²⁵ Eiko Thielemann and Carolyn Armstrong, 'Understanding European Asylum Cooperation Under the Schengen/Dublin System: A Public Goods Framework' in *European Security* (2013) Vol. 22, No. 2, pp. 148-164, p. 157.

¹²⁶ Kevin Hartigan, 'Matching Humanitarian Norms with Cold, Hard Interests: The Making of Refugee Policies in Mexico and Honduras, 1980-89' in *International Organization* (1992), pp. 709-730.

protection.¹²⁷ But it is hard to apply Hartigan's argument to a Southeast Asian context given he acknowledges that central to the UNHCR's success was the fact that neither Mexico nor Honduras felt that it could continue to resort to deportation as a policy option to deal with increased refugee flows.¹²⁸

The clearest thread that these accounts of the role that humanitarian norms play in generating and conditioning refugee assistance is the conclusion that they do matter somehow. While the heterogeneity of donor responses makes it hard to generalise, it seems that compassion matters more than reprehension.¹²⁹ Yet how logics of consequence and appropriateness intersect in the decision to assist is little understood.

2.1.1.2. ASTRI SUHRKE AND HEGEMONIC LEADERSHIP

Perhaps the most significant attempts to better understand international burden-sharing within the context of the global refugee regime has arisen in the work of Astri Suhrke.¹³⁰ Suhrke's work situates attempts to deal with refugee flows within the broader foreign policy considerations of relevant actors. Zolberg, Suhrke and Aguayo, for example, argue that 'the availability of asylum or resettlement for refugees is conditioned by foreign policy considerations in the receiving counties... [and ultimately] international support for a given

¹²⁷ Ibid, p. 720.

¹²⁸ Ibid, p. 718.

¹²⁹ Mathias Czaika and Amy Mayer, 'Refugee Movements and Aid Responsiveness of Bilateral Donors' in *The Journal of Development Studies* (2011) Vol. 47, No. 3, pp. 455-474, p. 465.

¹³⁰ See, for example, 'Burden-Sharing During Refugee Emergencies: the Logic of Collective versus National Action' in *Journal of Refugee Studies* (1998) Vol. 11, No. 4, pp 396-415; 'Beggars-Thy-Neighbour: The Structure of International Cooperation on Refugees' (Working Paper, November 1997); 'The "High Politics" of Population Movements: Migration, State and Civil Society in Southeast Asia' in Myron Weiner (ed.) *International Migration and Security* (Boulder: Westview Press, 1993), pp. 179-200; (with Aristide Zolberg and Sergio Aguayo), 'International Factors in the Formation of Refugee Movements' in *International Migration Review* (1986) Vol. 20, No.2; 'Indochinese Refugees: The Law and Politics of First Asylum' in *Annals of the American Academy of Political and Social Science*, (1983) No. 467, pp. 102-115; 'Indochinese Refugees and American Policy' in *World Today* (1981) Vol. 37, No.2, pp. 54-62; (with Hans Indorf), 'Indochina: The Nemesis of ASEAN' in *Southeast Asian Affairs* (1981) Vol. 8, pp. 62-72; 'Indochinese Refugees: The Impact on First Asylum Countries and Implications For American Policy: a study prepared for the use of the Joint Economic Committee, Congress of the United States' (Washington, D.C.: United States Government Printing Office, 1981); 'Refugees and International Strategic Issues' (York University, Toronto: Centre for Refugee Studies, 1977).

refugee flow reflects the nature of the foreign interests in the conflict that generated the refugees in the first place.¹³¹ Foreign policy considerations undoubtedly play an important role in explaining the assistance of some states in assisting other states in sharing the burden of refugees. But it is perhaps a more general conclusion than it at first seems.

In a later work, Astri Suhrke suggests that the key to understanding why burden-sharing 'worked' in the Indochinese case, for example, was that it was an essentially 'hegemonic' scheme. American leadership created 'an informal responsibility sharing guided by hegemonic pressure on individual actors to do more, but leaving each actor to define that share according to its own selection procedures and intake-criteria.'¹³² Absent American involvement, 'the profound disincentives to collective action in asylum matters [would have] prevailed.'¹³³ Collective action to deal with refugee flows in Suhrke's view is difficult because unlike capital, goods and services, or even environmental protection, dealing with refugees raises questions of social membership.¹³⁴

Despite the suggestion of Betts that Suhrke's account suffers from 'her assumption that the refugee regime can be characterized by the Prisoner's Dilemma',¹³⁵ as she notes, 'the theorem of 'Prisoner's Dilemma' does not quite apply to refugees and... the remedies it implies are unsuitable.'¹³⁶ In her view, 'the seductive logic of unilateral action' (the relative ease with which any state can deter refugee flows) makes it difficult to meaningfully apply the Prisoner's Dilemma framework.¹³⁷ We are better off seeing Suhrke's account of the difficulties of collective action within the refugee regime as being informed by a variant of

¹³¹ Aristide Zolberg, Astri Suhrke and Sergio Aguayo, *Escape from Violence: Conflict and the Refugee Crisis in the Developing World* (Oxford: OUP, 1989), p. 176.

¹³² Suhrke, 'Burden-sharing during Refugee Emergencies', p. 406.

¹³³ *Ibid*, p. 414.

¹³⁴ Suhrke, 'Beggars-Thy-Neighbor: The Structure of International Cooperation on Refugees'.

¹³⁵ Betts, *Protection By Persuasion*, p. 31.

¹³⁶ Suhrke, 'Burden-sharing during Refugee Emergencies', p. 402.

¹³⁷ *Ibid*, p. 403.

hegemonic stability theory that sees refugee cooperation as the product of the participation of one hegemonic power.¹³⁸

It can be sometimes hard to see the precise role that 'hegemony' plays in explaining cooperation on refugee issues, just as it can be hard to ascribe other cooperative outcomes to hegemony. Cooperative arrangements do not necessarily need hegemons to function well and nor can we automatically equate hegemony with the beneficent provision of public goods.¹³⁹ Second, in the Indochinese case, the evidence for hegemonic pressure is thin on the ground when evaluating American interactions with either resettlement states or first asylum states to improve their contribution to refugee protection.

Efforts were certainly made to 'internationalise' the problem but these efforts were largely rhetorical and never backed by material threats. Mild public criticism was made of Japan (which had not taken many Indochinese refugees in the years leading up to 1979) to pressure them to take more refugees but there was no threat of what might happen if they did not (something which could not be said of American attitudes about Japanese trade and whaling practices at the time).¹⁴⁰ John Menadue, head of the Australian Immigration Department in the early 1980s, recalled simply that "I was never conscious that we were under great pressure from the Americans."¹⁴¹ Richard Childress, Director of Asian Affairs on the U.S. National Security Council for most of the 1980s, remembers dealing with the Australians in similarly hands-off terms: "I would meet with the Australian Foreign Minister. We'd talk to

¹³⁸ See, for example, Michael Webb and Stephen Krasner, 'Hegemonic Stability Theory: An Empirical Assessment' in *Review of International Studies* (1989), Vol. 15, pp. 183-198.

¹³⁹ Duncan Snidal, 'The Limits of Hegemonic Stability Theory' in *International Organization* (1985) Vol. 39, No. 4, pp. 579-614.

¹⁴⁰ Michael Strausz, 'International Pressure and Domestic Precedent: Japan's Resettlement of Indochinese Refugees' in *Asian Journal of Political Science* (2012) Vol. 20, No. 3, p. 248.

¹⁴¹ Interview, 25 February 2015.

them and urge them to take more. You wouldn't threaten them with anything. You'd just say this was something that needed to be done and we'd appreciate it. That was it."¹⁴²

The absence of coercive behaviour towards the countries of first asylum is comparably striking. Only once did America ever punish a first asylum state for violating accepted standards of refugee protection, temporarily cutting off a US\$1 million subsidy for Malaysian participation in an American military training program in 1990 in protest at their policy of push-backs.¹⁴³ As Karl Jackson, Director of Asian Affairs on the National Security Council under George H.W. Bush, put it: "you démarched (sic) them and got on with it... compartmentalising these things was how it worked back then."¹⁴⁴

The possibility that other levers of American assistance or power could be utilised for the purposes of refugee protection was usually fairly distant. An exchange between Stephen Solarz (a Democratic Congressman with a significant personal investment in the region and its issues) and the then U.S. Ambassador to Thailand, David Lambertson, in the wake of Thai push-offs of refugees in early 1989, provides an illustration of the the resistance to coercive linkages:

Mr. SOLARZ: Mr. Lambertson, what would you think of our conditioning our military assistance to Thailand on the willingness of the Thai government to make sure that all of the Khmer on their territory in these camps had the right to relocate to another camp if they chose to do so?

Mr. LAMBERTSON: I would not be in favor of that. I think we have to work with the Thai government to get at this problem... I don't think that by cutting off military assistance to Thailand we would be advancing our cause at all. I think it would cause obviously severe problems in the bilateral relationship between ourselves and the Thai which would make for less rather than more cooperation.

¹⁴² Interview, 6 March 2015.

¹⁴³ 'Mahatir Hits Out at U.S. Move to End Military Training Grant' *The Straits Times* 29 October 1990.

¹⁴⁴ Interview, 10 April 2013.

Our military assistance, I might add, has already declined to levels far below what it should be.¹⁴⁵

It mirrors an almost identical exchange between Elizabeth Holtzman, the Chair of the House Subcommittee on Immigration and Refugees, and Dick Clark, the U.S. Coordinator for Refugees, ten years earlier:

Ms. HOLTZMAN: ... We talked about bringing opinion to bear upon Vietnam; what about our efforts to bring world opinion to bear on Thailand? ... Why can't we get them at least to stop forcing the Cambodians back across the border I don't know if you are reviewing the option of, say, holding up the military equipment that we give to Thailand; but it seems to me that you should. I thought the Thais were genuinely a humanitarian nation but they are behaving in a very horrible way...

Ambassador CLARK: ... I think we've pressed the Thai Government very strong on this point. Now, it is true, certainly, that if we are prepared to make this issue one of [our] continued relationship with Thailand - military, economic, political, and so forth - that that would be a significant step to take. On the other hand, we are very concerned about the stability of that country.

Ms. HOLTZMAN: Is that an option that's being considered?

Ambassador CLARK: I think that is not an option that is being considered; namely, that we break off relations with Thailand, or we discontinue our military sales, or grants, or that we cut off our economic aid program. None of those have been considered.¹⁴⁶

Refugees were compartmentalised, almost akin to an issue on which the two countries would agree to disagree.¹⁴⁷ The occasional impulse from Congress, for example, to try and take measures to link military assistance and refugee protection met strong resistance from within

¹⁴⁵ 'Indochinese Refugees at Risk: The Boat People, Cambodians Under Khmer Rouge Control, and Re-education Camp Detainees' *Hearing Before the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs, United States House of Representatives* February 8, 1989, Serial H381-98, p. 115.

¹⁴⁶ 'The Indochinese Refugee Problem' *Hearings Before the Subcommittee on Immigration, Refugees and International Law of the House of Representatives Committee on the Judiciary* March 6, June 19 and 27, and July 31, 1979, Serial No. 26, p. 46.

¹⁴⁷ Lambertson remembers this aspect of the issue simply: "Refugees were a very important part of our relationship with Thailand, but they were hardly the only thing going on. We had important military-to-military ties, including what I think is still the largest US military exercise outside our borders, we had growing commercial relations which sometimes meant we were competing with Japanese or European interests, whose governments had not been putting pressure on the Thai on the refugee issue. We had other issues too. So we had to maintain a balance – we could not just lean on the Thai all the time on refugees." [Interview, 29 August 2014].

the State Department, largely due to a sense of the fragility of existing protection.¹⁴⁸ Dawn Calabria, a long-time Congressional staffer working on the Indochinese refugee issue, remembers that in part, the attitude when hearing about instances of pushbacks from UNCHR was to motivate greater assistance rather than criticism because “we need Thailand’s engagement on a whole host of other issues.”¹⁴⁹ To this end, “Thailand had an open door when it came to the United States. If the Thai government wanted to meet people, I made sure that they met anyone they wanted to see.”¹⁵⁰

2.1.1.3. BETTS: ISSUE LINKAGES AND CROSS-ISSUE PERSUASION

Betts identifies 'cross-issue persuasion' and 'issue linkages' as the decisive variables that explain the success of cooperative measures within the global refugee regime. Ultimately, to understand cooperation on refugee issues, scholars should look askance and explore 'the way in which refugee protection is interconnected with other issue areas such as migration, security, development, trade and peace-building.'¹⁵¹ By comparing four particular UNHCR-led initiatives designed to promote North-South cooperation in burden-sharing (two which succeeded and two which failed), Betts concludes that what really convinced Northern states to contribute to refugee protection in the South was whether or not the UNHCR could 'appeal to a wider set of interests and make these either an explicit or implicit part of the multilateral negotiations.'¹⁵² Through a process of 'cross-issue persuasion', interests and

¹⁴⁸ An aspect of it was personal too. Gene Dewey, the Deputy Assistant Secretary in the State Department’s Refugee Bureau from 1981-1986 remembers a constant need to assuage Squadron Leader Prasong Soonsiri after his meetings with Stephen Solarz: “Prasong would visit Solarz, Solarz would tell him what a barbarian he was, after he’d met with him, he’d come down to State, tell us how terrible he had been treated by Solarz and how he had decided he would drop all first asylum in Thailand but first he’d come to see his “friends” in the RP [Refugee Protection] bureau before he did anything.” [Interview, 22 August 2014].

¹⁴⁹ Interview, 23 February 2015.

¹⁵⁰ Interview, 23 February 2015.

¹⁵¹ Betts, *Protection By Persuasion*, p. 175. See also: Betts, 'International Cooperation in the Global Refugee Regime', GEG Working Paper 2008/44 (Oxford: Global Economic Governance Programme, 2008) and 'Comprehensive Plans of Action: Insights from CIREFCA and the Indochinese CPA' *New Issues in Refugee Research*, Working Paper No. 120 (Geneva: UNHCR, 2006).

¹⁵² Ibid, p. 20.

issues can become substantively and tactically linked, leading utility-maximising states to bargain their way to a cooperative outcome.

In the instances of Northern assistance with refugee protection in the South, Betts explains that 'the reason for the contributions of these Northern states was not the altruistic concern with the welfare of refugees per se, rather, their voluntary contributions to refugee protection were motivated by their own interest.'¹⁵³ What explains Northern assistance is the 'perception that refugee protection is related to their wider interests in other issue areas, notably immigration, security and trade.'¹⁵⁴

There is much to commend this approach and its capacity to parsimoniously describe the general patterns of international refugee cooperation. States and statesmen rarely see issues atomistically so it makes sense to put them in broader context. Yet its specific applicability to the Indochinese case is somewhat limited. First, it defines altruism down to be almost meaningless. It is hard to imagine what a purely altruistic motivation would look like in this domain given that any assessment of a refugee's protective needs would no doubt be informed by an assessment of what they are in need of protection from - an assessment that would inevitably involve wider interests. But that is not to say that altruism or compassion plays no role in informing the desire to assist.

Second, if it were true that linkages are decisive in generating international assistance, we should logically expect to see many more instances of Southern states making their protection of refugees conditional. Yet 'issue linkage' as a negotiation strategy for Southern refugee-hosting states to elicit assistance is not easily identified. The additional complication might be, as James Milner notes, the inability of Africa states to use 'issue linkage' to garner

¹⁵³ Ibid, p. 19.

¹⁵⁴ Ibid, pp. 3-4.

assistance is probably due to the fact that they emphasise restricting the quality rather than the quantity of asylum. It is, as he notes, 'striking that African states, independently and collectively, have not... threatened to disregard the principle of non-refoulement as a means of extracting burden-sharing commitments from donor states' as have Southeast Asian states.¹⁵⁵ It might be either that they lack structurally interconnected interests (in which case, perhaps it is structure more than agency that explains burden-sharing) or that normative constraints prevent them taking the actions that would truly arouse assistance.

The pattern of refugee cooperation over the duration of the Indochinese case challenges this approach in important ways. First of all, it presents the opposite causal relationship: given the observed indifference of the relevant Southern states to refugee protection, it represented a situation of Northern states, UNHCR and an array of largely-Northern civil society actors, trying to encourage Southern states to do more to protect refugees. These efforts were certainly amplified by the perception of additional security benefits to be gained but they were not singularly animated by them. Second, it conflates a disinterest in burden-sharing with a disinterest in refugee protection. As the Indochinese case illustrates, many Northern states may seek to promote protection of refugees without caring particularly about what happens once such refugees begin to enjoy a modicum of protection (typically a refugee camp in a Southern state). By explicitly coupling the granting of asylum with commitments to burden-sharing throughout the period of the Indochinese outflow, Southeast Asian countries were consistently able to elicit greater international support for resettlement or material assistance. When the choice for Northern states became resettlement or allowing highly public deaths on the open sea, the calculus shifted. Third, there is a possible peril in inferring motivations from structural features. Investigating how donor states have come to see their interests as linked is more useful than focussing on either the tactics or structures of issue linkage as this better illustrates the substantive motivations for assistance.

¹⁵⁵ James Milner, *The Politics of Asylum in Africa* (Houndmills: Palgrave Macmillan, 2009), p. 181.

Immediately, this suggests a broader picture of refugee cooperation that is contingent on the protective conditions of asylum in host states and one that may be slightly different to what either Suhrke or Betts envisages. Indeed, one of the striking features of Betts' framework is that it gives Southern states so little agency to elicit Northern cooperation. He contends ultimately that 'the bargaining power of Southern states within the refugee regime itself is extremely limited.'¹⁵⁶ The 'only form of implicit threat that they have available to them is to fail to meet refugees' rights in accordance with international law or to threaten to violate the principle of asylum.'¹⁵⁷ He goes on to argue that 'Hong Kong, Malaysia, Pakistan, and Tanzania... are prominent examples of countries where this threat has been carried out... yet this has rarely moved Northern states to commit to greater support for protection.'¹⁵⁸ Given that Thai and Malaysian 'push-backs' were a critical background condition during the negotiations of the Comprehensive Plan of Action (one of Betts' two case studies labelled as a success), it is surprising that he claims this.

It is plain from this brief review that there are two areas that regime-centred scholars of refugee cooperation have left somewhat under-specified when it comes to resettling refugees. First, they largely elide questions of state motivation: why might states decide to assist other states in sharing the burden that refugee inflows pose? Even in the hegemony account, it is not obvious what motivates the exercise of hegemony towards refugee ends. This makes generating any conclusion about what motivated assistance to the Indochinese difficult. And second, they lack a framework for state cognition and calculation: how might assessments of protective capacity affect considerations for assistance and how does that intersect with broader foreign-policy interests? The answers to these questions that this thesis offers are limited to the Indochinese outflow. They may be applicable in other contexts. But the value

¹⁵⁶ Betts, *Protection by Persuasion*, p. 36.

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

of starting off generally and setting out a framework of how states might more generally operate is that it alerts us to the specifics that answer the more general questions asked when studying a long historical series of events.

2.1.2. STATE-CENTRED THEORIES

The other family of theories worth mentioning are what I term ‘state-centred’ theories of refugee assistance. These map onto a more familiar cleavage of foreign policy traditions and can be segregated into discrete realist and liberal clusters, although there is some significant overlap (particularly with figures like the late Aristide Zolberg). Yet these are also typically accounts that lack the fully specified theoretical framework of regime-based accounts so their theoretical commitments are as much derived from their explanations as they are outlined prior to them. And, more problematically, they are for the most part simply theories of American foreign policy rather than advancing general propositions about refugee resettlement or burden-sharing.

2.1.2.1. REALIST ACCOUNTS

What I term ‘realist’ accounts are accounts that hew closely to power-centred explanations of state action that see refugee policy as almost completely subservient to the furtherance of more traditional security concerns.

2.1.2.1.1. COLD WAR WARRIORS

Monica Duffy Toft offers one of the few specific rationales for why during the Cold War so many refugees from communist states were accepted by resettlement countries, suggesting that a three-fold rationale applied: (1) that given how difficult it was to escape, a powerful selection bias meant only the most skilled, enterprising and educated escaped who in turn

were an attractive constituency for admission; (2) that they could provide valuable information about 'economic, technological and social conditions' within the Communist bloc; and (3) they were 'of great value in the propaganda war' as their 'stories buttressed moral [and] confirmed suspicions.'¹⁵⁹

Yet the first two rationales don't really apply to the Indochinese outflow. Although many of the Indochinese proved to be a so-called 'model minority' when resettled in the U.S., the pressures on the public purse from the sheer numbers of extremely poor and uneducated refugees being resettled were considerable and generated their own restrictionist pressures. Moreover, given the extensive international involvement in Indochina for most of the Cold War, they were scarcely needed to provide vital intelligence. And even then, it does not explain why they were resettled from the countries of first asylum (where presumably restrictions on dissent were fewer). Perhaps only the final rationale, their propaganda value, might apply.

Aristide Zolberg sees American refugee policy as primarily driven by 'realist' considerations of foreign policy. As he notes, 'providing asylum to the victims of one's enemies was consistent with the imperatives of realpolitik in that it demonstrated the antagonist's evil ways and undermined its legitimacy.'¹⁶⁰ Yet the strength of these forces in explaining policy towards the Indochinese and other refugee groups is readily exaggerated.

In many respects, scholars of refugee policy have over-indexed on the instrumental value of refugees in the propaganda battles of the Cold War.¹⁶¹ Charles Keely contends that the entire

¹⁵⁹ Monica Duffy Toft, 'The Myth of a Borderless World: Refugees and Repatriation Policy' in *Conflict Management and Peace Science* (2007) Vol. 24, No.2, pp. 139-157, p. 143.

¹⁶⁰ Aristide Zolberg, *A Nation by Design*, (Cambridge: Harvard University Press, 2006), p. 18.

¹⁶¹ Phil Orchard points out, for example, that Truman's utilization of the UN to solve the displaced persons problem after World War Two was framed in Cold War terms but flowed from humanitarian impulses: Phil Orchard, *A Right to Flee*, (Cambridge: Cambridge University Press, pp. 156-159).

regime of asylum and resettlement in Northern states was ‘designed for [the] political purposes of the Cold War’ and was largely just a ‘tool to create instability’ in different regions of the world.¹⁶² Yet as Kathleen Newland recognises, the slightly platitudinous Cold War explanation for refugee admissions ‘only goes so far’ as there were plenty of instances where the U.S. had policies actively encouraging political change but was also reluctant to admit any refugees (such as Solidarity activists from Poland in 1981).¹⁶³ Part of the reason for this was a feeling that accepting refugees only had the unintended effect of strengthening undesirable regimes.

Typically, much is made of the demonstrated partiality of American refugee policy towards those fleeing Communist states compared to those fleeing non-Communist states (the so-called ‘Cubans vs Haitians’ problem). Especially insofar as American refugee policy was institutionalised in the 1980 Refugee Act to implement the more non-discriminatory Refugee Convention definition of a refugee (removing delimitations of geography and time), the discrepancy was a function more of attitudes as to what constituted political persecution than it was attributable to some sort of strategic weapon against the Communist bloc.

At all points of the Indochinese outflow, conscious particularly of the great risks and dangers that flight posed, great efforts were made by resettlement states to prevent and discourage people from leaving the Indochinese states. At the very first Geneva Conference on Indochinese refugees in 1979, a deal was struck with Vietnam for them to do as much as possible to prevent unauthorised departures. Whatever propaganda value people ‘voting with their feet’ might have held, it was less than the cost of resettling them. As Judith Kumin notes, “the key trigger in enabling governments to be making commitments in the ‘79

¹⁶² Charles Keely, ‘The International Refugee Regime: The End of the Cold War Matters’ in *International Migration Review* (2001) Vol. 35, No.1, pp. 303-314.

¹⁶³ Kathleen Newland, ‘The Impact of U.S. Refugee Policies on U.S. Foreign Policy: A Case of the Tail Wagging the Dog?’ in Michael Teitelbaum and Myron Weiner, (eds.), *Threatened Peoples, Threatened Borders* (New York: W.W. Norton & Son, 1995), p. 192.

conference was the Vietnamese promise to stop the exodus. There was a lot of discomfort with that promise but it was the quid pro quo for the resettlement.”¹⁶⁴ Indeed, one of the major demands consistently pressed upon Vietnam was that it cease the outflow of people.

2.1.2.1.2. BLEEDING VIETNAM WHITE

Similarly, the argument that accepting refugees was tantamount to a form of strategic pressure on Vietnam finds little purchase. There is little if any evidence in either the public or private deliberations of relevant policy-makers or advocates that they were motivated by a view that accepting Indochinese refugees would generate internal pressures for change within Vietnam. The suggestion that accepting Indochinese refugees was a way of America refighting (and winning) the Vietnam War has an intuitive appeal but is largely without foundation. If anything, given that most of the refugees fleeing were ethnically Chinese, there was a feeling that their flight would probably result in the consolidation and strengthening of the Vietnamese state. It certainly involved costs for Vietnam. The loss of thousands of fishing boats used to ferry boat people in 1979 had a devastating effect on the Vietnamese fishing industry, for example. But these were trifling pressures in the context of the larger social reorganisation that was taking place in Vietnam in the wake of American withdrawal.

This is not to suggest that the fact that the Indochinese were fleeing communist regimes did not matter. Beyond the investment resettlement states had in ensuring the non-communist states of first asylum remained stable, it mattered on the margins because it made the argument that these people were truly persecuted more plausible in the minds of decision-makers. Jonathan Moore, a senior figure in American refugee policy-making for much of the 1980s, recalls that “there were people in the Reagan White House who thought that everyone who was a refugee from Southeast Asia was an anti-communist. Given their ideology, given

¹⁶⁴ Interview, 20 February 2015.

their particular anti-communism, I didn't necessarily discourage that view.”¹⁶⁵ It was an important but not a decisive background variable and any account that situates the response to the Indochinese simply in a Cold War context is dangerously incomplete.

2.1.2.2. LIBERAL ACCOUNTS

The second family of state-centred accounts are what I term ‘liberal’ accounts. There may be something intrinsic to liberal states that render them amenable to offering asylum and committing to refugee protection but I speak of these accounts as ‘liberal’ more in the sense that they seem to adopt an explanatory framework that sees state action as a product of the constellation of preferences and machinations of sub-state actors.

2.1.2.2.1. THE ‘SAIGON GANG’

Perhaps the conventional wisdom in accounting for the generosity of the American response to the Indochinese is what has become known as the ‘Saigon Gang’ account. Aristide Zolberg notes that central to the American response was that there was a core of well-placed individuals pushing for it. As he sees it, American assistance was attributable to:

a group of regional specialists within the State Department, under the leadership of Philip Habib promoted additional resettlement, acting both out of obligation to former associates now in jeopardy and because the outpouring threatened to destabilize the region's remaining non-Communist countries.¹⁶⁶

Alan Simpson, a Republican Senator who chaired the Senate Subcommittee on Immigration and Refugees for much of the 1980s, spoke of this group in somewhat conspiratorial terms in 1987: “I can tell you this: I have learned that there is an amazing network of old "Saigon

¹⁶⁵ Interview, 8 March 2015.

¹⁶⁶ Zolberg, *A Nation By Design*, p. 347 . See also Zolberg, ‘From Invitation to Interdiction: U.S. Foreign Policy and Immigration Since 1945’ in Teitelbaum and Weiner, (eds.) *Threatened People, Threatened Borders*, p. 132.

Cowboys," some people who really almost are irritated at their own country and they remain in that part of the world, raising hell with their own country. They do it subtly, but it is very devastating and dazzling to watch them work.”¹⁶⁷ Loescher and Scanlan detail at some length the role that the ‘Khmer Emergency Group’ – an operational group of serving and former U.S. Government employees based out of the American Embassy in Bangkok in 1979 – played in pushing American assistance towards more generous levels.¹⁶⁸ This was an issue that preoccupied many in the upper echelon of the U.S. State Department for a long time. William Brown, Ambassador to Thailand in the late 1980s, recalled his pique at being summoned back to Washington at the height of Thai pushbacks to attend a meeting with a “circle of senior State Department officials who were directly or indirectly involved in refugee affairs. I won't go into names, but some of them sounded off, demanding to know what was happening on my watch, etc.”¹⁶⁹ He had no doubt that “the refugee constituencies back in the United States... were powerful and had great access to political circles and Congress.”¹⁷⁰

The commitments of particular individuals played a great role in initiating and sustaining the generosity of response (as well as stonewalling the resolution of the outflow). Figures such as Lionel Rosenblatt, a Foreign Service officer who managed U.S. assistance in Thailand at the peak of the boat people crisis, and Morton Abramowitz, the American Ambassador in Thailand at the time, plainly mattered. So too did Congressional advocates for generosity such as Stephen Solarz and Mark Hatfield. Yet at some point the cast of characters to whom we can attribute the breadth and depth of assistance to becomes too vast. Without diminishing their input, it reminds us of the need to look to larger structures and events in explaining what enabled them to act in such a fashion. Most obviously, it becomes almost

¹⁶⁷ *Congressional Record – Senate*, p. 26845.

¹⁶⁸ Loescher and Scanlan, *Calculated Kindness*, pp. 156-169.

¹⁶⁹ William A. Brown, ‘Oral Interview’, 3 November 1998, ADST, p. 373. [Available at: <http://www.adst.org/OH%20TOCs/Brown,%20William%20Andreas.toc.pdf>].

¹⁷⁰ *Ibid*, p. 367.

impossible to leverage first-image explanations to explain vast international cooperative efforts.

2.1.2.2.2. REFUGEES, INC.

Another variant of liberal accounts are those that privilege a focus on the bureaucratic incentives of various actors and institutions involved in resettlement. Zucker and Zucker, for example, argue that refugee policy 'is not determined by foreign policy alone; rather it is governed by a troika of interests: foreign policy, the costs of resettlement and domestic pressures.'¹⁷¹ They contend that it is the 'biases and bents of foreign policy, the urgings of pressure groups, and the contingencies of costs' rather than humanitarianism that drive United States refugee policy.¹⁷² Plainly their theory is about more than just domestic pressure groups but there is an emerging account of American refugee policy, situated in a fairly crude account of public choice theory that sees the selection of refugees for resettlement as the product of the organisational incentives for survival which confront the rent-seeking interest groups with a stake in the issue. There is some intuitive plausibility to this account. The resolution of the Indochinese crisis was no doubt made more difficult by the presence of many NGOs animated more by a concern that their budgets and livelihoods were about to disappear.¹⁷³ Civil society advocates (particularly Leo Cherne, President of the International Rescue Committee, who formed the Citizen's Commission on Indochinese Refugees – an important amalgam of different groups) helped accelerate and amplify the generosity of the American response. Yet the problem with agent-centred accounts such as this is that they

¹⁷¹ Normal L. Zucker and Naomi Flink Zucker, 'The Uneasy Troika in US Refugee Policy: Foreign Policy, Pressure Groups, and Resettlement Costs' in *Journal of Refugee Studies* (1989) Vol. 2, No. 3, p. 359. See also, Zucker and Zucker, *Desperate Crossings* (Armonk: M.E. Sharpe, 1996).

¹⁷² *Ibid.* p. 371.

¹⁷³ Robert van Leeuwen, UNHCR Representative in Hong Kong during the CPA, saw it as essential that that UNHCR do more "to work itself out of a job" which also meant putting the NGOs effectively out of business [Interview, 18 July 2014.] In a message to fellow UNHCR regional representatives in 1993, for example, he wrote that 'The number of NGOs and their activities should be sharply reduced and, where appropriate, displaced to the SRV (not necessarily in connection with returnees) or elsewhere where needs are greatest.' [UNHCR:11:3:391.89, 'Discussion Paper, UNHCR Regional Meeting of Representatives and Chiefs of Mission on Implementation of the CPA, Jakarta, 1 September 1993'].

remain agnostic as to where their agents' motivations emerge from. It is hard to believe given its scale that the civil society mobilisation occasioned by the boat people crisis in the late 1970s was simply the product of self-interested rent-seeking.

The 'Refugees, Inc.' account of American refugee policy lacks a certain empirical plausibility, however. Terry Rusch, a long-serving member of the State Department's refugee bureau, suggests that the involvement of the voluntary agencies in American refugee resettlement has played an historical role in keeping the refugee admissions ceiling high but has played little role in the distributional question of which groups get settled and why. While they lobby Congress and the State Department "in order to keep the programs going and keep the people employed" and are animated by "organisational and institutional survival", their overall contribution to setting and allocating admissions levels has historically been "miniscule."¹⁷⁴ Jonathan Moore recalls that while you might have expected competition between the various groups across the admissions ceilings, "We didn't have too many fights between refugee groups. The controversy was largely over the Jewish populations. But it was the Jewish versus everybody just because they have such a strong constituency and political history with the United States."¹⁷⁵ This permissive institutional environment may still apply today. Gene Dewey recalls that in his second stint in the State Department refugee bureau between 2002 and 2005, the voluntary agencies placed "no particular pressures on PRM to take one group over another."¹⁷⁶ John Menadue, head of the Australian Department of Immigration between 1981 and 1983, similarly remembers little to no pressure from any ethnic lobby exerting itself on the question of Indochinese refugee admissions.¹⁷⁷

2.1.2.2.3. CO-ETHNIC LOBBYING

¹⁷⁴ Interview, 24 October 2014.

¹⁷⁵ Interview, 8 March 2015.

¹⁷⁶ Interview, 22 August 2014.

¹⁷⁷ Interview, 25 February 2015.

One of the more promising liberal theories of refugee policy can be seen in the work of Lamis Abdelaaty who in explaining cross-national variation in asylum policies argues that they are ‘shaped by interstate relations as well as transnational ethnic affinities.’¹⁷⁸ While it is a theory of asylum policy, it is not wholly inapplicable to understanding the dynamics of the Indochinese situation. She argues that ‘internationally, strategic competition between rivals motivates generous asylum policies... [but] [d]omestically, competition between ethnic groups will result in generous or restrictive asylum policies depending on whether refugees are ethnic kin of the group in power.’¹⁷⁹ She identifies three purposive logics that condition asylum policy: first, whether granting asylum can undermine or bolster the sending government by encouraging citizens of the sending country to flee; second, whether it can embarrass the sending country and discredit it in the eyes of the world (the familiar ‘voting with their feet’ contention); or third, whether asylum can promote external activities opposing the sending government by empowering dissidents and allowing them to organize resistance from afar.’ Abdelaaty next explains variation in asylum policy according to the degree of ethnic kinship felt between a receiving state and any candidate group of asylum seekers, theorizing that policy-makers will prefer to enlarge their existing constituencies to enhance political survival. Where ethnic pressures are not salient, then the logic of international competition will apply alone. Finally, Abdelaaty discounts humanitarianism as a meaningful driver of asylum policy, arguing that ‘if humanitarianism influences asylum policies, then countries ought to be more generous to refugee groups who are fleeing more pervasive persecution or danger.’¹⁸⁰ Her two-level game account of refugee policy making concedes the importance of both international and domestic inputs into state behaviour. But her theory provides a poor fit in explaining the actions of the states of first asylum. In her model, we might expect ‘intermediate’ generosity (something less than a complete embrace

¹⁷⁸ Lamis Abdelaaty, ‘Competing with Refugees: The Politics of Generosity and Rejection’ Working Paper, September 15 2014, University of California, Santa Cruz, p. 1.

¹⁷⁹ Ibid, p. 6.

¹⁸⁰ Ibid, p. 11.

but more than complete rejection) when faced with the conditions of a hostile sending state (as most states of first asylum saw Vietnam during the Indochinese outflow) and an absence of ethnic affinity (as most potential asylum states saw the Indochinese).¹⁸¹ But instead, the reaction was entirely restrictive. And the extraordinary generosity of the resettlement states would be similarly hard to explain given the absence of ethnic affinity with the Vietnamese.

What unites these theories is that they are all overly general (with vague allusions to ‘foreign policy goals’) and lacking in any real sense of causal priority (often identifying many causes acting in conjunction without attributing any weight). Moreover, they are largely theories that bracket the international context of refugee policy making except insofar as they identify the furtherance of instrumental foreign policy goals. The irreducible complexity of their task is chiefly responsible. But it also calls into question what sort of necessary causes we should be looking for when explaining particular decisions. Very few of the causes they identify would pass the ‘but for’ test. In many ways, the protective concern of whether refugees are likely to live or die comes before any questions of their instrumental purpose at home or abroad. And it is my contention that that explains the readiness of many countries to assist the Indochinese.

2.2. UNDERSTANDING DONOR STATES’ MOTIVATIONS FOR AIDING INDOCHINESE REFUGEE PROTECTION

One of the profound dilemmas confronting theories of why states assist in refugee burden-sharing is that they lack non-instrumental accounts of state motivation. ‘Humanitarian’ motives are largely background noise, as if all refugees outside of the resettlement state face

¹⁸¹ Ibid, p. 43.

an identical level of misfortune and peril. This is especially evident when testing them against the Indochinese experience.

To understand how mistreatment by the first asylum states might have induced resettlement commitments to assist the Indochinese first requires some understanding of what could intuitively have underpinned resettlement states' normative and legal commitments to refugee protection.

The mechanical costs of *refoulement* for any state are low (or at least, probably always lower than the costs of offering refuge) and any state could plausibly deny asylum to those seeking it at relatively little expense compared to the cost of granting refuge. Moreover, in the case of refugees housed in another country, any potential resettlement state could easily pull up its drawbridge and argue it has no obligation to assist. Refugee protection through either granting asylum or through resettlement is self-evidently driven by larger considerations than material cost.

Yet discerning state motivation for costly humanitarian action is fiendishly difficult. In this section, I ask first what contribution IR scholarship can make to understanding morally-informed behaviour as a means of understanding donor state behaviour in the Indochinese crisis. Second, I argue that the motivation for assistance towards the Indochinese was ultimately driven by twin overlapping logics: a logic of compassion and a logic of order.¹⁸² Mistreatment mattered to the extent that it violated these logics.

2.2.1 EXPLAINING RESETTLEMENT BY EXPLAINING MORAL ACTION

¹⁸² I borrow the idea of behavioural 'logics' from March and Olsen's logics of 'consequence' and 'appropriateness.'

Refugee resettlement more generally is a useful testing ground for how and why moral considerations matter in the international realm.¹⁸³ But working out where interests end and norms begin is a problem that has bedevilled social scientists. The earliest international relations scholars long mulled over whether the character of world politics best reflected 'utopian or 'realist' impulses. Yet even as committed a realist as E.H. Carr still conceded that altruism mattered, noting that a state should still 'indulge' in 'altruistic virtues... so far as this is not seriously incompatible with its more important interests.'¹⁸⁴ Indeed, in Carr's mind, 'it is an unreal kind of realism which ignores the element of morality in any world order.'¹⁸⁵ These debates are not only over what is desirable normatively and feasible politically but also over whether and why morals might matter in the foreign policy of states.¹⁸⁶ These debates have a vital relevance for our understanding of the Indochinese crisis.

Most thinkers about international politics agree that analytical frameworks of economic self-interest only approximately describe the world as we encounter it. Keohane, for example, freely concedes that circumstances exist where 'governments and other actors in world politics may redefine their interests so that they are empathetically dependent on those of others.'¹⁸⁷ Yet for the most part, the preference has been for thinner description. As Finnemore and Sikkink note, 'affect and empathy have been swept under the carpet in recent decades... [and] the result is politics without passion or principles which is hardly the politics of the world we live in.'¹⁸⁸ The troublesome thing is, as David Kennedy suggests, that any distinction between realism and idealism has been 'eroded by the emergence of international humanitarianism as a language for statecraft.'¹⁸⁹ As he rightly observes, 'statesmen now

¹⁸³ I conceive of a 'moral action' simply as an action that advances a moral interest rather than a selfish interest.

¹⁸⁴ E.H. Carr, *The Twenty Years' Crisis* (London: Macmillan, 1966), p. 159.

¹⁸⁵ *Ibid.*, p. 246.

¹⁸⁶ Robert Crawford, *Idealism and Realism in International Relations* (London: Routledge, 2000), p. 175.

¹⁸⁷ Robert Keohane, *After Hegemony* (Princeton: Princeton University Press, 1984), p. 125.

¹⁸⁸ Martha Finnemore and Kathryn Sikkink, 'International Norm Dynamics and Political Change' in *International Organization* (1998) Vol. 79, No. 2, p. 918.

¹⁸⁹ David Kennedy, *The Dark Side of Virtue* (Princeton: Princeton University Press, 2004), p. 335.

routinely promote their policies in the language of virtue, while idealists and humanitarians have abandoned dogmatism for the language of pragmatism and practicality.¹⁹⁰

Liberal theorists, for example, argue that they 'take preferences seriously' but at heart their argument is really just about taking the distribution and configuration of preferences seriously.¹⁹¹ In Moravcsik's words, a liberal approach examines how 'socially differentiated individuals define their material and ideational interests independently of politics and then advance those interests through political exchange and collective action.'¹⁹² Preferences are 'by definition causally independent of the strategies of other actors and, therefore, prior to specific interstate political interactions.'¹⁹³ While liberals do not assume a state's preferences to be fixed or invariant – the formation of those preferences is often left vague, simply seen as 'a stage explained by liberal theories of state-society relations.'¹⁹⁴ Where preferences come from, as Moravcsik himself states, is an area crying out for further research.¹⁹⁵ For most IR scholarship, this omission does not really matter. Preferences probably are the result of self-interested calculations and holding preferences exogenous should really just be viewed instead as 'merely a methodological convenience necessitated by the fact that one cannot study everything at once.'¹⁹⁶ But it matters for explaining humanitarian action.

Humanitarian and superficially altruistic action (such as the granting of foreign aid) should provide a useful means for discerning when and how moral considerations matter in foreign

¹⁹⁰ Ibid.

¹⁹¹ Andrew Moravcsik, 'Taking Preferences Seriously' in *International Organization* (1997) Vol. 51, No. 4, pp. 513-53.

¹⁹² Ibid, p. 517.

¹⁹³ Ibid.

¹⁹⁴ Ibid, p. 544.

¹⁹⁵ Andrew Moravcsik, 'Europe After the Crisis: How to Sustain a Common Currency', address to the Centre for European Studies, Oxford, 14 May 2012.

¹⁹⁶ James Fearon and Alexander Wendt, 'Rationalism v Constructivism: A Sceptical View' in Walter Carsnaes, Thomas Risse and Beth Simmons (eds.) *Handbook of International Relations* (London: Sage, 2002), p. 53.

policy. Yet typically, the response is just to find conventional self-interest-based explanations for humanitarian action.

David Chandler, for example, attributes the rise of 'ethical foreign policy' to a broader need for post-Cold War industrialized states to generate moral authority and social agreement.¹⁹⁷ Macfarlane and Weiss decry what they see as 'a persistent tendency in international discourse to distinguish humanitarian action from politics and political interest'¹⁹⁸ and argue that 'states seek to use humanitarian action as an instrument or a cover for their strategic objectives.'¹⁹⁹ Moral interests frequently emerge either as stalking horses for material interests or as inchoate and invisible background variables.²⁰⁰

Similarly, in measuring the salience of humanitarian motivations for foreign aid donations, the dominant approach has been to ascribe the decision to give aid to self-interest rather than altruism. Even in instances of apparently altruistic aid donation such as the aid policies of the Scandinavian countries, scholars have discerned powerful self-interested motives that drive apparent altruism.²⁰¹ Yet, as Bueno de Mesquita and Smith note, 'there are instances of aid given for humanitarian reasons... [and] resolving which circumstances... is an important research goal.'²⁰² In one recent study of US humanitarian aid, need was found to be a greater

¹⁹⁷ David Chandler, 'Rhetoric without responsibility: the attraction of 'ethical' foreign policy' in *British Journal of Politics and International Relations* (2003), Vol. 3, No. 3, pp. 295-316.

¹⁹⁸ S. Neil Macfarlane and Thomas Weiss, 'Political Interest and Humanitarian Action' in *Security Studies* (2000), Vol. 10, No. 1, pp. 112-142, p. 141.

¹⁹⁹ *Ibid*, p. 139.

²⁰⁰ See, for example, Peter Viggo Jakobsen, 'Focus on the CNN Effect Misses the Point' in *Journal of Peace Research* (2000), Vol. 37, No. 2, pp. 131-143.

²⁰¹ Lumsdaine, for example, contends that the Scandinavian countries are animated by altruism in their aid policies: David Lumsdaine, *Moral Vision in International Politics: The Foreign Aid Regime* (Princeton: Princeton University Press, 1993). But Schrader, Hook and Taylor find that altruism plays little role in Swedish foreign aid policy: Peter Schrader, Steven Hook and Bruce Taylor, 'Clarifying the Foreign Aid Puzzle: A Comparison of American, Japanese, French and Swedish Aid Flows' in *World Politics* (1998) Vol. 50, No. 2, pp. 294-323.

²⁰² Bruce Bueno de Mesquita and Alastair Smith, 'A Political Economy of Aid' in *International Organization* (2009) Vol. 63, No. 2, pp. 309-340, p. 357.

predictor of assistance than US self-interest and foreign policy affinity.²⁰³ Similarly, our ordinary predictions that foreign assistance might be driven by domestic affinity might be wrong. Experimental evidence suggests that people are more willing to be financially generous with a racial out-group than with a racial in-group, partly because they see the out-group in racialised terms that deny them agency.²⁰⁴ It should come as no surprise then, that when considering the ways in which realism might contribute to our understanding of refugee issues, Jack Snyder suggests that it will offer a 'strategic perspective' to misguided humanitarians.²⁰⁵

The difficulty is that the threshold test for scholars to show that moral motivations matter for action is set too high (see, for example, Kaufman and Pape's critique of cosmopolitanism in their account of 'costly' international moral action).²⁰⁶ Most moral efforts, when compared to the British campaign against slavery, for example, cost far less in terms of blood and treasure and also involve fewer risks to international security. And measuring most costs is domain-specific.²⁰⁷ As Gary Bass observes, when it comes to explaining costly humanitarian action like humanitarian intervention it is altogether too easy to be readily cynical. Rather, we should acknowledge that 'sometimes, states are genuinely driven by morality.'²⁰⁸ That this might coincide with the advancement of other strategic interests does not mean that states are not animated by less readily measured impulses of humanitarianism. Moreover, it might simply be that when refugee issues become issues of foreign policy too,

²⁰³ Rob Kevlihan, Karl DeRouen, Jr., and Glen Biglaiser, 'Is US Humanitarian Aid Based Primarily on Need or Self-Interest?' in *International Studies Quarterly* (2014) Vol. 58, No. 4, pp. 839-854.

²⁰⁴ Andy Baker, 'Race, Paternalism, and Foreign Aid: Evidence from U.S. Public Opinion' in *American Political Science Review* (2015) Vol. 109, No. 1, pp. 93-109.

²⁰⁵ Snyder, Jack, 'Realism, Refugees and Strategies of Humanitarianism' in Alexander Betts and Gil Loescher, (eds.), *Refugees in International Relations* (Oxford: OUP, 2011), p. 31.

²⁰⁶ Chaim Kaufmann and Robert Pape, 'Explaining Costly International Moral Action: Britain's Sixty-year Campaign Against the Atlantic Slave Trade' in *International Organization* (1999) Vol. 53, No. 4, pp. 631-668.

²⁰⁷ Joshua Busby, *Moral Movements and Foreign Policy*, (Cambridge: Cambridge University Press, 2010), p. 58.

²⁰⁸ Gary Bass, *Freedom's Battle* (New York: Knopf, 2008), p. 17.

there is no constituency for restrictionism. Leslie Denend, a National Security Council staffer in the Carter administration, remembers of dealing with the Indochinese refugee issue that, “People didn’t have life or death positions on the issue as they did on other issues. You’d get into discussions about East-West issues and people had lifelong positions on these questions and they’d just become so heated.”²⁰⁹

The straw man of costly humanitarian action ought to be resisted. The burgeoning literature on the importance of emotions in international politics makes clear that individuals rarely encounter the world in a fashion that clearly distinguishes the impact of affect and emotion from the cold calculation of utility. As Jonathan Mercer has argued persuasively, affect and cognition run together, contrary to the explanations utilised by both rationalist and constructivist scholars.²¹⁰ Beliefs, as he puts it, are where emotion and cognition meet.²¹¹ The affective character of much of international politics is frequently elided and ignored. It is only by understanding how ordinary considerations of rational self-interest merged with emotive reasoning that we can hope to fully understand the response to the Indochinese.

Protecting refugees through resettlement is plainly an action that can often be propelled by affective, moral concerns, and a costly one at that. So why, in the case of the Indochinese in Southeast Asian states were so many countries so readily prepared to resettle so many?

2.1.3. A LOGIC OF COMPASSION

Adam Smith explained empathy for strangers above considerations of self-interest as a product of 'that feeble spark of benevolence which Nature has lighted up in the human heart,

²⁰⁹ Interview, 25 August 2014.

²¹⁰ Jonathan Mercer, 'Rationality and Psychology in International Relations' in *International Organization* (2005) Vol. 59, No. 1, pp. 77-106, pp. 97-98.

²¹¹ Jonathan Mercer, 'Emotional Beliefs' in *International Organization* (2010) Vol. 64, No. 1, pp. 1-31, p. 1.

counteracting the strongest impulses of self-love. It is a stronger power, a more forcible motive, which exerts itself upon such occasions.'²¹² David Hume framed it as 'some spark of friendship for human kind; some particle of the dove, kneaded into our frame.'²¹³ Raymond Aron preferred to see it as the 'germ of a universal consciousness.'²¹⁴

However inchoate a moral sentiment, there is an irresistible intuitiveness to the conclusion that empathy informs social behaviour. People generally do feel distress at witnessing the suffering of another person.²¹⁵ We now know that the 'beneficence paradox' that evolutionary biologists once posed about how altruism and natural selection could co-exist is no longer a paradox: the evolutionary dynamics of mutualism, kinship and reciprocity are themselves powerful drivers of other-regarding behaviours.²¹⁶

These humanitarian stirrings are at least one vital part of the explanation for why communities have come to afford protection to refugees. Individuals can and do donate vast amounts to the UNHCR. Except for perhaps the occasional oligarch in an authoritarian country, it is hard to imagine they are doing so because they expect that they one day might need to be claiming refuge themselves. Rather it is because they feel moved to donate because of a feeling or impulse that they should. As Michael Barnett notes in his history of humanitarianism, 'a moral community requires a readiness to come to the assistance of those in need and that benevolence is the clearest sign of a moral community and progress.'²¹⁷

²¹² Adam Smith, *Theory of Moral Sentiments* (Indianapolis: Liberty Classics, 1976), p. 136.

²¹³ David Hume, *An Enquiry Concerning the Principles of Morals* (New York: Cosimo, 2006), p. 271.

²¹⁴ Quoted in Stanley Hoffman, 'Clash of Globalizations' in *Foreign Affairs* (2002), Vol. 81, No. 4, pp. 104-115.

²¹⁵ Stephen Pinker, *The Better Angels of Our Nature* (London: Penguin, 2011), p. 575.

²¹⁶ Ibid, p. 573. See also Keohane on 'diffuse reciprocity' in 'Reciprocity in International Relations' in *International Organization* (1986) Vol. 40, No. 1, pp. 1-27.

²¹⁷ Michael Barnett, *Empire of Humanity* (Ithaca: Cornell University Press, 2011), p. 13.

Yet just as it is obvious to note that most people feel empathy in relation to suffering, it is self-evident that feelings of sympathy are often transitory and are poor predictors of behaviour. We can feel sorry that people are poor, starving or dying but compartmentalise it and move on. So how might real or threatened mistreatment of refugees have engaged an international moral concern for the fate of the Indochinese?

Our best evidence is inductive and historical. As will be developed, there are flickers of transnational conscience that speak to a certain solidarism between people and across borders that occasionally spills over into action.²¹⁸ In the case of mass refugee outflows with the attendant sense of crisis, it is plain that consciences get pricked and cosmopolitanism has a descriptive validity as well as a prescriptive validity. Sir Hugh Cortazzi, the Deputy Undersecretary of the British Foreign Office at the height of the Thai and Malaysian pushbacks in 1979, recalls the experience as “the one occasion, looking back on my career, when I really felt deeply concerned that we could have taken a decision which just couldn’t be justified in ethical terms.”²¹⁹ In Cortazzi’s eyes, “this was really a black and white issue... when one saw the suffering you realised we had to do something.” As Irene Khan noted of the early Indochinese outflows, it was the “media coverage of conflict in Cambodia and the images of the shores of Thailand [that] itself generated a humanitarian imperative.”²²⁰

Elizabeth Holtzman, a liberal Democrat (and fierce opponent of the American war in Vietnam) who was head of the House Subcommittee on Immigration and Refugees in the late 1970s, recalls that “the hardship stories in this instance made it very clear... it was a black and white humanitarian crisis.”²²¹ Beyond induction, we can also recognise the flickers of an affective reaction when states and individuals elect not to opt for a path that seems self-interestedly advisable but with problematic humanitarian outcomes. Time and again in

²¹⁸ See, for example, Nicholas Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000)

²¹⁹ Interview, 18 February 2015.

²²⁰ Interview, 24 July 2014.

²²¹ Interview, 25 July 2014.

the Indochinese experience, resettlement states were faced with a realisation that they would prefer not to admit them in such volumes but had few moral alternatives available.

2.1.4. A LOGIC OF ORDER

Compassion, affect and empathy are just one half of my causal story here in what identifying what animated the generosity towards the Indochinese. I do not pretend that the more traditional notions of self-interest and security that might animate international cooperation are trivial. But what sorts of notions? One of the most useful ways of discovering why states care about refugee protection is to discern what led to the creation of an international refugee regime in the first place. Evaluating the origin stories about international institutions can reveal new and important things about the substantive reasons for state participation.²²²

There have always been refugees in the world and concepts like 'asylum' are far from modern. Separate from the notion of religious sanctuary (which may date back to the Greek city states), the emergence of territorial and political asylum is roughly coterminous with the rise of autonomous, territorial states in the 16th and 17th Centuries.²²³ But the institutionalised protections embodied in organisations like the UNHCR and legal instruments such as the Refugee Convention are relatively modern. In Bruce Cronin's account of the emergence of the international refugee regime after the World Wars, he argues that political leaders were primarily concerned with reconciling 'unaffiliated' individuals in a world of nation states. To afford refuge was a means of 'stabiliz[ing] the territorial nation-state by absorbing those who did not fit within the system.'²²⁴ Institutionalised refugee protection was just the logical by-product of plans to construct an international order that promoted human rights. It was the

²²² See, for example, Andrew Moravcsik, 'The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe' in *International Organization* (2000), Vol. 54, No. 2, pp. 217-252.

²²³ See Orchard, *A Right to Flee*, pp. 47-70; Skran, *Refugees in Inter War Europe*, pp. 67-71.

²²⁴ Bruce Cronin, *Institutions for the Common Good* (Cambridge: Cambridge University Press, 2003), p. 158.

belief that such an order would promote stability rather than a belief that order would promote rights that drove the post-war architects of the refugee regime. Moreover, as Cronin notes, there were larger interests at play that make it hard to conceive of its creation in exclusively instrumental Cold War terms: first, the Cold War was only barely nascent in the immediate post-war aftermath when most of the basic principles (such as the commitment to *non-refoulement* were first agreed on) and second, the U.S. only began to actively support the work of the UNHCR in the aftermath of the Soviet invasion of Hungary in 1956, having not even bothered to ratify the 1951 Convention.²²⁵ Undoubtedly, Cold War high and low politics informed America's commitment to refugee protection but larger questions of moral and political order were at stake too. In Rieko Karatani's account of the institutional origins of the Refugee Convention, 'the two competing grounds for protecting people on the move – humanitarian and national interest – were muddled through.'²²⁶ It is a useful reminder that mutually reinforcing logics underpin refugee protection. While Goodwin-Gill makes a strong case that the story of international refugee institution creation demonstrates 'the continued vitality of self-interest as a motivating factor in the responses of States to refugee flows,' this is really suggested as a necessary complement to the obvious humanitarian impulses that also underpinned it.²²⁷ As Michael Barnett has memorably put it: it was 'self-interest singed by humanitarianism.'²²⁸ Accounts of the emergence of the inter-war refugee regime similarly reinforce that the norm of assistance and burden-sharing was 'an outgrowth of the Judeo-

²²⁵ In Terje Einarsen's review of the drafting history of the 1951 Convention, he notes that the pattern of interaction means that 'the only plausible conclusion is that the Cold War did not influence the refugee definition much, or the rest of the 1951 Convention for that matter... without a Cold War context, the general refugee definition would have looked exactly the same' [at 43]. [Terje Einarsen, 'Drafting History of the 1951 Convention and the 1967 Protocol' in Andreas Zimmerman et al., (eds.) *The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol: A Commentary* (Oxford: Oxford University Press, 2011), pp. 37- 73].

²²⁶ Rieko Karatani, 'How History Separated Refugee and Migrant Regimes: In Search of their Institutional Origins' in *International Journal of Refugee Law* (2005), Vol. 17, no. 3, pp. 531-532.

²²⁷ Guy Goodwin-Gill, 'The Politics of Refugee Protection' in *Refugee Survey Quarterly* (2008) Vol. 27, No.1, p. 21. On the humanitarian dimension aspect of the Refugee Convention's origins Howard Adelman contends that its genesis sprang much more readily from an affective reaction to Nazi persecution than communist persecution in 'From Refugees to Forced Migration: the UNHCR and Human Security' in *International Migration Review* (2001) Vol. 35, No.1, pp. 7-32, esp. pp. 10-13.

²²⁸ Michael Barnett, 'Humanitarianism with a Sovereign Face: UNHCR in the Global Undertow' in *International Migration Review* (2001) Vol. 35, No.1, pp. 244-277, p. 267.

Christian religious tradition... [which] gave states an obligation to help refugees because of their particularly precarious position.'²²⁹

'Order' is a useful means of understanding state motivation for refugee protection and one that has especial purchase in helping us appreciate the contours of the international response to the Indochinese.²³⁰ Unregulated flows of refugees across borders can and do produce injurious consequences for international stability. Moreover, we know that order, real and perceived, matters a lot to states.

First, order is a pre-condition for international social life. Without order, states cannot trade or commune. Order is, as Bull notes, by its very definition facilitative, referring to 'those patterns or dispositions of human activity that sustain the elementary or primary goals of social life among mankind as a whole.'²³¹ While Bull counsels scepticism about the nature of order as an 'overriding value' in the society of states, it is plainly one of a few contending values that states seek to realise.²³² Second, even if we do accept the logic of a Hobbesian anarchy between a community of states, we know that order has a surprising way of revealing itself as even states with the most conflictual interests find ways to cooperate.²³³ Third, we know that it matters because the ways states talk about refugee protection discloses an abiding desire for order, typically manifested through the language of 'control'. 'Border protection', an 'orderly queue' and 'secure borders' are ever-present (and surprisingly modern) features of contemporary conversations about refugee protection. Hurrell identifies the curious tension that in an age where the trend has been towards the realisation of a liberal solidarist post-Westphalian state, states have demonstrated an increasingly tetchy need

²²⁹ Srkan, *Refugees in Inter-War Europe*, p. 70.

²³⁰ I prefer 'order' here to alternatives such as a logic of 'stability' or 'security' or 'national interest' as it better captures the various considerations that underpin the rationale for refugee protection.

²³¹ Hedley Bull, *The Anarchical Society*, (New York: Columbia University Press, 1977), p. 19.

²³² *Ibid*, p. 2.

²³³ Hedley Bull, 'Hobbes and the International Anarchy' in Kai Henderson and Andrew Hurrell, eds., *Hedley Bull on International Society* (Houndmills: Macmillan 2000), pp. 188-205.

to restrict their generosity towards refugees.²³⁴ But the same logic that propels a state to close its borders to a mass influx might also impel another state to share in the burden of resettlement: it preserves order and strategic stability.

'Order,' as most English School theorists use it, is largely a property of the system – a homeostatic tendency. But it is also a powerful logic of motivation for states too. States do not just seek security in the sense of being able to defend themselves from foreign powers but they also seek stability in the sense of being able to go about their way in the world. One of the primary means by which refugees from Vietnam were resettled in the West was through the 'Orderly Departure Program' which took refugees directly from Vietnam to resettlement states, a preferable alternative to them taking to sea.

'Mistreatment' of those fleeing Indochina by the states of first asylum invoked a violation of what I term the 'logic of order' in two ways. First, by definition, it breached the rules. *Refouling* refugees, for example, plainly violates the principles of customary international law. Returning them to the open sea or closing one's border at the very least also breaches the spirit of those rules. Threatening to forcibly repatriate or break rules serves much the same purpose. Second, it violated the community's rationale for those rules: a belief that offering refuge mitigates the chaos of unregulated flows of people across borders.

Having demonstrated in general terms how state motivation for assistance in refugee burden-sharing towards the Indochinese was plausibly animated by twin impulses of compassion and a desire for order, how did the real and threatened mistreatment, broadly conceived, of Indochinese refugees by the states of first asylum, violate these logics, leading states to agree to resettle them?

²³⁴ Andrew Hurrell, 'Refugees, International Society and Global Order' in Betts and Loescher, eds., *Refugees in International Relations*, pp. 85-104

3 HOW REAL AND THREATENED MISTREATMENT SHAPED THE INTERNATIONAL RESPONSE

ACCOUNTS OF WHAT EXPLAINED THE GENEROSITY of the response to the Indochinese typically conceive the international response somewhat disjointedly as the final chapter in America's involvement in Indochina, a product of special feelings of affinity and responsibility. Yet it is an unsatisfyingly vague narrative. Morton Abramowitz, the U.S. Ambassador to Thailand in the late 1970s, when asked about the role of American 'guilt' in explaining American assistance averred that:

it's all mixed up. If we hadn't been in Indochina, I'm sceptical that the response would be as generous or as consistent. I don't think that the U.S. embassy or the U.S. government would have been dedicated almost solely to that issue. It was a great humanitarian response. There may have been a measure of guilt. But if we had not been in Vietnam, I suspect we would have still done something.²³⁵

The hostile reception of the states of first asylum is presented as a dramatic detail or a simple fact. But in many ways it is the central necessary condition in explaining why resettlement was embraced as the appropriate solution to the Indochinese outflow and explains how the international commitment to resettlement was sustained for so long. Amidst the maelstrom of mixed motivations that characterised American attitudes to the region, it was the affective regard that real and threatened mistreatment aroused that drove American (and other states) generosity. Humanitarian concern about the impact of the denial of first asylum (or the possible outcome of involuntary repatriation) proved a shaping force in explaining the international response. And it served to magnify existing strategic concerns.

²³⁵ Interview, 26 March 2015.

The previous section set out some of the deficiencies in our larger understandings of why states are motivated to contribute to refugee burden-sharing, and outlined some of the specific difficulties in applying them to the particularities of the response to the Indochinese. Having spelled out two putative bases for assistance that I posit as helping explain the international reaction to the Indochinese, how then did the presence of real and threatened mistreatment serve to activate compassionate concerns about the fate of refugees and highlight uncertainties about regional order?

My approach is fundamentally discursive. By examining the intersubjective understandings between and within governments as to how the problem of Indochinese refugees was understood and what that implied for the nature of any assistance, we can understand how protective concerns about the need to maintain first asylum and prevent pushbacks directly affected international cooperation. In particular, I seek to explore how mistreatment was 'framed' as a collective action problem requiring both that something be done and that something be resettlement. Evaluating these interactions is a vital part of the 'international cooperation two-step' as we examine how those underlying preferences played out.²³⁶

In evaluating this, this Chapter proceeds in five sections. First, I demonstrate how the collective framing of the Indochinese refugee 'problem' had diagnostic and prognostic implications for whether and how collective action occurred. Second, I sketch out some of the particular diagnostic frames that applied to the Indochinese. Third, I canvass the distinctive prognostic framing of the problem. Fourth, I explore the different ways in which real and threatened mistreatment was salient for those in power. And fifth, I explore we have good reason in the case of the Indochinese outflow to privilege elite interactions above public sentiment.

²³⁶ Jeffrey Legro, 'Culture and Preferences in the International Cooperation Two-Step' in *American Political Science Review* (1996), Vol. 90, No. 1, pp. 118-137.

3.1. HOW FRAMING CAN EXPLAIN COLLECTIVE ACTION

Mistreatment could plausibly exert some independent cognitive effect on any decision-maker as they independently assess a situation. But how 'states' function cognitively is more a product of the constituent parts within a state interacting than it is a state exerting some phenomenological omniscience. To this end, the best way to understand how individual reactions might have intersected and translated to a collective setting is to examine the particular discursive frames that characterised public and private discussions of whether and how resettlement states should have assisted the Indochinese. This does not amount to a constructivist account of 'turtles all the way down'²³⁷ instead it builds out from the most basic and compelling of constructivist insights that state interests have to be perceived as such in order to inform behaviour. The material facts of refugee flows and state capability have mattered a great deal for conditioning understandings of the need to act. But it is only really by identifying the communal 'shortcuts to rationality',²³⁸ 'cognitive priors'²³⁹ and 'rhetorical commonplaces'²⁴⁰ that dominated discussions of refugee protection external and internal to governments that we can hopefully understand how particular perceptions led to particular behaviours. There is undoubtedly something stylised in this account but, as Anatol Rapaport suggests, "one can never understand the operation and patterns of waves by looking at the ocean all one's life."²⁴¹

²³⁷ Chris Brown, 'Turtles all the way down': Anti-Foundationalism, Critical Theory and International Politics' in *Millennium* (1994) Vol. 23, No. 2, pp. 213-236.

²³⁸ Robert Jervis, *Perception and Misperception in International Politics* (Princeton: Princeton University Press, 1976), p. 113.

²³⁹ Amitav Acharaya, *Whose Ideas Matter?* (Ithaca: Cornell University Press, 2009), p. 9.

²⁴⁰ Ronald Krebs and Patrick Jackson, 'Twisting Tongues and Twisting Arms: The Power of Political Rhetoric' in *European Journal of International Relations* (2007) Vol. 13, No. 35, p. 45.

²⁴¹ Quoted in Robert Jervis, *The Logic of Images in International Relations* (Princeton: Princeton University Press, 1970), p. 16.

This is worth elaborating on. Language is the transmission belt for any norm. We know that a norm against rape or torture exists because it is debated, justified and sanctioned in both public and private dialogue. Norms are constant reference points in the discursive process. Language is strategic and individuals justify action purposively. This answers in part the inevitable critique that the public justifications for burden-sharing were just cheap talk disguising the motivating force of hard interests.

Finally, it bears noting that the aversion to utilising linguistic or psychological explanations is driven partly by a fear that scholars lack the micro-level data to see the operation of, for example, emotional influences on decision-makers.²⁴² This is really more of a reason to resist using it uncritically. First, the particular problem of data applies to rational choice explanations too. Coding of preferences is often approximate and subjective. Second, the absence of 'micro-data' is probably more of a problem for studies that use cognitive psychology to explain individual decisions than it is for those who look to social psychology. Even if only obliquely we can interpret from the language and structure of the interactions between parties how sentiments and feelings about refugee protection might have fostered a willingness to be generous.

3.1.1. WHAT ARE FRAMES?

There are many ways of going about studying how discourse affects behaviour but, as Séverine Autessere notes, the virtue of frames is that they help us clarify and focus our analysis 'on how people organize knowledge and interpret it.'²⁴³ At the simplest level frames should be viewed as the 'collective, intersubjective understandings that people draw on to construct roles and interpret objects.'²⁴⁴ One of the pioneers of frame analysis, Erving

²⁴² Omar Shahabudin McDoom, 'The Psychology of Threat in Intergroup Conflict' in *International Security* (2012) Vol. 37, No. 2, pp. 129-130.

²⁴³ Séverine Autessere, 'Hobbes and the Congo: Frames, Local Violence, and International Intervention' in *International Organization* (2009), Vol. 63, No. 2, p. 252.

²⁴⁴ Karl Weick, *Sensemaking in Organizations* (Thousand Oaks: Sage Publications, 1995), p. 109.

Goffman, saw its virtue very simply: by knowing about the basic frameworks of understanding that individuals bring to make sense of their experiences in the world, we can better understand why individuals act the way they do.²⁴⁵

The concept of framing emerges most notably from the social movement literature in sociology. Primarily, it has been used to explain how civil society actors are able to influence and induce states to adopt new (usually norm-based) commitments. As Benford and Snow explain, 'frames help to render events or occurrences meaningful and thereby function to organize experience and guide action. Collective action frames also perform this interpretive function by simplifying and condensing aspects of the world "out there."²⁴⁶ Ultimately, utilising framing as an analytic tool to think about collective action involves asking how actors 'negotiate a shared understanding of some problematic condition or situation they define as in need of change, make attributions regarding who or what is to blame, articulate an alternative set of arrangements, and urge others to act in concert to affect change.'²⁴⁷

Krebs and Jackson contend that arguments can be broken down into distinct and analytically separable parts. They proffer a division of the 'frame' and the 'implications' as a means of understanding the power of political rhetoric.²⁴⁸ I am less convinced that is possible. Instead, I think it is better to see frames holistically but recognise that they serve two functions: a diagnostic function (what is the problem?) and a prognostic function (what should we do about it and who should do it?). As distinct from analogies, which might simply serve a more limited diagnostic function, frames serve a broader purpose of motivating and structuring social action.

²⁴⁵ Erving Goffman, *Frame Analysis* (Cambridge: Harvard University Press, 1974).

²⁴⁶ Robert Benford and David Snow, 'Framing Processes and Social Movements: An Overview and Assessment' in *Annual Review of Sociology* (2000) Vol. 26, p. 614.

²⁴⁷ Ibid, p. 615.

²⁴⁸ Krebs and Jackson, 'Twisting Tongues and Twisting Arms: The Power of Political Rhetoric', p. 43.

3.1.2. ARE FRAMES CAUSAL?

My work is conceived primarily as a classificatory, historical exercise, cataloguing the ways in which people framed a collective problem and the narrative continuities over time. Mapping these different collective understandings is vital for an authentic picture of how assistance to the Indochinese refugees was seen at the time. In some instances, the very framing of these problems might have exerted a causal force in explaining the outcomes.

For example, existing or even potential alternative accounts of the Indochinese crisis struggle to properly explain why it was that states agreed to assist the states of first asylum so extensively and enduringly, and in the case of the CPA, for example, even resisted alternative means of resolving the refugee burden. The significance of labels within the refugee regime (like who actually is a ‘refugee’) makes it a particularly well-suited domain for an analysis of frames.²⁴⁹ Many have already demonstrated the powerful ways in which the framing of refugees as security threats has fed the punitive shift in attitudes towards refugees in more recent decades.²⁵⁰ As Joshua Busby notes, ‘we should view framing exercises as defining situations and activating existing preferences.’²⁵¹ Circumstance can make an issue salient and, even while preferences remain basically stable, frames that link specific policies and a certain evaluative lens can then facilitate support for a particular policy.

²⁴⁹ Roger Zetter’s work here on examining the significance of bureaucratic labeling for refugee outcomes is particularly useful. ‘Labelling Refugees: Forming and Transforming a Bureaucratic Identity’ in *Journal of Refugee Studies* (1991), Vol. 4, No. 1, pp. 39-62. See also, Christina Boswell, Andrew Geddes and Peter Scholten, ‘The Role of Narratives in Migration Policy-Making: A Research Framework’ in *British Journal of Politics and International Relations* (2011), Vol. 13, pp. 1-11.

²⁵⁰ See, for example: Roland Bleiker, David Campbell, Emma Hutchison and Xzarina Nicholson, ‘The Visual Dehumanisation of Refugees’ in *Australian Journal of Political Science* (2013) Vol. 48, No. 4, pp. 398-416; Matt McDonald, ‘Deliberation and Resecuritization: Australia, Asylum-Seekers and the Normative Limits of the Copenhagen School’ in *Australian Journal of Political Science* (2011) Vol. 46, No. 2, pp. 281-295.

²⁵¹ Busby, *Moral Movements*, p. 52.

How the framing of an issue might shape a particular outcome is not always clear. Shaming might be one reason. Schimmelfennig argues in his theory of 'rhetorical action' that 'actors who can justify their interests on the grounds of the community's standard of legitimacy are therefore able to shame their opponents into norm-conforming behaviour'²⁵² altering what might have been the outcome predicted on the basis of power and interests alone. In pondering why the resettlement of Indochinese went on for so long, Southeast Asian states and advocates for assistance in resettlement states frequently drew on the original 'promise', 'commitment' or 'understanding' that the resettlement states had conveyed to the states of first asylum in the 1979 Geneva Conference that they would not be left with any residual refugees to justify on-going assistance.

Deitelhoff borrows from Habermasian discourse theory to show how frames act as both indicia of motivation and as possible causes of changed motivation in her account of why some states changed their mind and decided to join the International Criminal Court.²⁵³ Frames thus work as both evidence of motivation and as drivers of motivation. As an insight into both how and why people act collectively, framing analysis can be profitably applied to the international sphere.²⁵⁴ In Beth Simmons' account of why human rights treaties matter, it is because they empower groups or parts of the state with new frames around which to mobilise.²⁵⁵ Her central insight is that activist groups are able to use the legitimacy and framing effects of international law to compel state action. Barnett and Finnemore have similarly examined how international institutions (including the UNHCR) construct

²⁵² Frank Schimmelfennig, 'The Community Trap: Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the European Union' in *International Organization* (2001), Vol. 55, No. 1, pp. 47-80.

²⁵³ Nicole Deitelhoff, 'The Discursive Process of Legalization: Charting Islands of Persuasion in the ICC Case' in *International Organization* (2009) Vol. 63, pp. 33-65.

²⁵⁴ See, for example, Marie-Eve Desrosiers, 'Reframing Frame Analysis: Key Contributions to Conflict Studies' in *Ethnopolitics* (2012) Vol. 11, No. 1, pp. 1-23; Busby, *Moral Movements and Foreign Policy*; Roland Paris, 'Peacekeeping and the Constraints of Global Culture' in *European Journal of International Relations* (2003), Vol. 9, No. 3, pp. 441-473; Jutta Joachim and Andrea Schneiker, 'New Humanitarians? Frame Appropriation through Private Military and Security Companies' in *Millennium* (2012), Vol. 40, No. 2, pp. 365-388.

²⁵⁵ Beth Simmons, *Mobilizing for Human Rights* (2009).

international social reality to great effect. Yet it is worth flipping the lens and asking: how, in the case of the Indochinese outflow, did people and states construct shared understandings of the need to act through institutions?²⁵⁶

²⁵⁶ Michael Barnett and Martha Finnemore, *Rules for the World: International Cooperation in Global Politics* (Ithaca: Cornell University Press, 2004), p. 6.

3.2. DIAGNOSTIC FRAMES: THE INDOCHINESE 'PROBLEM'

Much as we can identify two logics that governed refugee assistance (humanitarian compassion and a desire for security and order), we can cluster the diagnostic frames that advocates for resettlement of the Indochinese deployed into two sets.

3.2.1. 'MOBILISING EMPATHY': FRAMES OF COMPASSION

Empathy largely works vicariously. As distinct from sympathy ('an emotion that we experience *for* disadvantaged others'), empathy is 'about vicariously placing oneself "in their shoes" and experiencing the events *with* them... where the compassion stems from a feeling of interchangeability, this is an empathy process.'²⁵⁷ Ashby-Brown and Brown contend that the inconsistent, and often spasmodic, way in which empathy is mobilised 'compels us to be more attentive to the emotive power of humanitarian narratives.'²⁵⁸ They are right. Empathy is mobilised through resonant discursive frames. Although not the sum total of the discursive frames that I will discuss in this thesis, I want to highlight two particular frames that were among the most important in moving people towards empathy and along the path to action: suffering and culpability.

3.2.1.1. NARRATIVES OF SUFFERING

Richard Rorty argued that human rights campaigners should focus their energies on telling 'long, sad, sentimental stories.'²⁵⁹ For Rorty, it is sentiment that drives solidarism and

²⁵⁷ Emma Thomas, Craig McGarty and Kenneth I. Mavor, 'Transforming 'Apathy Into Movement': the Role of Prosocial Emotions in Motivating Action for Social Change' in *Personality and Social Psychology Review* (2009) Vol. 13, p. 320.

²⁵⁸ I borrow the phrase 'mobilisation of empathy' from Richard Ashby-Brown and Richard D. Brown, 'Introduction' in Ashby-Brown and Brown (eds.) *Humanitarianism and Suffering: The Mobilization of Empathy* (New York: Cambridge University Press, 2009), p.19.

²⁵⁹ Richard Rorty, 'Human Rights, Rationality, and Sentimentality' in Stephen Shute and Susan Hurley, (eds.), *On Human Rights* (New York: Basic Books, 1993), p. 133.

narratives of suffering that compel compassion. In answering the simple question of 'why should we care for a stranger?' the most compelling answers invariably are those that rely on basic moral intuitions: "because this is what it is like to be in her situation - to be far from home, among strangers."²⁶⁰

One of the obvious indicators that emotions matter is the evidence that different modes of presenting information elicit different responses: people are far more likely to respond to individual suffering and their intensity of attention is higher too. This can be hard to operationalize or measure except in general terms. As Thomas Lacquer wryly observes, 'narratives of suffering do not come with moral gyroscopes.'²⁶¹ But narratives constitute, motivate and authorize political action through moral prescriptions. Even if we do not reliably know when such prescriptions are (or should be) followed, we can recognise approximately how the public presentation of narratives of suffering has led communities towards charity. For example, we know that the innocence of the potential victim matters a great deal for eliciting humanitarian sympathies. This might explain why charities find it much easier to raise money for the victims of natural disasters than for the victims of civil wars, even though both might be equally blameless.²⁶²

Real and threatened mistreatment of Indochinese refugees mattered because it was so readily used as the justification to alleviate suffering. What Robert van Leeuwen termed "just the images of those overcrowded boats" proved vital in making people feel that something had to be done to assist those fleeing Indochina.²⁶³ At times, the recollection of those intimately involved in the politics of the crisis stretches belief. Gene Dewey recalls that when U.S.

²⁶⁰ Ibid.

²⁶¹ Thomas W. Lacquer, 'Mourning, Pity and the Work of Narrative' in Ashby-Brown and Brown, (eds.), *Humanitarianism and Suffering: The Mobilization of Empathy*, p. 35.

²⁶² Rony Brauman, 'Global Media and the Myths of Humanitarian Belief: The Case of the 2004 Tsunami' in Ashby-Brown and Brown (eds.) *Humanitarianism and Suffering: The Mobilization of Empathy* (New York: Cambridge University Press, 2009), pp. 108-117.

²⁶³ Interview, 29 July 2014.

officials were contemplating assistance, it was sometimes hard to forget occasions where “the Thai police were literally machine-gunning on the beach.”²⁶⁴ Dawn Calabria, a Congressional staffer during the Boat People crisis of 1979, puts it simply: “If the Vietnam War was fought on the screens of American televisions, so was the Vietnam refugee crisis. Stories help. People can’t respond to statistics about millions. But if we talk about individual families then people respond much more personally.”²⁶⁵

3.2.1.2. NARRATIVES OF CULPABILITY AND IDENTITY

In Martha Nussbaum’s work on the political applicability of compassion to modern liberal societies she notes that pity (as a public emotion leading to empathy) only emerges in very particular circumstances: ‘the pain of another will be an object of my concern only if I acknowledge some sort of community between myself and the other, understanding what it might be for me to face such pain.’²⁶⁶ Despite Nussbaum’s contention that compassion exists independently of consequentialist judgments, Maureen Whitebrook rightly notes that ‘the sight of someone suffering is often simultaneously accompanied by judgment as to their circumstances.’²⁶⁷ Most refugees are blameless victims but they are not always seen as such. As contemporary discourse on refugees reveals, some refugees are often seen as more worthy than others. Refugees who ‘play by the rules’ and don’t ‘jump queues’ are seen by the public as more credibly worthy of compassion (and vice versa).²⁶⁸

²⁶⁴ Interview, 22 August 2014.

²⁶⁵ Interview, 23 February 2015.

²⁶⁶ Martha Nussbaum, ‘Compassion: The Basic Social Emotion’ in *Social Philosophy and Policy* (1996), Vol. 13, No. 3, pp. 27-58, p. 35.

²⁶⁷ Maureen Whitebrook, ‘Compassion as a Political Virtue’ in *Political Studies* (2002) Vol. 50, p. 536.

²⁶⁸ See, for example, Fiona H. McKay, Samantha L. Thomas and Susan Kneebone, ‘It Would be okay if They Came through the Proper Channels’: Community Perceptions and Attitudes toward Asylum Seekers in Australia’ in *Journal of Refugee Studies* (2011), Vol. 25, No.1, pp. 113-133. Jaffa McKenzie and Reza Hasmath also note this trend in ‘Deterring the ‘boat people’: Explaining the Australian government’s People Swap response to asylum seekers’ in *Australian Journal of Political Science* (2013) Vol. 48, No. 4, pp. 417-430.

Much is made of the idea that the American resettlement efforts were the product of some sort of collective psycho-trauma left over from the war in Vietnam. It would be disingenuous to pretend that the American involvement in Vietnam played no role in explaining the response to those fleeing Vietnam. But what that connection is defies easy reasoning. The inchoate sense that something about the Vietnam War mattered was clear when talking to American policy-makers of the period:

“a feeling of commitment” (Dick Clark); “a sense of historical obligation” (Eric Schwartz); “you sensed some guilt from the anti-war crowd” (Dick Childress); “the U.S. felt a certain sense of responsibility towards Vietnam” (James Purcell); “not war guilt but a sense of responsibility” (Lionel Rosenblatt); “a definite moral responsibility towards the refugees” (David Lambertson); “a need to follow up on humanitarian requirements which we had played some considerable role in generating” (Jonathan Moore); “a sense of obligation, these people were victims of our failure to beat the commies” (Chris Nelson); “a burden of guilt” (Morton Abramowitz); “White House officials committed to winning the long lost war with the Vietnamese, even though the same officials had played a leading part in losing it” (Victor Palmieri); “a realistic assessment by the American people that when the US involves itself overseas, there are some unintended consequences” (Gene Dewey)²⁶⁹

The variety of meanings (special feelings of affinity, a desire to refight lost battles, insecurity over broken commitments) alerts us not only to the probability that the outflow evoked mixed motivations in many people but also that ‘guilt’ as a catch-all explanation does not tell us all that much.

Feelings of culpability, however, I argue, did matter. Michael Walzer contends that when it comes to thinking about our prescriptive obligations towards some refugees, agency in whatever process made them refugees enhances their claim to be treated as co-citizens:

Toward some refugees, we may well have obligations of the same sort that we have toward fellow nationals. This is obviously the case with regard to any group of people whom we have helped turn into refugees. The injury we had done them makes for an affinity between us: thus Vietnamese refugees had, in a moral sense, been effectively Americanized even before they arrived on these shores.²⁷⁰

²⁶⁹ See Appendix of Interviews for full citations and roles.

²⁷⁰ Michael Walzer, *Spheres of Justice: A Defence of Pluralism and Equality* (New York: Basic Books, 1983), p. 49.

I think this is the most useful way to think about any putative role that ‘guilt’ might have played in explaining the collective and sustained generosity towards the Indochinese. Rather than a specific desire to rescue friends or a mission to continue fighting the Vietnam War, American involvement in Vietnam created both a community of people with some claim upon American identity and (more controversially) invoked a certain American culpability for their circumstances. Particularly to the extent that taking care of the refugees connected with self-projected notions of resettlement states as moral and humanitarian actors, refugees were able to make claims on distinct aspects of resettlement state identities whether as the visual proof of a new humanitarian multiculturalism (as with Australia) or a more traditional role as a state of refuge (the United States).²⁷¹

These frames about culpability and identity are vital in explaining the resettlement of the Indochinese. The willingness of resettlement states to resettle was often not just the product of a simple logic of anti-communists ‘voting with their feet’ or rescuing the loyalists from the Vietnam War. Instead, there was a perception that in the very act of being a refugee and fleeing illiberal states, these figures were the innocent victims of circumstances beyond their control. Given that some resettlement states had played a role in causing the instability in Indochina, this was a compelling reason for them to pay attention and assist, though not in itself sufficient..

3.2.2. 'ORDER ANXIETY': FRAMES OF ORDER

²⁷¹ Deborah Schildkraut makes the persuasive argument that notwithstanding the ‘wrenches’ that reality frequently intervenes when attempting to theorise identity, we still need and can operationalize a better understanding of how ‘identity’ works as both an independent and dependent variable: Deborah J. Schildkraut, ‘Boundaries of American Identity: Evolving Understandings of “Us”’ in *Annual Review of Political Science* (2014) Vol. 17, pp. 441-460.

If, as I argue, real or threatened mistreatment had an emotive pull that shaped international cooperation, why was there not more criticism of the states denying refuge or mistreating refugees?

In part, it is because most, if not all, attribution for refugee flows fell on the shoulders of the refugee-generating states: the various communist governments of Indochina. More substantively, I argue that it is often because pushing boats back or other general forms of mistreatment was viewed by resettlement states in a particular way. Rather than resembling an act that states like Thailand and Malaysia ought to have been criticised for, it instead activated a nascent concern that resettlement countries had for their stability and order more generally. Much as *refoulement* triggered a concern for refugees, the act of having to *refoule* triggered a concern for the states of first asylum.

That they were prepared to risk international condemnation was viewed as a credible indication of their vulnerability and of regional disorder.

It is uncontroversial to assert that the images one state has of another are an important filter for understanding state behaviour. In thinking about how states communicate with each other, Robert Jervis makes an important distinction between signals and indices as different communicative behaviours. Signals are 'statements or actions the meaning of which are established by tacit or explicit understandings among the actors.'²⁷² Indices, by contrast, are 'statements or actions that carry some inherent evidence that the image projected is correct because they are believed to be inextricably linked to the actor's capabilities or intentions.'²⁷³ Thus, we might view a threat to turn boats back if other countries refused to resettle refugees as a *signal* and the act of actually turning them back as an *indice*.

²⁷² Robert Jervis, *The Logic of Images in International Relations* (Princeton: Princeton University Press, 1970), p. 18.

²⁷³ Ibid.

Bernard Williams, the British philosopher, put it well when arguing that when understanding stories it is not that we think the actions presented necessarily make sense. Rather, 'the condition of our understanding is... that it should make sense to us that such actions should make sense to people in those circumstances.'²⁷⁴ Mistreatment is frequently interpreted by resettlement states not as a signal of moral culpability but an indice of state weakness and regional disorder. There is a curious sort of subjunctive morality that is often at play in the international reaction ("were they not already suffering under the burden, maybe it would be different").

Considering this, there are several particular frames that have dominated thinking about the impact of refugee flows on the states of first asylum. In a similarly non-exhaustive list, there are two frames that have come to predominate thinking about mistreatment: what I term the 'ethnic vulnerability' frame and the 'developing state insecurity' frame.

3.2.3. 'ETHNIC VULNERABILITY'

Primordial ideals about ethnicity often figure significantly in the world of statesmen and women.²⁷⁵ These mattered, I argue, both diagnostically and prognostically. Without litigating the trenchant and well-worn debates of Orientalism, it is plain that many Western policy makers have and still do see East Asia in ethnically elemental terms.

First asylum states' justifications for denying refuge and resettlement states' justification for assisting shared a common vocabulary of a desire to avoid potential racial and ethnic conflict. This was particularly true of Malaysia in the period of the Indochinese crisis, where the twin

²⁷⁴ Bernard Williams, *Truth and Usefulness* (Princeton: Princeton University Press, 2002), pp. 234-5.

²⁷⁵ Michael Hunt, *Ideology and U.S. Foreign Policy* (New Haven: Yale University Press, 1987), pp. 1-18. John Dower explains how American and Japanese racial stereotypes of each other only served to exacerbate the brutality of World War Two in the Pacific in John Dower, *War Without Mercy: Race and Power in the Pacific War* (New York: Pantheon Books, 1986). See also Andrew Rotter, 'Saidism without Said: Orientalism and U.S. Diplomatic History' in *The American Historical Review* (2000) Vol. 105, No. 4, pp. 1205-1217.

spectre of race riots in the late 1960s mixed with a fragile demographic balance made the premise of ethnic vulnerability seem all the more real. For Indonesia, the memory of the fall of Sukarno in 1965 and the resultant mass killings weighed heavily. Cavan Hogue, a long-serving Australian diplomat in the region, suggests of the Indonesians that when it came to refugees: “they just thought it was a problem that they didn’t need. In Indonesia there’s a long-standing prejudice against Chinese and communists. Although it was a bit ridiculous they thought that there were communist spies amongst them. They were sort of identified as Chinese and Chinese-y.”²⁷⁶

To clarify, I am not suggesting that the roots of ethnic conflict in Malaysia were imagined or completely artificial.

Rather, that there was a subtle form of motivated reasoning that was always at play. Much as certain emotions can create ‘attention effects’ where we pay more attention to information that is congruent with a present emotional state or understanding of the world, there was a heightened sensitivity to any hints of ethnic conflict.²⁷⁷ The frame of ethnic vulnerability exerted a powerful persuasive force in private and public discussions about whether to assist. More importantly, it activated a broader concern for order and stability.

3.2.4. 'DEVELOPING STATE INSECURITY'

The recurrent argument that first asylum states like Thailand and Malaysia made publicly and privately was that humanitarianism in the form of generous refugee protection was a luxury that they could rarely afford. As developing countries, their first obligation was to improving

²⁷⁶ Interview, 17 March 2015.

²⁷⁷ Renshon and Lerner note that ‘certain emotions cause *attention effects*, such that we pay more attention to incoming information that is congruent with our present emotional state than information that is contradictory’ in Jonathan Renshon and Jennifer S. Lerner, ‘The Role of Emotions in Foreign Policy Decision Making’ in *Encyclopaedia of Peace Psychology* (2012) pp. 313-317 [available at: http://projects.iq.harvard.edu/files/lernerlab/files/renshon_lerner_inpress.pdf].

the welfare of their own populations not to improving that of uninvited guests. This was not a novel argument in the 1970s, as indeed much of the period was dominated by the calls of third world states upon first world states for economic justice.²⁷⁸ But even as Thailand and Malaysia became decidedly middle-income countries by the late 1980s, their framing of the refugee burden was always one of an imposition upon a developing country. Refugee mistreatment was interpreted as the fraying of a fragile society rather than as a calculated and cruel act.

For the Indochinese episode that I explore, the worry that a flood of refugees would ignite a broader economic conflict was especially salient in Southeast Asia due to residual fears about communist infiltration. To refuse to resettle refugees would be to place an enormous burden around Thailand or Malaysia as they sought to develop and potentially strengthen the claims of local communists that they were being exploited by the capitalist West. The conditional threat to close the borders and the active return of refugees thus came to be legitimised and rationalised by resettlement states as an *indice* of weakness and insecurity, leading ultimately to a decision to assist in sharing the burden.

Yet even as fears of ‘domino theory’ subsided, a particular sense that Southeast Asian states were vulnerable and disorderly characterised Northern perceptions of them. The frequency of military coups in Thailand and the nascent simmering of inter-ethnic conflict in Malaysia only served to magnify these concerns. While there may be a material basis for seeing the Southeast Asian states as developmentally ‘fragile’ or ‘unconsolidated’ it is peripheral to my inquiry.²⁷⁹ What mattered was the self-perception and the external perception that these countries had an air of developmental frailty about them.

²⁷⁸ See, for example, Stephen Krasner, *Structural Conflict* (Berkeley: University of California Press, 1985).

²⁷⁹ James C. Scott, for example, argues that the states of Southeast Asia, particularly those with touching the highland Zomia area, have been characterized by a distinctly counter-modernising resistance to the form of the nation state and the assertion of centralised sovereignty. [James C. Scott, *The Art of Not Being Governed* (New Haven: Yale University Press, 2009). Eva Lotta-Hedman picks up some of these

By the nature of their existence as inter-subjective understandings the precise meaning and application of these frames varied. The broad clustering of frames under ‘compassion’ and ‘order’ provides us with a tractable way of understanding how states diagnostically came to perceive the nature of the problem that they were trying to solve. What close attention to the argument and rhetoric involved in strategic deliberations over resettlement reveals is two-fold: first that the frames were collective and resonant across governments and second that they in turn helped structure the shape of collective action.

3.3. PROGNOSTIC FRAMES: THE INDOCHINESE ‘SOLUTION’

Beyond their diagnostic impact, the framing of the Indochinese refugee ‘problem’ often had prognostic implications for how it would be solved. There were, I argue, two recurrent frames that propelled a logic of resettlement: (1) a belief in the impossibility of local settlement and integration; and (2) a belief that absent resettlement, refugee protection of any sort would be hopelessly imperilled.

3.3.1. THE IMPOSSIBILITY OF INTEGRATION

In the immediate aftermath of the fall of Saigon in 1975, Prince Sadruddin Aga Khan, the then High Commissioner for Refugees, spoke before the U.N. Economic and Social Council of “an area where events have been most dramatic during the last few months, namely

themes in her argument contesting the salience of the Cold War in understanding refugee movements in Southeast Asia, preferring to see both the causes and the responses to forced migration as stemming from the developmental ordering processes of state formation [‘Forced Migration in Southeast Asia: International Politics and the Reordering of State Power’ in *Asian and Pacific Migration Journal* (2006) Vol. 15, No. 1, 2006, pp. 23-51.]

Indochina.”²⁸⁰ As movements of people across the region were growing, he outlined his hope that should resettlement or voluntary repatriation not prove feasible that “it would be possible for the countries of first asylum to accept the integration of these groups of Indochinese.” Yet it never was. And one of the principal reasons for that was that mistreatment served as a credible signal of the resolve of Southeast Asian states to refuse to accept it as an option.

One of the central contributions this thesis makes is that it demonstrates that the consensus on the impossibility of local integration that was used to justify resettlement took some time to evolve and was accelerated by the inhospitable welcome that Indochinese refugees found in the states of first asylum.

As previously mentioned, I am somewhat agnostic on the material basis for ethnic difference as a factor preventing local integration. The assimilation of Chinese into the upper echelons of Thai society in the 19th Century or the fairly peaceable existence of millions of illegal migrant labourers in Southeast Asian states during this period suggests that the absence of ethnic affinity was less decisive than might readily be assumed and that these societies are less ethnically impermeable than they portrayed themselves as being. But similarly, it is hard to deny the significance of ethnic labels and divisions in Southeast Asian societies. The political economy of racial divisions is highly striking too. Benedict Anderson notes, for example, that ‘In Indonesia, between March 1966 and March 1998, not a single person of known Chinese descent became a cabinet minister, senior civil servant, general, admiral or air

²⁸⁰ ‘Statement by Prince Sadruddin Aga Khan, United Nations High Commissioner for Refugees, at the 59th Session of the United Nations Economic and Social Council (ECOSOC) on 10 July 1975’, available at: <http://www.unhcr.org/3ae68fd14.html>

marshal... [yet] at the same time, the estimated 5 per cent of the population said to be Chinese control 70 to 80 per cent of the domestic economy.’²⁸¹

My interest in the question of race is both what it revealed diagnostically about how the problem of Indochinese refugees was framed and what that prognostically implied for its potential solution.

Perceived racial sensitivities always informed perceptions of how the problem of the Indochinese refugees could be solved. Cavan Hogue, a former Australian High Commissioner to Malaysia during the period, recalls that “We had some pretty ‘warm’ discussions and we didn’t always see eye to eye. They didn’t always say it but this idea about upsetting the racial balance and letting in people of the wrong kind was a constant factor. It was always lurking in the background. I think definitely in the case of Malaysia that was behind most of it.”²⁸² Richard Holbrooke averred at one 1979 Congressional hearing that the “profound internal ethnic and religious differences” of the Southeast Asian states made resettlement the only option.²⁸³ Ronald Palmer, the U.S. Ambassador to Malaysia in the early 1980s remembered that “in the case of the first asylum countries of which Malaysia was one, there was never a notion that these people would stay there permanently. They obviously could not sustain these types of ethnic infusions and the idea was that the refugees would go on some place else.”²⁸⁴

²⁸¹ Benedict Anderson, ‘From Miracle to Crash’ in *London Review of Books* (1998) Vol. 20, No. 8, 16 April 1998, pp. 3-7. [Available at: <http://www.lrb.co.uk/v20/n08/benedict-anderson/from-miracle-to-crash>].

²⁸² Interview, 17 March 2015.

²⁸³ ‘The Indochinese Refugee Problem’ *Hearings Before the Subcommittee on Immigration, Refugees and International Law of the Committee on the Judiciary, United States House of Representatives*, 6 March, 19 and 27 June, 31 July 1979, Serial No. 26, p. 3.

²⁸⁴ ‘Oral Interview – Ambassador Ronald D. Palmer’ 15 May 1992, ADST, [available at: <http://www.adst.org/OH%20TOCs/Palmer,%20Ronald.toc.pdf>].

Gene Dewey, a former Assistant Secretary of State responsible for refugee affairs and a former Deputy High Commissioner at UNHCR, when asked about different American responses to refugees in Africa and Asia, noted that “there’s a brutality and inhumanity in Southeast Asian societies that I’ve never seen in my time in Africa or the Middle East.”²⁸⁵ A difference in host state reaction might well explain, in Dewey’s eyes, why so few Iraqis have been resettled in America since American involvement there: “There’s just been nothing to bring that needy group to people’s attention.” Susan Timberlake, a protection officer for UNHCR during the period of the CPA, recalls that the cultural barrier ethnicity posed to questions of refugee protection was close to insurmountable:

I’ve been a human rights lawyer and advocate all my career. There’s a spectrum of how much people get human rights. You can use it as a basis of discussion for the fate of someone. Thailand was a particularly hard place to make the argument. It literally didn’t work. This sounds harsh and I don’t mean it to sound that way because for years they extended huge hospitality to hundreds of thousands of refugees... [but] you were in a constant position of arguing with them ‘don’t do this’, ‘why are you doing this?’ They’d never extended the hospitality for human reasons. It was for political and financial reasons. The Thai people are incredibly sophisticated strategists.²⁸⁶

William French-Smith, the U.S. Attorney-General, observed at one Congressional hearing in 1981 that “the extreme ethnic and cultural animosities in the region... have made it impossible to rely on local settlement in the same fashion as in Africa and Latin America.”²⁸⁷ Nothing had served to dislodge that opinion one year later when he observed that, “owing to ethnic and cultural animosities in the region, they are among the least accepted in countries of first asylum; and the inability of the first asylum countries to absorb these refugees would result in major foreign policy problems if this situation is not addressed.”²⁸⁸ Victor Palmieri, the U.S. Coordinator for Refugees in 1980, similarly remembers that the impossibility of

²⁸⁵ Interview, August 2014.

²⁸⁶ Interview, 25 March 2015.*

²⁸⁷ ‘Refugee Admission Proposal’, *Hearing before the Committee on the Judiciary, United States House of Representatives*, 29 September 1981, Serial No. 22, p. 65.

²⁸⁸ ‘Refugee Consultation’, *Hearing before the Subcommittee on Immigration and Refugee Policy of the Committee on the Judiciary, United States Senate*, 29 September 1982, Serial No. J-97-144, p. 5.

local integration flowed from the “fundamental ethnic and cultural differences with the Chinese who made up the bulk of the flows into Malaysia and Indonesia.”²⁸⁹ These shared beliefs were almost invulnerable to change.

The importance of the threats to refugee welfare being understood as the product of a different, ethnically-informed mind-set to refugee protection was vital in explaining why they were believed. As an illustrative example, the comparable possibility that Hong Kong (then under British governance) would push back boats was never really believed by resettlement states or UNHCR, principally because it was thought that the British would not resort to such drastic measures. For example, a British threat issued prior to the 1989 International Conference authorising the CPA that they would terminate first asylum in Hong Kong should there not be a public commitment to involuntary return of those screened out was ignored within UNHCR as simply “a very unsubtle and unwelcome blackmail.”²⁹⁰ Even though there was no such agreement in the CPA, the British never followed through on their threat.

3.3.2. THE LEAST WORST ALTERNATIVE

Lionel Rosenblatt, a great advocate for generous American resettlement over the course of the outflow both within and outside of government, put it simply, “Pushing back on push backs would never have worked, they would just push everyone back...They were afraid they were next.”²⁹¹ When pressed as to whether concerted American pressure might have changed the policies of the first asylum states, Eric Schwartz contends that “I would be very careful about making that assumption. The implication of that assumption is that if somehow we didn’t resettle the Thai would have been more cordial and receptive. Maybe

²⁸⁹ Interview, 1 September 2014.

²⁹⁰ UNCHR:11:3:010.GBR, Covering Note on Letter – Geoffrey Howe to Jean-Paul Hocké, 11 June 1989,

²⁹¹ Interview, 13 August 2014.

that's true but in your heart of hearts do you think it's true?"²⁹² Irene Khan, a senior UNHCR official, remembers that at one training session for status determination procedures in Indonesia being approached by an Indonesian general baffled by the idea that anyone cared about the refugees: "He just said "We had communists in our own country and we stopped them. They should just stay in the country and stop them fleeing."²⁹³ Pierre Jambor, another senior UNHCR figure with operational responsibilities in the region, similarly remembers that the absence of any solution other than resettlement was clear: "there was no alternative. It's not like there was another solution ready to go. There was no plan b. It was not viable."²⁹⁴

3.4. ESTABLISHING SALIENCE

Keren Yarhi-Milo has recently argued with great force that when it comes to assessing the intentions of other states and leaders that leaders pay more attention to vivid and salient information which addresses what they subjectively judge as credible rather than necessarily more objective factors like capacities. Although Yarhi-Milo herself draws a distinction between behavioural signals and other more subjectively credible signals that are really noticed by decision makers, certain behavioural signals could easily be seen as being subjectively credible too. What distinguishes subjectively credible signals is that they possess a certain 'vividness' - which Yarhi-Milo describes the 'emotional interest of information, the concreteness and imaginability of information, and the sensory, spatial and temporal proximity of information.'²⁹⁵

²⁹² Interview, 12 December 2014.

²⁹³ Interview, 24 July 2014.

²⁹⁴ Interview, 10 March 2015.

²⁹⁵ Keren Yarhi-Milo, *Knowing the Adversary* (Princeton: Princeton University Press, 2014), p. 5.

The vividness of ‘mistreatment’ in the case of the Indochinese goes a long way in explaining their ongoing concern for refugee welfare in the states of first asylum. Turning junkloads of boats around on the high seas or pushing refugees back across a border were not actions that lack for dramatic appeal. How then might assessments of mistreatment have affected the propensity of donor states to resettle?

First of all, its dramatic nature generated attention. As Eric Schwartz set out: “Is the fact that pirates were killing Vietnamese refugees, and Thailand was ambivalent at best, important? Does that capture the attention of U.S. officials? The answer’s yes.”²⁹⁶ This matters substantively because we know that the newsworthiness of events can directly shape the propensity of governments to provide humanitarian relief. In one study of U.S. responses to natural disasters, for example, it was revealed that disasters were far less likely to be declared when the Olympic Games were held because they were presumably crowded out the public agenda.²⁹⁷ Dennis McNamara, a long-time UNHCR staffer and humanitarian policy-maker, speaks of the Indochinese outflow as the paradigmatic “loud emergency” where the concentration of public attention served to magnify the international response.²⁹⁸

It is critical for my inference that the presence and framing of mistreatment helped shape the pattern of international cooperation towards Indochinese refugees for me to show in addition to the mistreatment of refugees being internationally noticed that it was also somehow salient for the relevant opinion-makers and decision-makers.

That people were affectively moved by the images and reports from Southeast Asia revealed itself in ways large and small. Reg Prentice, one of Thatcher’s junior ministers, for example,

²⁹⁶ Interview, 12 December 2014.

²⁹⁷ Thomas Eisensee and David Strömberg, ‘News Droughts, News Floods and U.S. Disaster Relief’ in *Quarterly Journal of Economics* (2007) Vol. 122, No. 2, pp. 693-728.

²⁹⁸ Interview, 10 April 2013.

wrote her a long letter imploring her to do more to assist given the given ‘the sheer inhumanity of abandoning these people’, and apologised for it in advance by pointing out ‘I just need to get this off my chest.’²⁹⁹

First, particularly in the initial decision to assist, I show that discussions of mistreatment were discursively prominent within resettlement states and regularly featured in newspapers or broadcast on TV. Moreover, I show that it has largely been the denial of refuge that proved newsworthy, rather than necessarily the volume of refugees themselves. Third, we can conclude a lot about how people see the world just from the language of public justification.

But salience also came from direct personal experience of the outflow too. In particular, Spartan conditions in the camps served to magnify the problem, especially for powerful visitors. The experience of personally visiting refugee camps and observing the self-evident penury and suffering seems to have played a profound role in generating greater generosity. Morton Abramowitz notes that in his three years as Ambassador to Thailand, “we had about 300 senators and representatives visit Thailand... [and] the refugee situation attracted wide Congressional attention and involvement.”³⁰⁰ This went some way to explaining why Abramowitz remembers that when it came to getting support for assistance, “we were always pushing against an open door.”³⁰¹

Rosalynn Carter’s visit even made it into Jimmy Carter’s fairly anodyne diary of his White House years: ‘November 9 - Rosalynn called [from Thailand], having been to one camp with about 28,000 refugees, many of them dying. They were expecting between 100,000 and

²⁹⁹ TNA PREM 19/130, Letter - Prentice to Thatcher, 4 July 1979.

³⁰⁰ Morton Abramowitz, ‘Oral Interview’, 10 April 2007, p. 84. [Available at: <http://www.adst.org/OH%20TOCs/Abramowitz,%20Morton%20I.toc.pdf>]

³⁰¹ Interview, 26 March 2015.

200,000 more in the same camp over the next few weeks.³⁰² For John Menadue, head of the Australian Department of Immigration in the early 1980s, “It was a moving experience in those camps.” As he recounts, “I remember going to one of two camps – Khao-I-Dang – it was a closed camp...I’ve never seen so many people without limbs before. I was just inundated with people giving me letters to send to friends and family. We weren’t supposed to send them but we did.”³⁰³

Facilitating access and visits to the camps was a deliberate persuasive strategy for those seeking to increase resettlement numbers. Lionel Rosenblatt remembers that “You had to give [journalists] access to the camps as it was the only way to tell the story... it wasn’t that high a priority until it was dramatic.”³⁰⁴ Sir Hugh Cortazzi, a senior British diplomat in the late 1970s, contends that Peter Carrington, the Foreign Secretary at the time, “deliberately chose to go to those places, taking the journalists with him, and helping carry opinion in the Conservative Party with him.”³⁰⁵

American Congressional representatives who visited the refugee camps tended to be particularly strong advocates of generous resettlement. As Dawn Calabria, a senior staffer on the House Committee for Foreign Affairs, recalls, “Members of Congress would go visit refugee camps and then come back horrified. They’d come back and just want it fixed.”³⁰⁶ Lacy A. Wright, who co-ordinated American refugee efforts in Thailand for much of the 1980s remembers that the informal connections that Congressional visits created in turn

³⁰² Jimmy Carter, *White House Diary* (New York: Farrar, Straus and Giroux, 2010), p. 369.

³⁰³ Interview, 25 February 2015.

³⁰⁴ Interview, 13 August 2014.

³⁰⁵ Interview, 18 February 2015.

³⁰⁶ Interview, 23 February 2015.

helped generate networks of monitoring and oversight: “every time a leaf would fall in those camps in a bad way, we would get a letter from a Congressman or delegation.”³⁰⁷

Jeanne Kirkpatrick, the firebrand American Ambassador to the United Nations, noted in her testimony at one hearing into the U.S. refugee program in 1981 that:

Members of both the House and Senate have visited the camps. I do not know of any who have come away unaffected. I cannot believe there are any who, having seen the camps, having heard at first hand the story of what these people have endured, would not be proud of what the United States has done to help, or would not want the United States to go on helping.³⁰⁸

This certainly squares with the testimony of Congressional Representatives themselves at regular Congressional hearings or in debate:

Having been there and having seen the suffering and the tragedy of the situation, has changed and made me somewhat more liberal. Being conservative, I suppose that means something, but I feel that certainly we have to do something.³⁰⁹
(Representative Dan Marriott, 1979)

The camps that we visited had a population of about 150,000. Although we were on a factfinding mission, we quickly became aware of the urgency of the problem. Literally, people were dying by the thousands. Each day's delay means more death and suffering. What we are essentially facing here is the possible extinction of an entire people--the Khmer people.³¹⁰ (Senator Jim Sasser, 1979)

Let me remark briefly about my recent visit to Southeast Asia and to the refugee camps there, and the discussions that I held. I think that we can say that the situation is as bad as ever. Refugees are suffering in subhuman living conditions.³¹¹ (Senator Mark Hatfield, 1984)

I saw first hand the plight of the refugees in Southeast Asia. I, along with other Congresswomen, went to the killing fields in Southeast Asia and was involved in

³⁰⁷ Interview, 1 February 2015.

³⁰⁸ ‘Refugee Admission Proposal’, *Hearing before the Committee on the Judiciary, United States House of Representatives*, 29 September 1981, Serial No. 22, p. 20.

³⁰⁹ ‘1979 - Tragedy in Indochina Continues: War, Refugees, and Famine’, *Hearings Before the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs, United States House of Representatives*, 28 February, 18 September, 10, 17 October, 18, 19 December 1979, Serial No. H381-46, p. 15.

³¹⁰ ‘Refugee Crisis in Cambodia’, *Hearing before the Committee on the Judiciary, United States Senate*, 31 October 1979, Serial No. 96-39, p. 6.

³¹¹ ‘Overview of the Refugee Situation in Southeast Asia’, *Hearing before the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs, United States House of Representatives*, 5 April 1984, H381-63, p. 4.

witness the camps throughout Thailand... The refugees in Southeast Asia are in a truly desperate situation.³¹² (Senator Barbara Mikulski, 1987)

Late last fall, several other members of the Congresswomen's Caucus and I visited Cambodia and saw with our own eyes what had happened to a country and its people. All of us were appalled by the sights which we observed. The conditions are difficult to describe because they are outside, apart from our experience.³¹³ (Representative Margaret Heckler, 1979)

In visiting the camps, congressional delegations (CODELs) would also check in with senior Thai government officials. This only seems to have strengthened the conviction of many refugee advocates within Congress that the threat to mistreat was real should resettlement taper. As Mark Hatfield noted at the 1983 hearings on the U.S. refugee programme:

speaking from my experience on the Southeast Asian politics and on my familiarity with the Royal Thai Government, we can expect drastic involuntary repatriation efforts if our commitment to refugees in the region is perceived as wavering... If we send a signal to them that our commitment toward resettlement will diminish again in 1984, then I believe the predictable consequences of lost lives and strained relations with Thailand will occur.³¹⁴

Chris Nelson, a staffer with the House Foreign Affairs Committee, remembers the unusual enthusiasm of Congressional representatives to go visit the camps, "My recollection was that some of the members really got into it. The late Joel Pritchard, he used come to when the other members were off doing other things and he'd grab me and we'd go off and visit a camp... It was a personal thing for these guys."³¹⁵

3.5. AN ELITE-CENTRED ACCOUNT

The response to the Indochinese outflow is remembered often as a great collective outpouring. In some countries such as Canada, civil society certainly played a role in forcing

³¹² *Congressional Record – Senate*, 7 October 1987, p. 26846.

³¹³ '1979 - Tragedy in Indochina Continues: War, Refugees, and Famine', *Hearings Before the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs, United States House of Representatives*, H381-46, 28 February; 18 September; 10, 17 October; 18 and 19 December, 1979, p. 6.

³¹⁴ 'Annual Refugee Consultation' *Hearing before the Subcommittee on Immigration and Refugee Policy of the Committee on the Judiciary, United States Senate* 26 September 1983, pp. 4-5.

³¹⁵ Interview, 6 March 2015.

the hand of government to do more. But my account rather unapologetically focuses on how governmental actors or elite ‘opinion-makers’ saw the nature of the Indochinese refugee problem. It is rather unashamedly an account of the ‘high politics’ of refugee protection. Inevitably in any such account, much will be left out.

But two salient features that characterised and structured the domestic politics of refugee resettlement during the Indochinese period might further justify such an approach: first, the frequent presence of a cross-cutting consensus between political elites; and second, that refugee policy towards the Indochinese was mostly a matter of executive purview, with a consequently limited role for pressure groups. These are good reasons to focus our attention but they need some further specific explanation.

3.5.1. THE STRANGE BEDFELLOWS SUPPORTING RESETTLEMENT

That the coalition of interests supporting Indochinese resettlement often cut across typical partisan divisions should not necessarily be surprising. One of the distinctive features of political disputes about immigration (both then and now) is that they produce odd coalitions, rarely coloured by ordinary partisan divisions. In a contemporary setting, it is hard to think of an issue with a more profound cleavage between the attitudes of the voting public and their representatives than immigration. This was especially the case with the Indochinese.

Resettling Indochinese in the United States, for example, was never a particularly popular policy yet it was characterised by a broad political consensus. Even at the height of the pushbacks and heightened media coverage in 1979, public opinion seemed fairly mute. In 1982, one poll found that only 20 percent of respondents thought Vietnamese immigration had been a good thing for the country, and only 9 percent thought Cuban immigration had

been. 66 percent wanted to see immigration decreased.³¹⁶ Much is made in contemporary times of the increasingly restrictionist attitudes of the public, yet it might actually be elites and governments that have changed more than publics. Public opinion towards immigration in developed countries, for example, has barely shifted despite the contentions of many that migration has become 'securitized' in the wake of September 11.³¹⁷

Peter Schuck contends that the politics of immigration are very different from the political economy of other issues where usually there are two interests that are starkly opposed to one another, and usually from more than one direction.³¹⁸ Michael Teitelbaum similarly observes that when it comes to immigration and refugee policy the 'liberal-conservative continuum is utterly meaningless.'³¹⁹ It is, for example, 'easy to identify liberals who have supported unlimited immigration in the spirit of humanitarian concern for the poor of the world, and others who have opposed it in the spirit of humanitarian concern for the poor of the United States.'

While the public impulse for restrictionism is real, Schuck contends that what makes immigration 'unusual and important, however, is the extent to which almost all of the many vectors of immigration politics, except unorganised public opinion, converge to press for more expansionist policies.'³²⁰ This is not to imply that restrictionism never prevails, merely that generally restrictionist opinion is never as organised as the interests proposing greater

³¹⁶ Quoted in Richard Feen, 'Domestic and Foreign Policy Dilemmas in Contemporary US Refugee Policy' in E.G. Ferris, (ed.), *Refugees and World Politics* (New York: Praeger, 1985), pp. 105-119, p. 111.

³¹⁷ Anthony M. Messina, 'Securitizing Immigration in the Age of Terror' in *World Politics* (2014) Vol. 66, No. 3, pp. 530-559.

³¹⁸ Peter Schuck, 'The Disconnect between Public Attitudes and Policy Outcomes in Immigration' in Carol Swain (ed.) *Debating Immigration* (New York: Cambridge University Press, 2007), pp. 17-31.

³¹⁹ Michael Teitelbaum, 'Right versus Right: Immigration and Refugee Policy in the United States' (1980) Vol. 59, No. 1, pp. 21-59, p. 58

³²⁰ Peter Schuck, 'The Disconnect between Public Attitudes and Policy Outcomes in Immigration' in Carol Swain (ed.) *Debating Immigration* (New York: Cambridge University Press, 2007) pp. 17-31, p. 18.

openness.³²¹ Daniel Tichenor argues with respect to American immigration policies that if we are to understand the changes and shifts in American immigration policy, then we need to understand how its dynamics ‘have long been influenced by the making and *remaking* of distinctive political coalitions on this issue that cut across familiar partisan and ideological lines.’³²² These coalitions are distinctive in the sense that ‘few issues have produced more incongruous political bedfellows than immigration.’³²³ It is a useful rubric to bear in mind.

We don’t have to embrace the full exceptionalism of the Schuck thesis, however, to realise that the point is even more acute when it comes to the issue of refugee resettlement. Aristide Zolberg points out that even if immigration policy is shaped by the free play of competing societal interests, refugee policy is shaped largely by the state as a major agent pursuing interests of its own.³²⁴ As Tichenor himself observes, underpinning the generosity to the Indochinese was a ‘powerful coalition of Cold War anticommunists and human rights liberals...ethnic lobbies, civil rights and religious groups, organized labor, and liberal politicians.’³²⁵

Elizabeth Holtzman, head of the U.S. House Subcommittee on Immigration and Refugees, recalls that at the time of the ‘boat people’ crisis of 1978/9, that when it came to the question of American assistance, “I just don’t recall any opposition.”³²⁶ Michael MacKellar, the Australian Immigration Minister in that period, remembers that the Opposition Labor

³²¹ This is particularly true in the early 1980s too. As Harris N. Miller noted when writing about immigration reform in the early 1980s, ‘interest groups most concerned about immigration are generally against restrictions, while that part of the American public more inclined to be in favour of restrictions is not organised.’ [Harris N. Miller, ‘“The Right Thing to Do”: A History of Simpson-Mazzoli’ in Nathan Glazer, (ed.), *Clamor at the Gates* (San Francisco: ICS Press, 1985), p. 49.]

³²² Daniel Tichenor, *Dividing Lines: The Politics of Immigration Control* (Princeton: Princeton University Press, 2002), p. 29.

³²³ Tichenor, *Dividing Lines*, p. 35.

³²⁴ Aristide Zolberg, *A Nation by Design* (Cambridge: Harvard University Press, 2006), p. 22.

³²⁵ Tichenor, *Dividing Lines*, p. 289.

³²⁶ Interview, 25 July 2014.

party “were right on side and that was very helpful.”³²⁷ Similarly, Cavan Hogue recalls that the bipartisan character of the commitment to refugees at the time insulated the government from criticism:

At that time it was bipartisan. Ian Macphree, the minister, and Mick Young, the Labor shadow minister, sat down together and said that there’s all the foreign policy and other questions. They were concerned about all those things but also about not creating problems in the Australian community. All the public comments were bipartisan. That is clearly very different from now.³²⁸

Indeed, as Mick Young later pointed out, “the only criticism that I as shadow Minister had of the former Minister was not that he was not giving recognition to that United Nations definition in accepting people from South East Asia but rather that he was being too restrictive.”³²⁹

I am not suggesting that there was no opposition to Indochinese admissions. Rather I am suggesting simply that the character of that opposition was over the course of the outflow incredibly diffuse and rarely spilled over into any organised or recognisably political form. This very absence from the organised political sphere is thus an important reason to justify a focus on a particular set of elite actors.

3.5.2. EXECUTIVE DISCRETION

Second, in most resettlement states, the decision of which refugees (and how many) were chosen for resettlement was a decision for executives more than legislatures (and has largely remained so). In Australia, the decision as to how many refugees could be admitted each and from where was a decision for Cabinet and did not require separate annual enabling

³²⁷ Interview, 31 October 2014.

³²⁸ Interview, 17 March 2015.

³²⁹ *Hansard Parliamentary Debates*, Australian House of Representatives, 8 May 1984, p. 2018.

legislation.³³⁰ Under the U.S. *Refugee Act* of 1980 (brought about to formalise the overly discretionary Presidential use of the parole power), for each fiscal year, the President determines quotas for groups of ‘special humanitarian concern’, subject to upward revision in cases of emergency. In formulating those quotas, the President is obligated to consult the Chairmen and Ranking Members of the Judiciary Committees of both the House and the Senate. To be eligible within these groups, individuals must come within the refugee definition.³³¹ This is a process which ‘involves a great deal of executive branch discretion’ and ‘relatively unfettered choice is exercised every step of the way.’³³² Terry Rusch, a long-serving member of the State Department’s refugee division, recalls that in her over two decades of dealing with Congress that “really Congress left it to us and pretty much went along with it... people on the Hill didn’t really know where this fit in the overall scheme of things.”³³³ Similarly, Jonathan Moore, a former U.S. Coordinator for Refugee Affairs and Assistant Secretary for Refugees within the State Department, remembers the occasional division between Congress and the Executive, but typically this involved “money fights... over marginal differences rather than huge differences.”³³⁴ These were usually situations where “the State Department didn’t have enough money to resettle even some of the refugees that the Congress wanted.” Moreover, institutional siting mattered. Just as the outcome of Thai policy on refugees often reflected pitched bureaucratic battles between the Ministry of Foreign Affairs (a liberalising force) and the Ministry of the Interior (a restrictionist presence), the 1980 *Refugee Act*’s location of responsibility for refugees within the State Department created a bias in favour of more generous admissions. The agency tasked with determining refugee admissions only really had an institutional interest in their

³³⁰ James Jupp, *From White Australia to Woomera* (Cambridge: Cambridge University Press, 2002), pp. 180-199.

³³¹ Daniel J. Steinbock offers a useful summary of how this process works sequentially in ‘The Qualities of Mercy: Maximizing the Impact of U.S. Refugee Resettlement’ in *University of Michigan Journal of Law Reform* Vol. 36, No. 4, pp. 951-1006, pp. 957-963.

³³² Steinbock, ‘The Qualities of Mercy’, p. 961.

³³³ Interview, 24 October 2014.

³³⁴ Interview, 8 March 2015.

international impact rather than their domestic impact.

As Alan Simpson, a Senator occasionally sceptical of the levels of refugee admissions, observed in one Senate debate on the Indochinese refugees in 1987, delegating responsibility to the State Department for refugee processing meant avoiding ‘any really hard decisions on refugees’ because the State Department would typically think “don’t mess with that country. If they say they are under some pressure, we will take them and invent a category for them... the State Department is never going to make those tough decisions about exclusion of human beings from our shores.”³³⁵

The specific role of institutions in mediating and filtering preferences and behaviours is beyond the scope of this thesis. But in some ways the observed absence of disagreement between elites and the huge discretion afforded to executive agencies in resettlement states are good reasons to privilege the understandings of a smaller set of actors in explaining how and why resettlement states responded to the Indochinese in a particular way.

³³⁵ *Congressional Record – Senate*, 7 October 1987, p. 26844.

4. RESPONDING TO A CRISIS: THE INITIAL BARGAIN (1975-1979)

'Once in a generation something occurs which stinks to history. The Somme informed our grandparents in this way. (County regiments and Pals' brigades went to extinction by dereliction of intellect in high places). Stalin's archipelago of camps and the monstrous Jew-killing undertaking of Hitler came next. We should not pretend that what now happens in the South China Sea is anything better... The Vietnamese rulers and their Soviet partners have told us what sort of people they are, promiscuous killers. But what sort of people are we and what are we going to do? Quite simply we must take - take refugees until it hurts! ... Don't raise abstract moral questions. Trust the morality of a turning stomach, and ask, if we could have reached into the other places of death, would not we have done so? Shall we then not take people out of the sea?'

*The Daily Telegraph (London)*³³⁶

'Prepare for a numbing number: some 100,000 Indochinese refugees will die in the next six weeks unless something is done to change the unspeakable scenario in Southeast Asia. This will be the casualty rate, even if Malaysia wholly retracts its threat last weekend to shoot at boats attempting to land along its coasts and to ship off the 77,000 refugees in its camps.'

*The Economist*³³⁷

"You've got to grow callouses on your heart or you just bleed to death"

*- Lee Kuan Yew*³³⁸

BEFORE VISITING THE SOUTHEAST ASIAN REGION IN AUGUST, 1978, Poul Hartling, the then United Nations High Commissioner for Refugees noted on one of his briefing papers a simple question: 'why not local settlement?'³³⁹ The question was a good one at the time. Most countries that host refugees also allow at least some portion of those refugees to settle locally.

³³⁶ Editorial, 4 July 1979

³³⁷ 'Tomorrow is Too Late', 7 July 1979.

³³⁸ Quoted in Michael Richardson, 'ASEAN and Indo-Chinese Refugees' in Alison Broinowski (ed.), *Understanding ASEAN* (London: Macmillan, 1982), p. 102.

³³⁹ UNHCR:13:2, High Commissioner's Mission to Southeast Asia, 4-20 September 1978, 'Memorandum - Your Visit to Southeast Asia', 30 August 1978.

Within twelve months, the international community had pledged that it would take at least 260,000 refugees for resettlement from the region within a year and that it would remain similarly generous until the problem abated. A CIA analysis of July 1979 set out what had readily become the collective view: 'no ASEAN state will accept for resettlement any of the Vietnamese refugees.'³⁴⁰

There are two outcomes that need explaining. First, why did the countries that ended up resettling refugees feel concerned about refugees in the region at all? There was certainly no shortage of refugees in the world at the time. As Hartling told one British diplomat prior to the Geneva Conference: the 40,000 boat people who had washed ashore in Hong Kong were 'not all that significant' when countries like Sudan faced the burden of sheltering 100,000 or more refugees from Uganda.³⁴¹ And, second, why did they accept that resettlement was the only possible means of ensuring refugee protection? The same diplomat noted that Hartling was convinced that 'if the exodus reaches the proportions we fear, the bulk of the refugees will have to find a home in Asia.' This made a certain amount of sense, in Hartling's eyes, as 'until the aftermath of the Vietnam War, refugees had normally been considered a regional problem.'³⁴²

The traditional answers to both of these questions have a certain 'taken for granted' quality about them. Loescher and Scanlan argue that the generosity of the American response was primarily driven by a number of key individuals, initially within the State Department, and later as leaders of NGOs who were fuelled by the fire of their own personal experiences in Vietnam.³⁴³ These men were 'impelled not only by a humanitarian concern for refugees but

³⁴⁰ 'Special Study on Indochina Refugee Situation - July 1979', VVA, p. 17.

³⁴¹ TNA PREM 19/129 'Cable - British UNHCR Mission Geneva to London'.

³⁴² Ibid.

³⁴³ See, especially, Loescher and Scanlan, *Calculated Kindness*, pp. 123-124, 138-141; Zolberg, *A Nation by Design*, p. 347.

also by a deep sense of guilt and personal involvement.³⁴⁴ Undoubtedly, certain individuals were instrumental in galvanising political support for resettlement. But as Loescher and Scanlan themselves note, atmospherics mattered too. What they variously frame as 'international attention and concern,'³⁴⁵ 'the broad sentiment to rescue the boat people'³⁴⁶ and the 'tremendous groundswell of sympathy'³⁴⁷ seems to have some relation to why 'the world's conscience had been pricked.'³⁴⁸

This Chapter seeks to flesh out the 'conscience-pricking' process. First it looks at how refugee flows were managed in the period between the end of the Vietnam War in April 1975 until the end of 1978 to establish how Northern states came to see wide-scale resettlement as both improbable and undesirable. Second it looks at the process leading up to and including the particular bargain struck at the Geneva Conference in July 1979. Third, it explains at how how frames around compassion and order served to motivate states to increase resettlement spaces. Fourth, it canvasses competing potential explanations to show the salience of mistreatment as an explanatory variable.

4.1. EARLY CONTEXT (1975-1978)

There are two important facts to note in considering the shape of the eventual bargain struck between countries of first refuge and resettlement states. First, by the late 1970s resettlement was not a simple matter of rewarding those who stood by the U.S. and its allies during the Vietnam War. Second, resettlement on the scale that occurred was never really envisaged by any resettlement state in the years leading up to the 1979 Conference as either likely or desirable.

³⁴⁴ Ibid, p. 123.

³⁴⁵ Ibid, p. 135.

³⁴⁶ Ibid, p. 143.

³⁴⁷ Ibid, p. 141.

³⁴⁸ Ibid.

4.1.1. RESCUING FRIENDS?

Resettlement of the Indochinese exodus was about much more than simply rescuing friends and allies from the Vietnam War. For the most part, this had already been accomplished in the evacuations of 1975 and, even then, it was a less significant impulse than might have been assumed.

Henry Kissinger remembers the period following the fall of Saigon as an era where 'twenty years of hope, frustration, and discord over Vietnam had now been reduced to a single objective: to save the maximum number of potential Vietnamese victims from the consequences of America's abandonment.'³⁴⁹ But the internal deliberations of the Ford Administration reveal a far greater preoccupation with the rescue of Americans themselves in Vietnam and the impact that a rapid American withdrawal would have on the confidence of American allies than on the fate of any potential Vietnamese victims.³⁵⁰ As Rick Perlstein has memorably put it in *The New Republic*, Kissinger's 'statements, even about the weather, require parsing for double and triple meanings.'³⁵¹ There was certainly some concern for the evacuation of those who would be most directly at risk but it paled in comparison to the concern over whether the American Embassy and other associated Americans in Vietnam could be evacuated safely. As the American embassy in Saigon came under attack in late April 1975, Kissinger asked: "can someone explain to me what the hell is going on! The orders are that only Americans are to be evacuated. Now, what the hell is going on?"³⁵² A

³⁴⁹ Henry Kissinger, *Ending the Vietnam War* (New York: Simon and Schuster, 2003), p. 544.

³⁵⁰ See especially 'Minutes - National Security Council Meeting' 9 April 1975, p. 15 and 'Memorandum for the Record - National Security Council Meeting' 24 April 1975. [GFL, National Security Council Meetings].

³⁵¹ Rick Perlstein, 'Kissinger The Unrealist' in *The New Republic* November 6 2006, available at: <http://www.newrepublic.com/article/politics/the-unrealist>.

³⁵² Quoted in 'Minutes of Washington Special Actions Group Meeting - April 29, 1975', Document 273, FUS, Vol. X.

month earlier, General George Brown, tasked with overseeing the drawdown of the American presence in South Vietnam, had noted that extracting Americans would be difficult as “the mob will be hard to control... [w]e might shoot refugees in front of the press.”³⁵³ Extracting some Vietnamese loyalists would make it easier for Americans to be evacuated. As Kissinger explained, “if we pulled out and left them [the Vietnamese] in the lurch, we may have to fight the South Vietnamese... if we go to an evacuation of only Americans, we may trigger a situation which would prevent getting the Americans out.”³⁵⁴ Several weeks after the fall of Saigon, Kissinger contacted a series of American diplomatic missions to encourage them to ask their host states to take on some of the evacuees. But Kissinger’s encouragement came with some caveats:

[The] U.S. does not... assume responsibility for other Indochinese refugees... in accordance with generally accepted international practice, these are in first instance the responsibility of the countries in which they have sought refuge. It makes no difference whether those countries are parties to the Convention or Protocol on the status of refugees. Quite apart from this, however, simple humanitarianism would require that countries of first asylum would give aid and temporary asylum to such refugees [sic] and refrain from forcing them into situations of danger to their lives.³⁵⁵

Old allegiances certainly mattered (notably the CIA was authorised to maintain standby capability to ensure the 'basic survival needs of the Meo [Hmong] refugees' if a UNHCR/Thai program could not guarantee it) but less than one might have thought.³⁵⁶ Even though Kissinger declared that one of the principal goals of the evacuation was 'to save as many as possible of the Vietnamese to whom we owed an obligation for their association with the United States', this was an objective that 'will have been achieved successfully when

³⁵³ 'Meeting Minute, March 28 1975', National Security Adviser: National Security Council Meeting Files, Box 1, GFL.

³⁵⁴ 'Memorandum of Conversation, April 14, 1975', National Security Adviser: Memoranda of Conversation, Box 10, GFL.

³⁵⁵ Cable, Secretary of State (Kissinger) to American Embassies in Canberra, Wellington, and Seoul, 'Resettlement of Self-Evacuated Vietnamese and Cambodians', 9 May 1975, PLUSID:1975STATE107160,

³⁵⁶ Henry Kissinger, 'Memorandum- Indochina Refugees in Thailand', 24 September 1975. [GFL, National Security Study Memoranda].

the last American leaves Saigon later today.³⁵⁷ And it was a goal that was thought to have largely been 'achieved' once around 50,000 had been evacuated.³⁵⁸

In the chaotic last days of American involvement in South Vietnam and in the months that followed, a substantial number of Vietnamese were evacuated (approximately 130,000 – far more than the estimated 50,000), almost exclusively by the Americans. Of these, roughly half had been screened and approved and the other half had simply been lucky enough to get out. The majority of these were people directly connected with the American war effort in Vietnam: drivers, translators, informants and mistresses. But not all. Some of those evacuated even decided after a brief taste of life in a processing centre in Guam that they would prefer to return to Vietnam after all.³⁵⁹

Yet the determination to end America's involvement in Vietnam was in many respects a more powerful force than any collective guilt about the fate of those left behind. Congress had few qualms in denying President Ford's request for a supplementary appropriation to fund refugee efforts out of fear that it would be instead be used to prolong the war.³⁶⁰ When asked about Ford's authority to order the evacuation his spokesman acknowledged it was a moral decision before it was a legal decision and recounted Ford as having said: "I did it because the people would have been killed, and I'm proud of it."³⁶¹

³⁵⁷ Quoted in Memorandum for the Record (meeting between Ford, Rockefeller, Kissinger, Schlesinger, Congressional Leadership) – April 29, 1975. Document 276, FUS, Vol X.

³⁵⁸ Ibid.

³⁵⁹ Heather Marie Stur, "Hiding Behind the Humanitarian Label": Refugees, Repatriates, and the Rebuilding of American's Benevolent Image After the Vietnam War" in *Diplomatic History* (2015), Vol. 39, No. 2, pp. 223-244.

³⁶⁰ T. Christopher Jespersen, 'Kissinger, Ford and Congress: The Very Bitter End in Vietnam' *Pacific Historical Review* (2002), Vol. 71, No. 3 pp. 439-473.

³⁶¹ Quoted in 'U.S. Rescue Fleet Is Picking Up Vietnamese Who Fled in Boats' in *The New York Times* 1 May 1975.

This was not enough to assuage the concern that Ford was worryingly usurping the War Powers Act of 1973. Senator Thomas Eagleton thought that the President had “no constitutional authority to use U.S. armed forces to evacuate foreign nationals from South Vietnam.”³⁶² Several in Congress thought that the refugees would be best sent elsewhere. Senator Claiborne Pell, a liberal from Rhode Island (who later became a great advocate for assistance to the Indochinese refugees), suggested in a private meeting with the Secretaries of State and Defense that perhaps Borneo would welcome the refugees: “it has the same latitude, the same climate, and would welcome some anti-Communists.”³⁶³ Senator Frank Church, a Democrat from Idaho, opposed taking a large number of evacuees because “it could involve us in a large war... this raises the specter of a new war, thousands of American troops holding on to an enclave for a long period.” Joe Biden, then a young Senator from Delaware, contended that “I will vote for getting the Americans out. I don't want it mixed up with getting the Vietnamese out.”³⁶⁴

Public opinion ran in a similarly sceptical direction to that of Congress. A Gallup Poll taken after 'Operation Babylift' (a high-profile evacuation of South Vietnamese orphans in early April 1975) revealed that the public opposed humanitarian aid by a margin of 55 percent to 40 percent and opposed letting evacuated South Vietnamese live in the US by 52 percent to 36 percent.³⁶⁵ Across all different demographics except those under 30, a majority of people were opposed to the admission of South Vietnamese refugees.³⁶⁶ Even in liberal San Francisco, a warehouse providing temporary housing for those orphans evacuated under Operation Babylift was under armed guard by the military due to threats to their safety.³⁶⁷

³⁶² Quoted in *ibid.*

³⁶³ Quoted in Rick Perlstein, *The Invisible Bridge* (New York: Simon & Schuster, 2014), p. 426.

³⁶⁴ Memorandum of Conversation, April 14, 1975, National Security Adviser: Memoranda of Conversation, Box 10, GFL.

³⁶⁵ George Gallup, *The Gallup Poll: Public Opinion 1972-1977* (Wilmington: Scholarly Resources, 1978) Vol. 1, p. 457.

³⁶⁶ Richard T. Schaefer and Sandra L. Schaefer, 'Reluctant Welcome: U.S. Responses to the South Vietnamese Refugees' in *Journal of Ethnic and Migration Studies* (1975) Vol. 4, No. 3, pp. 366-370.

³⁶⁷ Perlstein, *The Invisible Bridge*, p. 426.

The *Boston Globe* warned that ‘a backlash of unprecedented proportions is threatening to make the South Vietnamese the first unwanted wave of refugees to reach America’s shores since the Statue of Liberty was erected in New York Harbor.’³⁶⁸

Nor could it be said that those 'rescued' met with an effusively warm reception from the public at large. A struggling black autoworker in Detroit was quoted in the *New York Times* as demonstrating few pangs of obligation to assist, “People are losing their cars, houses, jobs. Let them stay there until we do something for people here.”³⁶⁹ Jesse Jackson, the prominent civil rights leader, was quoted as saying “keep them out – there are 9 million jobless in this nation.”³⁷⁰ Jerry Brown, the then as now Governor of California, made it known that he did not want any officials in California to register the new Indochinese arrivals for employment: “we can’t be looking 5,000 miles away and at the same time neglecting people who live here.”³⁷¹

That the public and Congress had been so lukewarm about the evacuation was a source of real frustration to Ford. As he explained to Kissinger, “it just burns me up that these great humanitarians want us to turn their backs on these refugees. We didn't do that to the Cubans and to the Hungarians, and damn it, I don't want to see us turn our backs on the Vietnamese.”³⁷²

³⁶⁸ ‘A Questionable Welcome for the Wave of Refugees’ *The Boston Globe* May 4, 1975.

³⁶⁹ ‘Wide Hostility Found to Vietnamese Influx’ *The New York Times* May 2 1975, p. 1.

³⁷⁰ J.T. Dunlop, ‘Labor Department Assessing Refugee Skills’ in *Black News Digest* 19 May 1975.

³⁷¹ Quoted in Larry Clinton Thompson, *Refugee Workers in the Indochinese Exodus*, p. 62.

³⁷² Memorandum of Conversation, May 6, 8:10-9:20am, National Security Adviser: Memoranda of Conversation, Box 11, GFL. Ford had earlier complained to the *New York Times* that ‘this action does not reflect the values we cherish as a nation of immigrants. It is not worthy of a people which has lived by the philosophy symbolized in the Statue of Liberty. It reflects fear and misunderstanding rather than charity and compassion.’ [Quoted in ‘Wide Hostility Found to Vietnamese Influx’ in *The New York Times* 2 May 1975, p. 1.]

Critically, as Loescher and Scanlan describe, the evacuation was publically framed in terms of a 'rescue' operation rather than a 'refugee' situation.³⁷³ These were not demonstrated victims of past or on-going persecution but instead just the victims of a war gone wrong. There was little appreciation that there might be a continuous flow of refugees from Indochina into the United States. Instead, for many, admitting the refugees would be the final act in a long nightmare. This was principally because there was little expectation that substantial numbers would be allowed to leave after the initial outflow. Lionel Rosenblatt, a member of the Interagency Task Force for dealing with Indochinese refugees (and later co-ordinator of American resettlement efforts in Thailand) remembers that "we didn't foresee a continuing problem... We just assumed it was so difficult to leave... [and] thought it would be like China post the Communists winning the civil war."³⁷⁴

4.1.2. RESETTLEMENT

The second important point of context is that large-scale resettlement was neither envisaged as necessary nor obviously desired by the states that were to become significant resettlement states in the years leading up to the Geneva Conference.

This was not for Thailand's lack of trying, for one. The coupling of asylum with resettlement opportunities was present in some of the UNHCR's earliest interactions with Thailand. A 1972 cable from the head of the UNHCR's operations in Thailand, Otto Gobijs, to the High Commissioner recounted a senior Thai official indicating that despite a general international practice to grant asylum, "Thailand would probably let in bona fide refugees for a certain period but they would have to find a country elsewhere i.e. resettlement."³⁷⁵ In an earlier

³⁷³ Loescher and Scanlan, *Calculated Kindness*, p. 113.

³⁷⁴ Interview, August 2014.

³⁷⁵ UNHCR:11:2, Refugees in Thailand, Vol. 2, 'Cable – Meeting at Foreign Affairs - HCR/BKK/304 – Otto Gobijs to High Commissioner' 12 December 1972.

meeting, Gobius had sensed that 'the main thing that emerges thus far is that the authorities would like UNHCR to do something "to get rid of the Vietnamese."³⁷⁶

But there was nothing inevitable about resettlement being accepted as the only long-term option for solving the problem that refugees posed to host countries. Thailand might have been trying to secure resettlement but potential resettlement countries were far from convinced. In 1977, Australia's Ambassador to Thailand noted in a cable home that 'for the longer term the solution to the problem will have to be found either in voluntary repatriation or in permanent settlement in Thailand itself.'³⁷⁷ Michael MacKellar, the Australian Minister for Immigration stated in an address to Parliament that resettlement 'may not be in the interests of refugees... if they will face major long term settlement problems here... [and] it may be preferable for them to be resettled in another country or to be sustained in a more suitable environment, through the UNHCR.'³⁷⁸ Andrew Peacock, Australia's Minister for Foreign Affairs, was of the view that 'as far as Australia is concerned and the majority of the refugees, permanent resettlement of the refugees in Thailand is the best solution.'³⁷⁹ An inter-departmental committee between the Department of Foreign Affairs and the Department for Immigration set out a simple strategy for Australia to pursue: 'we have to mop up the people further north before they get to Australia, get the Vietnamese to cut down the source (perhaps trading off agreement to take a couple of thousand Cambodian refugees); and provide assistance for those on the ground in Thailand to settle there.'³⁸⁰ Even in late 1978, the submission that went before the Australian Cabinet requesting an increase in the Australian resettlement quota observed:

³⁷⁶ UNHCR:11:2, Refugees in Thailand, Vol. 2, 'Cable - Untitled - HCR/BKK/038', 5 April 1972. This was a reference to the 'Dien Bien Phu' refugees in Thailand's North - a group of refugees dating from the French defeat in 1954.

³⁷⁷ NAA: A13075, 102, 'M.L Johnston to The Secretary, Department of Foreign Affairs', 9 June 1977.

³⁷⁸ NAA: A13075, 96, 'Ministerial Statement', 25 May 1977.

³⁷⁹ NAA: A13075, 85, 'Letter to the Treasurer', 4 May 1977.

³⁸⁰ NAA: A1838, 219 'File Note - Interdepartmental Meeting' 23 November 1977.

[Although] the Thais believe than once a large proportion of refugees is permanently resettled in Thailand, pressure on the international community to resettle the remaining refugees would be considerably reduced. We have, however, recently been advised in strictest confidence, by the UNHCR that following private and informal discussions with Prime Minister Kriangsak they believe that he is now prepared to accept an extensive rural development program of local integration in Thailand... which could ultimately involve upwards of 75,000 refugees – at least half the refugees currently in Thailand.³⁸¹

These were attitudes echoed by others too. As development aid started to be reduced, *The Economist* noted in late 1976 that local settlement was fast becoming Thailand's only option to deal with the flows of people:

The U.N. is unwilling to go on subsidising permanent refugee camps. What the cuts are aimed at, and what the Thais are gradually coming to accept, is that the refugees must be given the opportunity to become self-sufficient. "It's the only long-term solution", says a UN official, "but the Thais have a hard time selling it to their own people". Still, the new government seems to be facing up to reality... "They've not only got used to the idea that these people have nowhere else to go, but they're beginning to think they might be useful", says one diplomat in Bangkok.³⁸²

The Danish Government contributed a large donation to UNHCR in 1978 that was earmarked not only for the care and maintenance of refugees in Thailand but also for the promotion of 'integration or self-reliance' amongst the group.³⁸³ A 1978 U.S. Senate Report suggested that 'the Thai government has always recognized the need for some local settlement and has agreed, in principle, with the UNHCR's proposals for the local settlement of refugees, the only question is timing.'³⁸⁴ On his visit to the region in May 1978, Vice President Mondale was authorised by President Carter to indicate to the Thais that they could buy 18 F-5 aircraft and that the U.S. would continue to take some refugees but that it

³⁸¹ NAA:120909, 'Cabinet Submission – 2705' 12 December 1978, p. 7.

³⁸² 'Let them stay and help' in *The Economist* November 20 1976 p. 85.

³⁸³ UNHCR:13:2, High Commissioner's Mission to Southeast Asia, 4-20 September 1978, 31 August 1978, 'Note for the File'.

³⁸⁴ U.S. Senate Committee on the Judiciary, 'Aftermath of War: Humanitarian Problems in Southeast Asia 1977/78' (Washington: U.S. Government Printing Office, 1978), p. 16.

also expected Thailand to accept seed money to 'assist the Thais in formulating a longer term plan for resettlement' (read: local settlement).³⁸⁵

Even early instances of Thai actions to push back refugees did not disturb this view. Despite some news of pushbacks in 1975, the American Embassy in Bangkok reported back with respect to one inflow that 'in the embassy's judgment, the RTG will not forcibly send them back'.³⁸⁶ In September 1977 it again noted that while 'Thailand feels itself inundated by Indochinese refugees and no end to the refugee inflow unless it drastically tightens its policy of hospitality... [i]n the past the rhetoric of Thai policy pronouncements frequently wilts when faced with unpleasant realities. We continue to doubt that the Thai would carry out forced repatriation and Thai officials say they will not.'³⁸⁷ This is not to suggest that foreign officials were entirely oblivious to the burden facing Thailand as a country of first asylum. In a letter to the Thai Prime Minister, Kriangsak Chanaman, Jimmy Carter stated that:

I know that you share my conviction that human rights must be a central element of both domestic and foreign policy. Thailand's humane treatment of Indochinese refugees attests to your country's mercy and compassion...I know the refugee problem is difficult for your country, but I hope you will continue your humanitarian approach in this distressing situation.³⁸⁸

The sense that resettlement was unnecessary was also matched by a sense that a large resettlement was undesirable. For the states that ultimately became resettlement states, the

³⁸⁵ 'Memorandum for the President: Visit to the Pacific' April 26 1978, JCL.

³⁸⁶ Cable, Bangkok to Washington, "Remaining Indochinese Refugee Problems in Thailand", DDA, date obscured (November 1975).

³⁸⁷ Cable, Bangkok to Washington, 'RTG Refugee Policy' 26 September 1977, PLUS, ID: 1977BANGKO21504_c.

³⁸⁸ 'Letter from President Carter to Prime Minister Kriangsak', 30 December 1977, PLUS, ID: 1977STATE310187_c. A State Department Memo spoke of Thai policies in slightly less considerate terms: 'The strict policies announced recently by Thailand and Malaysia are strongly opposed in principle by the U.S. and the UNHCR, which argue that enforcement of the measures, especially turning away boats, could violate human rights and thus, both tarnish the countries' international image and jeopardize the willingness of third world countries and the UNHCR to provide further financial and resettlement assistance.' 'Report on Refugees and Human Rights: An Issue in US-ASEAN Relations, December 20, 1977', NLC-7-65-6-7-0, JCL.

economic stagnation of the mid- to late-1970s had raised serious questions about the size and composition of immigration intakes.

Declassified Cabinet documents from the period reveal that the Australian government was clearly sceptical about the possibility of integrating large numbers of Indochinese refugees into Australian society and was worried that resettlement would instigate nativist sentiment more generally. Following a trip to the region in mid-1978, MacKellar reported to Cabinet that 'my judgment is that the Australian community would not support an increase in refugee intake at present and the option of increasing our intake from Malaysia must be put aside.'³⁸⁹ This was primarily a product of his sanguine assessment that the ASEAN states were 'more confident than might have been expected'³⁹⁰ and were themselves likely to resettle refugees.

These concerns dated back some years. After the fall of Saigon in 1975, the then-Australian Prime Minister, Gough Whitlam, remarked to his cabinet that he would not abide 'hundreds of f***ing Vietnamese Balts'³⁹¹ coming into this country with their religious and political hatreds.³⁹² After the unexpected arrival of boat refugees from Vietnam in Darwin during the 1977 Federal election campaign, Tony Mulvihill, the Labor Party spokesman on immigration, suggested that they should be sent back and more pressure placed on the UNHCR to influence other Asian countries to take them.³⁹³ The future Australian Prime Minister, Bob Hawke (then a prominent trade union official) made clear that "the people who come in this way are not the only people who have rights to our compassion."³⁹⁴ By then the Opposition

³⁸⁹ NAA: A1838, 'Submission No 2572: Indo-Chinese Refugees – Report on Visit to ASEAN Capitals – Decision 6716', 14 September 1978, p. 6.

³⁹⁰ Ibid, p. 4.

³⁹¹ Slang for people from the Baltic states. The specific reference is believed to relate to the protests of many Australian immigrants from Baltic countries when the Labor Government formally recognised the incorporation of the Baltic States into the Soviet Union in early 1975.

³⁹² Quoted in Clyde Cameron, *China, Communism and Coca Cola* (Melbourne: Hill of Content, 1980), p. 31. John Menadue, head of the Department of Prime Minister and Cabinet at the time suggests that Whitlam instead said: "We don't want more fucking yellow Balts" [Interview, 25 February 2015.]*

³⁹³ *The Sun* (Melbourne) 28 November 1977, p. 3.

³⁹⁴ 'Boat People May be Turned Away', *The Age*, 28 November 1977, p. 4.

Leader, Whitlam speculated in an interview that ASEAN countries might be 'twisting our tails' and sending the refugees onwards to Australia due to frustrations at Australian trade.³⁹⁵ As he explained, 'it does not seem credible that there should be a sudden influx of refugees two and a half years after the Vietnam War ended.'

Especially in the Australian case, the initial aversion to resettling large numbers was also driven partly by a sense that it might prevent the normalisation of relations with Vietnam. As one Australian diplomat put it in a submission to the Secretary of the Department of Foreign Affairs:

as far as we can see there is no likelihood of real change among the Indo-China governments in the foreseeable future and as we have to live with them we need tolerable relations with them. With an increasing number of refugees likely to come to Australia, delicate problems could arise.³⁹⁶

There were fears too that it would create perverse incentives for the Vietnamese and the policies of the ASEAN states. It would legitimise both the deliberate Vietnamese policies of expulsion and the first asylum countries' refusal to grant protection. Minutes from a 1978 meeting between David Newsom, the American Under-Secretary of State for Political Affairs, and Michael MacKellar made clear the mutual concern that 'one country was trying to get rid of an unwanted group and was simply dumping them on the rest of the world.'³⁹⁷ At a similar meeting between the Australians and the Canadians, Jacques Gignac, a senior Canadian diplomat, made clear that because of the presumably endless nature of any resettlement, he 'doubted the continued support of the Canadian public and Parliament for an active Canadian resettlement program'³⁹⁸ and that Canada 'felt no obligation' to resettle any refugees.³⁹⁹

³⁹⁵ *The West Australian*, 26 November 1977, p. 2.

³⁹⁶ NAA: A1838, 10, 'Submission Sent to Secretary' 29 September 1977.

³⁹⁷ NAA: 6980, 186, 'Conversation with United States Delegation', 10 December 1978.

³⁹⁸ *Ibid.*

³⁹⁹ NAA: 6980, 179, 'Conversation with Canadian Delegation', 10 December 1978.

For the Australians, this concern about resettlement encouraging the flow meant that they were keen to engage Vietnam directly and encourage them to cease expelling residents and avoid being 'caught in the situation where business interests and possible other government interests are cynically profiting from our humanitarian disposition.'⁴⁰⁰

The apparent aversion to resettlement explains why, setting the first tranche of immediate post-war refugees aside, refugee admissions from Indochina were modest in both the United States and Australia. Setting aside the first tranche of refugees taken in 1975, the United States had resettled only another 46,000 refugees from Indochina by the end of 1978.⁴⁰¹ This is not a trivial figure. But it pales in comparison to the figures ultimately agreed upon at the peak of the crisis in mid-1979. Leslie Denend, a National Security Council staffer and convenor of an inter-agency process to increase American resettlement quotas from Thailand in 1977, recalls that it was an 'incremental increase' and was a 'vastly smaller number' to that ultimately agreed upon in 1979.⁴⁰² One writer in *The New Republic* even went as far in mid-1977 to suggest that American war guilt was the force conspiring to keep refugees out of the U.S., arguing that 'refugees from Indochina bring an unwelcome reminder of the war there and our part in it. This is the only explanation of the uncharacteristically hostile attitude many Americans and their government have adopted toward the unfortunate people.'⁴⁰³

⁴⁰⁰ NAA: A12909, 'Submission No 2271: Review of the Indo-Chinese Refugee Program' 28 November 1978, p. 8.

⁴⁰¹ U.S. General Accounting Office, 'The Indochinese Exodus: A Humanitarian Dilemma' (Washington: U.S. Government Printing Office, 1979), p. 1.

⁴⁰² Interview, August 2014.

⁴⁰³ Karen Keegan, 'Dealing with an unwanted reminder: Indochinese Refugees' in *The New Republic*, 23 July 1977, p. 11.

These points of context are important because they alert us to the deficiencies in two potential explanations for resettlement: first, resettlement states were not acting exclusively out of residual guilt and a sense of obligation towards those fleeing; and, second, they were not resettling refugees just because they thought it was a costless or trivial expense.

4.2. THE GENEVA CONFERENCES

4.2.1. THE DECEMBER CONSULTATIONS

By mid-1978, the steady flow of refugees from Vietnam into other Southeast Asian states had begun to rapidly grow. The forcible relocation of hundreds of thousands of Vietnamese into New Economic Zones (NEZs) beginning in 1977 led many to choose to leave. Many were forcibly removed by the Vietnamese Government, keen to expel ethnic Chinese. Some 15,600 refugees claimed asylum in Southeast Asian countries in 1977.⁴⁰⁴ By the end of 1978, this was roughly the number arriving per month.⁴⁰⁵

In order to respond to the new influx of refugees, Australia called on the UNHCR in October 1978 to hold a consultative conference of potential donor states and the Southeast Asian states in order to deal with the crisis. This was held on 10-11 December when 38 states gathered in Geneva under UNHCR auspices to discuss the issue (the December Consultations).

While the Consultations were awash with shared rhetoric about how the fate of refugees in Southeast Asia was considered a problem of international concern, the response of potential

⁴⁰⁴ UNHCR:11:2, Statistics on Arrivals and Resettlement of Displaced Persons.

⁴⁰⁵ Ibid.

donor states was anaemic. Collectively, the December Consultations resulted in new pledges of just 5,000 refugee spots. This was less than half of the number of boat arrivals in Malaysia in November alone.⁴⁰⁶ The disappointment of Thailand and Malaysia at the perceived stinginess of the international response was palpable. Following the conference, the Thai Prime Minister instructed one of his key ministers, Air Chief Marshal Siddhi Savetsila, to co-operate closely with the Malaysians on a 'joint approach to draw international attention on the problem of both countries.'⁴⁰⁷

This was welcome news to the Malaysians who were convinced that one reason for the apparent stinginess of resettlement countries was that the media tended to treat the refugee issue more as a human drama than a problem affecting the states of first asylum.⁴⁰⁸ If Thailand and Malaysia could coordinate their responses then it would be more likely that arguments about the vulnerability of the states of first asylum would persuade.

Curiously, this discontent was not obvious to potential resettlement states. The internal Australian report on the conference concluded that an 'undoubted success of the conference is that it has reassured Thailand and Malaysia that they have not been abandoned by the international community which is anxious to afford them support.'⁴⁰⁹ Importantly, what it determined was the surprising generosity of resettlement states was attributed to 'the media interest as the consultations approached and the impact this had on public opinion.'⁴¹⁰

The discontent was not apparent to the UNHCR either. Despite the protestations of Thailand and Malaysia that they would never accept any refugees for local settlement, Poul

⁴⁰⁶ GAO, 'Indochinese Exodus: A Humanitarian Dilemma', p. ii.

⁴⁰⁷ Abdul Hadi Derani, 'Refugees from Indochina 1975-1980: Their Impact on the International Relations of Southeast Asia', PhD thesis, (London: Institute of Commonwealth Studies, 1981), p. 208.

⁴⁰⁸ Ibid, p. 216.

⁴⁰⁹ NAA: A6980, 'Cable - Indo-Chinese Refugees: UNHCR Consultations', 14 December 1978.

⁴¹⁰ Ibid.

Hartling felt comfortable telling the British at the December pledging conference that 'despite this firm line they had taken in public, the Thais and the Malaysians accepted privately that considerable numbers of the refugees would in the event settle permanently in their territories.'⁴¹¹ International attention had been engaged yet international generosity was still thin on the ground.

4.2.2. EARLY 1979

The Vietnamese invasion of Cambodia in December 1978 and the subsequent Chinese incursion into Vietnam in January 1979 (the so-called “lesson”) served to accelerate the flow of refugees in two ways: first, more Vietnamese began to leave and second, more Cambodians fled (largely across the Thai border) claiming refuge. It would prove decisive too in changing how resettlement states saw the security of the region.

The response of Malaysia, disappointed by the results of the December Conference, had noticeably hardened. Nearly 40,000 refugees arrived in Malaysia in the last three months of 1978 but just 54,000 arrived in the whole of 1979.⁴¹² This drop in the monthly rate was directly attributable to the deliberate acceleration of push-off policies. Malaysia had pushed boats back before but nothing on the scale of early 1979. In May 1979 alone, the Malaysians pushed back nearly 13,500 people.⁴¹³ Between January and June 1979, Malaysia expelled 55,000 refugees from its territorial waters.⁴¹⁴

Thailand became similarly aggressive in turning back refugees arriving by either land or by sea. In one particularly chilling incident, some 42,000 Cambodians in refugee camps on the

⁴¹¹ TNA FCO 58/1770, No. 88, 'Cable – UNHCR Consultations on Refugees in South East Asia -15 December 1978'.

⁴¹² UNHCR:11:2, Statistics on Arrivals and Resettlement of Displaced Persons.

⁴¹³ Derani, 'Refugees from Indochina 1975-1980, p. 201.

⁴¹⁴ Ibid.

Thai-Cambodian border were rounded up and pushed back into Cambodia at Preah Vihear – many literally being pushed down the mountainside and into a minefield. The public justification stretched credulity. The Thai Prime Minister indicated that they were not forced back but rather they were "persuaded" to return because the world was largely unresponsive to the problem that they posed.⁴¹⁵

Following their meeting in Bali at the end of June 1979, the ASEAN countries declared that they were at breaking point. In a joint statement, they warned that 'they had reached the limit of their endurance and have decided they would not accept any new arrivals.'⁴¹⁶ Existing refugees in camps would be sent back by the end of the year unless offers of resettlement were forthcoming. S. Rajaratnam, Singapore's Minister for Foreign Affairs, framed the refugee influx as an existential test of ASEAN's collective strength, suggesting that by the end of the Conference, Vietnam would 'have a shrewd idea of whether they are dealing with ASEAN mush or steel.'⁴¹⁷ Singapore was the sternest of all ASEAN states in resisting the impulse to grant refuge to asylum seekers. Rajaratnam argued that humanitarian accommodation would only make the problem worse as large-scale resettlement could only encourage more people to leave Vietnam, an outcome that would inevitably lead to 'millions of desperate people floating around our seas and frontiers.'⁴¹⁸

The British High Commissioner to Malaysia, after visiting the Malaysian Prime Minister, reported back to London that in the eyes of the Prime Minister the question of refugees was seen from a particular light:

the dilemma was how tough they could actually be. It posed a terrible problem for a country which had tried to deal with the refugees humanely up till now. It was the

⁴¹⁵ UNHCR:11:2, Refugees in Thailand, Vol. 4, 'Cable – BKK to HCR', 31 August 1979.

⁴¹⁶ Robinson, *Terms of Refuge*.

⁴¹⁷ Sinnathaby Rajaratnam, 'ASEAN and the Indochina Refugee Problem' in Kwa Chong Guan, ed., *S. Rajaratnam on Singapore: From Ideas to Reality* (Hackensack: World Scientific Publishing Co., 2006), p. 116.

⁴¹⁸ Ibid.

worst and gravest task he had had to face. But the influx had already caused considerable political and social difficulties for the government and they could not possibly allow things to go on as they were.⁴¹⁹

Public debate over the management of refugee flows within Thailand and Malaysia in the lead-up to the First Geneva Conference had a particularly febrile quality too. A special committee of the Thai House of Representatives went as far as to issue a report suggesting that all refugees in Thailand be identified with a small mark on the wrist so that they could easily be separated in case of an emergency in the country.⁴²⁰ Mahatir Mohamed, then the Deputy Prime Minister of Malaysia, announced that Malaysian navy vessels were authorised to "shoot on sight" any approaching boat containing refugees.⁴²¹ The Home Affairs Minister, Tan Sri Ghazali, indicated to the British that 'Malay ministers were vying with each other to be more "hawkish" than the rest over the question of Vietnamese refugees and Dr Mahatir was acting impetuously, as was his temperament.⁴²² After criticism from Kurt Waldheim, the Malaysian Prime Minister, Hussein Onn, clarified that while it would not shoot incoming refugees, 'if they are not accepted by resettlement countries... we will have no choice but to send them out, which is the only alternative to them being left to rot in the camps.'⁴²³ There was even an attempt to clarify that Mahatir had said 'shoo' not shoot.⁴²⁴ Several weeks later, however, Ghazali himself was telling the British High Commissioner that Malaysia was not 'prepared to accept "Vietnamese garbage" ... and suggested that a processing centre in Vietnam would provide the Vietnamese with a "dustbin" in their own territory.'⁴²⁵

⁴¹⁹ TNA PREM 19/130, Cable, KL to FCO, Telno 187 of 18 June.

⁴²⁰ UNHCR:11:2:110.THA.GEN, Cable - Bangkok to Geneva, BKK/466, 13 July 1979.

⁴²¹ Quoted in 'Malaysia Announces Plan to Expel All Vietnamese Refugees', *The Washington Post*, 16 June 1979, p. A1.

⁴²² TNA PREM 19/130, Cable - KL to FCO, Telno 195 of 20 June.

⁴²³ 'Malaysia, In Clarification, Says it Will Not Shoot Refugees', *The Washington Post*, 19 June 1979, p. A7.

⁴²⁴ Ibid. Robert Miller, the U.S. Ambassador to Malaysia at the time noted that a congressional delegation saw fit to visit Mahatir immediately upon landing where he again intimated the press had misunderstood him saying 'shoot' rather than shoo. Although Miller notes 'no one -perhaps including Mahatir - has ever been quite sure what he actually did say.' [Robert Miller, *Vietnam and Beyond: A Diplomat's Cold War Education* (Lubbock: Texas Tech University Press, 2002) p. 183].

⁴²⁵ TNA FCO15/2452, Cable, KL to FCO, 'Breakfast Meeting with Tan Sri Ghazali, Malaysian Minister of Home Affairs', 2 July 1979.

4.2.3. THE GENEVA CONFERENCE

The convening of the Geneva Conference under United Nations auspices was originally proposed by the newly-elected Margaret Thatcher in late May. The initial reaction of most states to Britain's 'largescale lobbying campaign', was, in the eyes of Lord Carrington, the British Foreign Secretary, 'lukewarm', largely 'because the countries most likely to give us support (the United States, Canada, Australia, France, Germany) all consider that they have borne more than their fair share of the burden.'⁴²⁶ The atmosphere of 'crisis' that soon surrounded the outflows helped to change that, however, and support for a conference was soon galvanised. As Thatcher put it in a letter to Waldheim: 'the actions of the Thai Government in expelling Cambodian refugees and the problems of Malaysia make the problem of the utmost urgency' and 'if many thousand more lives are not to be lost we must have very early action by the international community.'⁴²⁷

June was a transformative month for changing attitudes about the crisis, as the British response illustrated. In late May, Willie Whitelaw, the British Home Secretary was advising Cabinet to keep the British admissions quota for 'Vietnamese refugees' fixed at 1500 a year due to concerns over an 'influx of immigrants which we could not control' and a risk that 'refugees could be exploited by racketeers.'⁴²⁸ Cabinet agreed with his conclusions, also refusing to accede to Hong Kong's request that any refugees landing there who were rescued

⁴²⁶ TNA PREM 19/129, Memo from Carrington to Thatcher, 8 June 1979.

⁴²⁷ UNHCR:11:2, International Conferences – International Conference on Indochina 1979 – General, Vol. 1, 'Message to Kurt Waldheim', 17 June 1979. Interestingly, a draft of the Cable prepared by Hugh Cortazzi was toned down by Thatcher so as not to seem too critical of the Malaysians

'The actions of the Thai Government in expelling Cambodian refugees and *reported statement on 14 June by Dr Mahatir the Malaysian Deputy Prime Minister, that Malaysia intends to ship back to sea Vietnamese refugees in their country and to shoot on sight new boat people entering Malaysian waters makes the problem of the utmost urgency* [the words in *Italics* were scratched out and replaced with 'problems of Malaysia' by Thatcher]

[TNA PREM 19/130, 'Cable - drafted by Cortazzi for Thatcher to send to Waldheim', 18 June 1979].

⁴²⁸ TNA: CAB 129/206/15 'Memorandum – Refugees from Vietnam', 29 May 1979.

by UK-registered vessels would automatically be deemed as refugees for processing in the UK.⁴²⁹ One 'well-placed U.S. official' reported to British diplomats in Washington in early June that the attitude inside the Carter administration and State Department was truly pessimistic as regards the feasibility of any increased assistance. Accordingly, 'there seems no prospect at present of U.S. action to increase admittance of refugees, nor to increase funds available.'⁴³⁰ Yet by early July, the proposed number of Vietnamese refugees to be admitted was increased by 10,000 over three years on top of the existing quota 'on humanitarian grounds.'⁴³¹

The pushbacks were vital in concentrating attention on Thailand and Malaysia in particular.

As one British diplomat in Hong Kong complained to London at the time:

Hong Kong received far more refugees than either of these two countries during this period [May-June 1979]. The difference of course is that Malaysia and to a lesser extent Indonesia, have threatened tough action to prevent refugees landing. Such discrimination in favour of inhumane treatment makes Hong Kong's position intolerable.⁴³²

With 65 countries in attendance, the Conference took place on 20-21 July under the auspices of the UN Secretary-General, Kurt Waldheim. It was, as Waldheim declared, an occasion to set aside any acrimony left over from the wars in Indochina and focus purely on the humanitarian aspects of the refugee problem.⁴³³

The Conference offered the opportunity to formalise a bargain that had been in the process of formulation for months. In exchange for guarantees of temporary refuge from the countries of 'first asylum', a series of 25 countries agreed to resettle refugees from the region.

⁴²⁹ TNA: CAB/128/66/4 'Conclusions of a Meeting of the Cabinet' 31 May 1979.

⁴³⁰ TNA: FCO58/1752, Cable, Washington to FCO, Telno 1343, 'Vietnamese Refugees', 5 June 1979.

⁴³¹ TNA: CAB/128/66/9 'Conclusions of a Meeting of the Cabinet' 12 July 1979.

⁴³² TNA: PREM 19/130, Cable, Hong Kong to FCO, Telno 867 - 'U.S. Programme for Refugee Resettlement', 28 June 1979.

⁴³³ UNHCR:11:2, International Conference on Indochina, 'Text of Telegram Sent to Foreign Ministers'.

This framework of conditional protection was to endure for the duration of the Indochinese crisis. It was primarily designed to deal with outflows from Vietnam but also addressed outflows from Cambodia and Laos as well.

Several other features were prominent too: first, there was a broad agreement to facilitate regional processing through UNHCR-run facilities on isolated islands; second, Vietnam agreed to make efforts to reduce the outflow of refugees; third, an Orderly Departure Program (ODP) was initiated which would allow refugees to directly depart from Vietnam to resettlement states; and fourth, an international fund for refugee resettlement was initiated. The pledged commitment to increase resettlement spaces was not just a one-off, either. There are many indications that relevant officials knew that many hundreds of thousands more would seek to escape Vietnam and claim refugee status.⁴³⁴ Finally, it bears noting that the Conference was largely silent on the question of local integration. This is not because no one thought it mattered. At a meeting with Peter Blaker, a Foreign Office Minister, prior to the conference UNHCR officials are reported as having ‘made the point that someone must tell the ASEAN countries that not all the refugees could be sent elsewhere. This task could not be left to UNHCR.’⁴³⁵ Yet it is not apparent that the initial bargain agreed upon ever included a meaningful commitment to local integration.

⁴³⁴ A consultation between Margaret Thatcher and Malcolm Fraser, the Australian Prime Minister, prior to the Conference openly discussed a figure of a ‘further 1-2m.’ [TNA PREM 19/2, ‘Record of a Meeting Between the Prime Minister and the Prime Minister of Australia, the Rt. Hon. Malcolm Fraser, held in Parliament House, Canberra on Sunday, 1 July, 1979 at 1500’.] Henry Kamm wrote in *The New York Times* that Vietnamese officials were openly discussing a figure of half a million [‘Vietnamese Aide says half-million want to leave’, *The New York Times*, 17 May 1979].

Similarly, a U.S. Congressional delegation to Thailand in late 1979 noted that ‘It is highly likely that there will be a massive influx of as many as one million Khmer refugees into Thailand in the near future. This could seriously endanger the stability and security of the country.’ [UNHCR:11:2:100.THA.GEN, ‘The Human Tragedy in Kampuchea: Report of A Special Delegation of the Congresswomen’s Caucus on its Humanitarian Mission to Thailand and Kampuchea November 8-13, 1979’, December 1979, p. 29.] One *Sunday Telegraph* article even quoted a UNHCR figure putting the figure as high as 10 million. [‘Vietnam Exodus ‘May Reach 10m’ in *Sunday Telegraph*, 3 June 1979].

⁴³⁵ NAA: A1838 1634/76/2/1, Cable – Geneva to Various, GE37831, ‘Indochinese Refugees’, 19 June 1989

The Conference was as much an occasion for the delegates to castigate Vietnam for its role in producing the crisis, as it was an opportunity to seek its resolution. The Chinese delegate, Zhang Wenjin, openly accused Vietnam of 'exportation of refugees', 'genocide' and 'aggression and expansion.'⁴³⁶ Peter Carrington, the British Foreign Secretary, noted in his report to Thatcher that:

although the Conference was primarily humanitarian, I thought it was vital to make it clear in my speech where the responsibility lay... As a result, the Vietnamese delegation did not succeed in their attempt to portray themselves as the hapless victims of a problem beyond their control.⁴³⁷

Yet the reactions of Vietnam's neighbours went largely unremarked upon except insofar as delegates referred to the great 'burden' that had been placed upon them.

For the most part, the Conference was ceremonial rather than an occasion for hard bargaining. It was still an opportunity for the Thais and Malaysians to press their case for greater assistance though. One Malaysian diplomat writing about the Conference not long after, noted that 'immediately following Ghazali's speech he left the conference hall to speak with his counterparts from the United States, Australia and France.'⁴³⁸ While there, he 'managed to convince them that Malaysia could not continue to provide temporary asylum if the resettlement countries refused to accelerate the intake of refugees... If this was not obtained at Geneva, his government would resort to towing out refugee boats to sea.'⁴³⁹

Why, then, did these threats work?

⁴³⁶ UNHCR:11:2, International Conference on Indochina.

⁴³⁷ TNA PREM 19/604, Letter –Carrington to Thatcher, 'Geneva Conference on Refugees in Indo-China', 24 July 1979.

⁴³⁸ Derani, 'Refugees from Indochina 1975-1980, p. 226.

⁴³⁹ Ibid.

4.3. THE FRAMING OF MISTREATMENT

I argue that the generosity of the response can only be understood with respect to two variables: first, that the dramatic nature of the outflow and the consistent mistreatment of refugees by first asylum states 'mobilised empathy' activating a concern for individual welfare on the part of policy makers and, second, that resettlement countries viewed push-backs as a signal of the social and political vulnerability of first asylum states activating a concern for order. The diagnostic and prognostic implication of this was that something must be done, and that something be resettlement.

4.3.1. COMPASSION FRAMES

Mistreatment mattered because it dramatised the moral costs in a powerfully affective way, allowing for the mobilisation of supporters of resettlement to persuade key policy gatekeepers of the virtues of their arguments.

Many people agree on this point in general terms. Dennis McNamara argues that the acceptance of large-scale resettlement could be directly attributed to the preparedness of the ASEAN countries to 'raise the moral stakes' and demonstrate 'a willingness to be so brutal' that ultimately the West was forced through 'conscience and a sense of residual responsibility' to accept the Indochinese refugees.⁴⁴⁰ Howard Adelman, writing about the Canadian decision to resettle Indochinese refugees, argues that it represented the triumph of an 'empathetically-led humanitarianism' where 'bleeding hearts were torn by the reports of pirates attacking boats, women being raped, children being pushed out to sea to drown. To mend those bleeding hearts, Canadians let their pocket books bleed.'⁴⁴¹

⁴⁴⁰ Interview, Dennis McNamara, 5 April 2013.

⁴⁴¹ Howard Adelman, 'Canadian Refugee Policy and the Hungarian Refugees' in Peter Baehr and Geza Tessenyi (eds.), *The New Refugee Hosting Countries* (Utrecht: Netherlands Institute of Human Rights, 1991), p. 101.

But it is worth being more specific. First of all, how do we know that it was mistreatment in particular and not just the dramatic nature of the flows that activated concern?

The Figures (overleaf) illustrate this nicely. Two different measures show the extent to which the news media was prepared to label the outflow of Indochinese refugees as a 'crisis'. This is done by compiling the aggregate monthly number of news articles mentioning (1) 'Vietnam', 'Refugee' and 'Crisis' and (2) 'Indochina', 'Refugee' and 'Crisis' featured in *The New York Times*, *The Washington Post* and *The Guardian/The Observer* (UK) over the two year-period of 1978 and 1979. Figure 1 demonstrates the relationship between the pushbacks and the attribution of the outflows as a 'crisis' and also that this bore little relation to the underlying flows of refugees. Figures 2 and 3 break this out specifically to Thailand and Malaysia. Assuming that volumes of flows drives coverage, we would expect a fairly even relationship between the flows and coverage, but it is instead highly uneven and correlated to the pushbacks.

This is obviously a crude measure of broader discourse but is justified for three reasons. First, papers like *The New York Times* have been shown to have a substantial agenda-setting effect, whereby what is mentioned in *The New York Times* as newsworthy is then covered by other local and regional papers through both mirroring and syndication of content.⁴⁴² Second, this is particularly true of foreign affairs coverage where what is mentioned in quality broadsheet newspapers often sets the agenda for TV coverage and other news media.⁴⁴³ Third, measuring attributions of 'crisis' rather than just news articles is important for establishing the salience of the issue. This could be done by measuring the prominence or length of

⁴⁴² Jarol Manheim and Robert Albritton, 'Changing National Images: International Public Relations and Media Agenda Setting' in *The American Political Science Review* (1984), Vol. 78, No. 3, pp. 641-657.

⁴⁴³ Guy Golan, 'Inter-Media Agenda Setting and Global News Coverage' in *Journalism Studies* (2006) Vol. 7, No. 2, pp. 322-333. See also, Dursun Peksen, Timothy Peterson and A. Cooper Drury, 'Media-Driven Humanitarianism? News Media Coverage of Human Rights Abuses and the Use of Economic Sanctions' in *International Studies Quarterly* (2014) Vol. 58, pp. 855-866.

stories (at the peak of media coverage, most stories about the crisis in these papers tended to be on the front page) but those measures are vulnerable both to the perceived importance of other news stories and editorial whims. We know that how issues are framed matters and the 'crisis' frame is one that more obviously impels action.

By comparing the prominence of attributions of 'crisis' to the actual monthly flows of refugees into Thailand and Malaysia at the time, several things are obvious. First, and most importantly, the volume of flows is only thinly related to media coverage. For Thailand, more refugees arrived in November 1978 than in June 1979 but there were nearly four times as many stories mentioning 'Vietnam', 'Refugee' and 'Crisis' in June than in November. For Malaysia, the peak of the flows arrived in November 1978. Yet the attributions of a 'crisis' only really arrive in force after Malaysia and Thailand began systematically pushing back refugees. This correlation is strong evidence that the push-backs exerted a pull on the attention of relevant policymakers.

Second, there is an obvious and remarkable concentration of media attention on the problem in June and July 1979. This correlates with our general understanding that media attention on the problem of outflows was highest at the point that the Geneva Conference was taking place. The correlation between media attention and resettlement offers is powerfully suggestive of a relationship between mistreatment and burden sharing. Having established that mistreatment mattered in terms of issue salience, how did mistreatment mobilise collective empathy towards a generous response?

I argue that it allowed advocates to deploy certain discursive frames that resonated with collective values. There were three particular moral frames that characterised public discussion of the refugee issue that I term: (1) 'the fate of the suffering'; (2) 'the spectre of the Holocaust'; and (3) 'the obligations of identity.'

4.3.1.1.SUFFERING

First, mistreatment on the part of Thai and Malaysian officials was connected to the direct suffering of individuals. Dramatic reports of the deaths of Vietnamese boat people began to fill major Western newspapers by early 1979. These reports frequently focused on either the indifference of Thailand⁴⁴⁴ and Malaysia⁴⁴⁵ to the plight of the refugees or their active role in denying them refuge. It was not simply the volume of the coverage but the tenor of that coverage that mattered too. One indication that public attention mattered was that UNCHR officials would deliberately leak information to major newspaper journalists about piracy and push-offs to try and mobilise an international response.⁴⁴⁶ For Lionel Rosenblatt, who was coordinating American refugee efforts at the time, galvanising media attention was a means of trying “to get the court of public opinion” to pay attention.⁴⁴⁷

One report in *The New York Times* in January 1979 described a typical scene on the Thai-Cambodian border, noting that:

the sentiment of the border guards, when asked what should be done with the Cambodians, reflected the attitudes of many Thai troops along the 480-mile border.

⁴⁴⁴ See, for example, 'Cambodian Refugees Rejected' *The Guardian*, 14 April 1979, p. 5; 'Thais Seen Expelling Cambodians' *The New York Times* 21 April 1979; 'Thailand Turns Refugees Away' *The Guardian* 21 April 1979, p.7; 'Refugees Sent Back to Die' *The Observer* 22 April 1979; 'Thais Push Back Children to Death in Cambodia' *The Observer* 13 May 1979; 'Letters Report Despair of Cambodians Returned by Thais' *The New York Times* 18 May 1979; 'Hundreds of Cambodians, Forced Home by Thailand, Reported Killed' *The Washington Post*, 5 June 1979; 'Thailand Returns Thousands of Refugees to Cambodia' *The Washington Post* 9 June 1979, p. A12; 'Thais Deport 30,000 Cambodians While Others Continue to Arrive' *The New York Times* 12 June 1979; 'Cambodia Says Thai Troops Killed 300 Refugees Forced Over Border' *The New York Times* 23 June 1979, p. 2

⁴⁴⁵ See, for example, '100 Vietnamese Refugees Drown' *The New York Times* 3 April 1979, p. A3; 'Malaysia Reported to Send 500 Refugees Back to Sea' *The New York Times* 18 June 1979, p. A3; 'Vietnam Refugees Say Malaysia Troops Sent Boat Back Out to Sea' *The New York Times* 23 June 1979, p. 2; 'Malaysia Forces More Refugees Back to Sea' *The Guardian* 26 June 1979, p. 6; 'Malaysia Reports 13,000 Refugees Expelled' *The New York Times* 26 June 1979, p. A1; 'Trawler Let 100 Drown After Ramming Refugees' *The Guardian* 2 August 1979, p. 7.

⁴⁴⁶ Interview, Dennis McNamara, 5 April 2013.

⁴⁴⁷ Interview, Lionel Rosenblatt, 13 August 2014.

One guard pointed to his M-16 rifle and gestured with his trigger finger. The other laughed.⁴⁴⁸

Narratives of 'suffering' frequently relied on the so-called 'water metaphors'⁴⁴⁹ to describe the flow of refugees: 'Malaysia reels under refugee tide';⁴⁵⁰ 'Flood of Refugees is Overwhelming Last Remaining Space in Hong Kong';⁴⁵¹ 'Coping With the Human Flood of the 1970's';⁴⁵² 'Drowning in a Sea of Questions';⁴⁵³ 'The Homeless: Ragged Stream Becomes a Flood, Inundating Already Crowded Camps';⁴⁵⁴ 'Boat People Sail into a Sea of Prejudice'.⁴⁵⁵ Advocates for increased admissions themselves thought this framing was important. One member of the International Rescue Committee, made it clear that one thing above all should be mentioned: 'Don't let them drown'.⁴⁵⁶

Finally, reports of the reactions of Southeast Asian countries consistently foregrounded the dehumanising way those refugees were treated by government officials. Tan Sri Ghazali, the Malaysian official responsible for managing the refugee flow, complained that 'the Vietnamese keep throwing rubbish into our gardens'.⁴⁵⁷ S. Rajaratnam described 'each junkload of men, women and children sent to our shores is a bomb to destabilise, disrupt and cause turmoil and dissension in ASEAN states'.⁴⁵⁸

The immense tragedy of the suffering came to dominate the airwaves and, I argue, primed the international response.

⁴⁴⁸ 'Thailand Blocks Cambodians Seeking to Cross Border' *The New York Times* 21 January 1979, p. 3.

⁴⁴⁹ I am grateful to Dennis McNamara for alerting me to this phrase.

⁴⁵⁰ *The Washington Post*, 11 December 1978, p. A1.

⁴⁵¹ *The Washington Post*, 1 June 1979, p. A18.

⁴⁵² *New York Times*, 17 June 1979, p. E2.

⁴⁵³ *The Washington Post*, 13 September 1979, p. A19.

⁴⁵⁴ *The Washington Post*, 24 June 1979, p. A10.

⁴⁵⁵ *The Guardian*, 18 July 1979, p. 13.

⁴⁵⁶ Quoted in Carl Bon Tempo, *Americans at the Gate*, p. 152.

⁴⁵⁷ 'Malaysia Announces Plan to Expel All Vietnamese Refugees' *The New York Times* 16 June 1979, p. A1.

⁴⁵⁸ Quoted in 'Organising Collection of Hanoi's Human 'Garbage'' *The Guardian*, 19 July 1979, p. 15.

4.3.1.2. THE HOLOCAUST

Second, there was a constant invocation of comparisons with the Holocaust when it came to describing the flow of refugees. The imaginative pull of the 'Holocaust' metaphor is nearly as well documented as the 'Holocaust' is invoked in public discourse.⁴⁵⁹ Moreover, by the mid-1970s, the Holocaust had come to take on a new and more urgent public meaning in civic life which it had not played in earlier decades.⁴⁶⁰

Yet in this case, the comparison seemed apt. *The New York Times* wrote that 'the tragedy of the Vietnamese "boat people" being denied havens and turned back to sea has evoked painful memories of the suffering of Jewish refugees from Nazi Germany.'⁴⁶¹ Lord Carrington, the British Foreign Secretary, made clear to *The Guardian* that a tour of the refugee camps in Southeast Asia had brought home to him ' "the Holocaust" dimensions of the problem.'⁴⁶² At a meeting to discuss resettlement at 10 Downing Street, Carrington made clear 'that the phenomenon of the Vietnamese refugees was the most dreadful thing which had happened in the world since the extermination of the Jews.'⁴⁶³

George Ball, the former Undersecretary of State, asked simply 'as the monsoons gather speed, will we experience the same remorse we feel – or should feel – because we failed to rescue Jews from the Holocaust?'⁴⁶⁴ Bob Dole went to the floor of the U.S. Senate to declare that

⁴⁵⁹ For an application of their power in international politics, see Roland Paris, 'Kosovo and the Metaphor War' in *Political Science Quarterly* (2002), Vol. 117, No. 3, pp. 423-450.

⁴⁶⁰ See, for example, Peter Novick's contention that the Holocaust only became a shaping source of identity for Jewish Americans in the 1970s in Peter Novick, *The Holocaust in American Life* (Boston: Houghton Mifflin, 1999).

⁴⁶¹ *The New York Times*, 25 June 1979, p. A1.

⁴⁶² 'Minister Wants More for 'Holocaust' Refugees', *The Guardian*, 2 July 1979, p. 1.

⁴⁶³ TNA PREM 19/129, 'Note of a meeting at 10 Downing Street on 29 May 1979 at 1445, to discuss the problem of Vietnamese refugees', 29 May 1979.

⁴⁶⁴ 'Armada of Mercy', *The Washington Post*, 15 July 1979, p. E7.

'we are all too familiar with the painful remembrance of ships loaded with European Jews seeking refuge during the Nazi period.'⁴⁶⁵ This was a metaphor that U.S. policymakers also used with great frequency. Patricia Derian, the Assistant Secretary of State (and largely responsible for American human rights policy) told a gathering in Caracas in June that the refugee outflow looked like a 'new holocaust.'⁴⁶⁶

Menachem Begin, the then-Prime Minister of Israel, wrote to other Heads of Government prior to the Geneva Conference arguing that it should be brought forward, declaring that Malaysia's public declaration that 'it would expel some 70,000 Vietnamese refugees to the open sea' amounted to 'our generation of the Holocaust.'⁴⁶⁷ He went on to note that 'as a Jew I cannot forget the useless Conferences at Evian and Bermuda whose end results were the non-saving of even one Jewish child out of the one-and-a-half million Jewish children who were dragged to a wanton death.'

The resonance of this theme was never clearer than in what *The Guardian* described as the 'star turn' of the Geneva Conference. As head of the American delegation, Vice President Walter Mondale drew an explicit comparison between their conference and the Evian Conference that had failed to rescue Jews from Nazi Germany.⁴⁶⁸ Recognising the 'legacy of shame' that the Holocaust had left the international community, Mondale made clear that 'history will not forgive us if we fail... [and] will not forget us if we succeed.'⁴⁶⁹

⁴⁶⁵ 'Problem of Finding U.S. Policy to Deal With the Need for a Haven for the 'Boat People' *The New York Times*, 2 July 1979, p. A9.

⁴⁶⁶ 'Instead of a Bloodbath', *The New York Times*, 8 July 1979, p. E17.

⁴⁶⁷ UNHCR:11:2, International Conferences – International Conference on Indochina 1979, 'Letter to Heads of Governments', June 19 1979.

⁴⁶⁸ 'How the Boat People Gave the UN New Vigour' *The Guardian*, 23 July 1979, p. 11.

⁴⁶⁹ WFM, Vice Presidential Papers, United Nations Conference on Indochinese Refugees. Mondale noted many years later that he was surprised his Conference speech had been so well received: "The thing you have to get ready for when you speak to the UN is being ignored. They sit there like extras on a movie lot and these speakers come by droning on for decades and they get sort of comatose. So whenever they actually react in anger or in excitement, it's a moment. And at this moment to my surprise they really came alive... and we put in place big things there." [Minnesota Public Radio, 'Walter Mondale Recalls the 1979 Southeast Asian Refugee Crisis', available at: <https://www.youtube.com/watch?v=otQ22ivMtNg>].

The 'Holocaust' is an analogy frequently invoked but in this case it seemed to resonate, accurately serving as both an important diagnostic and prognostic frame. Poul Hartling noted to the UK's Ambassador in Geneva in a private meeting that the outflow of boat people was 'akin to the Nazi persecution of the Jews in the thirties.'⁴⁷⁰ It mattered greatly for important Congressional gatekeepers too. As Dawn Calabria, a senior staff member on the House Foreign Relations Committee, observed, the Holocaust served to consolidate the will to act:

The whole memory of the Holocaust had left a number of groups concerned that we should never again push boats out to sea or deny them the chance to survive... I had one Congressman who if I said that if it related to refugees, he would make any call. He just had such a strong memory of World War Two and wanted to make sure nothing like it ever happened again. This was Stephen Solarz, - he had more holocaust survivors in his district than anyone else.

Solarz, himself, reflecting on his interest in the issue years later notes that he 'was deeply moved by the plight of the boat people'⁴⁷¹ and that 'my view of what that response should be was deeply influenced by my reactions to the U.S. failure to do more to rescue European Jewry from the growing Nazi threat in the 1930s.'⁴⁷²

4.3.1.3. THE OBLIGATIONS OF IDENTITY

Thirdly, the justification for generosity was also consistently framed by advocates for greater admissions in terms of the values fit between conceptions of (particularly American) nationhood and compassion. At one point in late 1978, for example, Jimmy Carter declared with reference to the flow of Indochinese boat people that 'to help these refugees is a simple

⁴⁷⁰ TNA: FCO58/1752, Cable, Geneva to Various, Telno. 173, 'Indo Chinese Refugees' 31 May 1979.

⁴⁷¹ Stephen Solarz, *Journeys to War and Peace: A Congressional Memoir* (Waltham: Brandeis University Press, 2011), p. 130.

⁴⁷² Ibid, p. 99

duty... [as] human rights is the soul of our foreign policy. And I say this with assurance, because human rights is the soul of our sense of nationhood.'⁴⁷³

Measuring the valence of moral considerations is hard when motivations are mixed. But, as Keohane argues, if we accept that norms can be endogenous to interests, then the reverse should also be sometimes true, especially when actors have internalized those norms.⁴⁷⁴

When internalized, norms 'create interests either by establishing leaders' values or by inducing them to mimic the values of others.'⁴⁷⁵ This is a fitting illustration of that process at work. Because compassion was seized upon as a matter of identity, mistreatment and the absence of protection meant that Americans were left with a 'simple duty' to preserve their identity.

Similarly, the Australian Cabinet Submission arguing for an increased refugee intake from the region declared that Australia could not support the hardening of ASEAN states' efforts to deter refugee flows as 'it would be inconsistent with Australia's international legal obligations and its declared humanitarian commitments towards refugees' as well as 'past and present policy whereby Australia has exhorted ASEAN countries to grant temporary asylum.'⁴⁷⁶ Self-identification as a 'humanitarian' actor, mixed with a reputational concern for consistency, seemed a powerful driver of the decision to burden share.

That governments were worried about their reputation for humanitarian commitments reflected something quite profound and novel about the era. This was an historical moment rather suddenly pregnant with the language of humanitarianism and human rights. Samuel

⁴⁷³ 'Speech Commemorating 30th Anniversary of the UN Declaration of Human Rights – 5 December 1978', *Public Papers of the Presidents, Jimmy Carter, 1978*, Book II, June 30-December 31 1978, (Washington: Government Printing Office, 1979), pp. 2161-65.

⁴⁷⁴ Robert Keohane, 'Social Norms and Agency in World Politics' (2009) Straus Working Paper 07/10, The Straus Institute for The Advanced Study of Law and Justice.

⁴⁷⁵ Keohane, 'Social Norms and Agency in World Politics'.

⁴⁷⁶ NAA: A12930, 'Memorandum No. 380: Indo-Chinese Refugees', 11 July 1979, p. 7.

Moyn argues that the very notion of human rights as a coherent body of publicly-understood political demands only emerged around this time. He notes, for example, that ‘as late as 1976... there was no sign that human rights were about to achieve any centrality in the Democratic foreign policy lexicon.’⁴⁷⁷ Yet by January 1977, Jimmy Carter in his Inaugural Address could declare that “our commitment to human rights must be absolute.”⁴⁷⁸ In 1977, for example, the phrase ‘human rights’ appeared in the New York Times more than five times as frequently as any other year in the paper’s history.⁴⁷⁹

The source of this humanitarian turn was not necessarily clear, but it marked a clear change in the operations of American foreign policy.⁴⁸⁰ Barbara Keys locates the ascent of human rights in public policy discourse in the collective public trauma of the American experience in Vietnam. As she sees it, ‘the popularity of human rights in the 1970s was a function of their capacity to shift attention and blame away from the trauma of the Vietnam War and the embarrassments and self-criticism of the civil rights movement and Watergate.’⁴⁸¹ The ‘human rights’ agenda served like a ‘domestic psychotherapy, designed to reclaim American virtue from the ignominy of the Vietnam War’.⁴⁸²

It was the capacity of human rights to unite both right and left that gave it its true purchase: ‘by focusing attention on abuses elsewhere, conservatives found a potent tool to resurrect

⁴⁷⁷ Samuel Moyn, *The Last Utopia* (Cambridge: Belknap Press, 2010), p. 153. Kenneth Cmiel similarly situates the birth of ‘human rights politics’ in the 1970s: ‘The Recent History of Human Rights’ in *The American Historical Review* (2004), Vol. 109, No. 1, pp. 117-135 and ‘The Emergence of Human Rights Politics in the United States’ in *The Journal of American History* (1999) Vol. 86, No.3, pp. 1231-1250.

⁴⁷⁸ Ibid, p. 155.

⁴⁷⁹ Moyn, *The Last Utopia*, p. 4.

⁴⁸⁰ Barbara Keys, ‘Congress, Kissinger, and the Origins of Human Rights Diplomacy’ in *Diplomatic History* (2010) Vol. 34, No. 5, pp. 823-851.

⁴⁸¹ Barbara Keys, *Reclaiming American Virtue* (Cambridge: Belknap Press, 2014), p. 3.

⁴⁸² Barbara Keys, Jack Davies and Elliott Bannan, ‘The Post-Traumatic Decade: New Histories of the 1970s’ in *Australasian Journal of American Studies* (2014) Vol. 1, No. 1, pp. 1-17, p. 9.

anticommunism and liberals found a way to restore their faith in America's fundamental benevolence.⁴⁸³

Andrew Preston argues that in the mid 1970s 'the U.S. Government was often led to pursue a normative foreign policy- of human rights promotion, of democracy promotion, of humanitarian intervention, and so forth - by religious pressures emanating from below.'⁴⁸⁴ Even as hard-headed a strategist of the likes of Samuel Huntington was recommending to President Carter that the U.S. Government establish a federal 'Human Rights Agency.'⁴⁸⁵ What it does make clear is that resonant claims about human rights and humanitarian obligations might readily find willing ears.⁴⁸⁶

4.3.1.4. THE OBLIGATIONS OF CULPABILITY

Finally, the language of obligation and responsibility often served to frame mistreatment as a collective problem to be solved. *The New York Times* noted that 'the photographs of Vietnamese refugees jammed on the decks of unseaworthy craft as Malay peasants block their way to shore continue to tear at the conscience.' Given America's 'duty' to the boat people, it suggested that the U.S. 'should not fear to meet the need alone' particularly because 'many of the tragic drownings of boat people would not have occurred if the Malaysia Government had been assured ... [of] speedy admittance elsewhere.'⁴⁸⁷ Pushbacks were the product of ethnic primitivism and the duty to respond was America's.

⁴⁸³ Ibid, p. 10.

⁴⁸⁴ Andrew Preston, *Sword of the Spirit, Shield of Faith* (New York: Anchor Books, 2012) p. 7.

⁴⁸⁵ See 'Paper Prepared by Samuel Huntington of the National Security Council Staff' in Document 81, FUS (1977-81) Vol. II.

⁴⁸⁶ Kenton Clymer's argument that policy towards Southeast Asia was insulated from considerations of human rights is well-made but largely applicable only to Cambodia. It might explain, however, why the Asian governments were barely, if ever, criticized for not offering refuge. See Kenton Clymer, 'Jimmy Carter, Human Rights and Cambodia' in *Diplomatic History* (2003), Vol. 27, No. 2, pp. 245-277.

⁴⁸⁷ 'America's Duty to the Boat People' in *The New York Times*, 16 December 1978.

There are, however, three important historical observations to make about how these claims for generosity on the basis of culpability worked, which I think speak to the limitations of the 'Vietnam guilt' explanation for assistance towards the Indochinese. First, they became a much more significant factor after 1979. This is principally because the boat people crisis of 1978/1979 was seen in terms of Vietnam expelling an undesirable population. As demonstrated by the cautious and inhospitable welcome to South Vietnamese refugees in the immediate aftermath of the collapse of South Vietnam, American involvement in the war did not automatically create generosity. Arguments about obligation and responsibility were less common than imagined, usually linked to specific groups like the Hmong, as Leo Cherne, head of the Citizen's Committee on Indochinese Refugees, made clear at one Congressional hearing:

I don't want to go over the war again but I do want to say that when one has served in that army for 3 years and cannot qualify for resettlement in the United States-and that is known throughout the world and in foreign offices-believe me, it raises a question I would never want raised-How reliable is the U.S. sense of loyalty and obligation?⁴⁸⁸

Second, there was a very real sense that America had discharged any duties it owed the Vietnamese many years before. Frames of culpability were less discursively prominent than one would expect. At one Congressional hearing of the House Subcommittee on Asian Affairs at the height of the pushbacks, Richard Holbrooke made clear that the basis for assistance had four different prongs – none of which involved a question of guilt, responsibility or obligation.⁴⁸⁹ Lester Wolff, Chair of that Committee, suggested that the

⁴⁸⁸ 'Indochinese Refugees' *Hearings before the Subcommittee on Asia and Pacific Affairs of the Committee on Foreign Affairs, United States House of Representatives*, 5, 25, April, 22 May, 13 June, 1979, H381-43, p. 72

⁴⁸⁹ The four factors were: the humanitarian imperative, assuaging Thai fears, anxiety over the Vietnamese involvement in Cambodia, and concerns over Soviet expansion: 'Indochinese Refugees' *Hearings before the Subcommittee on Asia and Pacific Affairs of the Committee on Foreign Affairs, United States House of Representatives*, 5, 25, April, 22 May, 13 June, 1979, H381-43, pp. 93-95.

enormous humanitarian imperative to assist was in spite of American involvement in the war, not because of it:

This Vietnamese problem of refugees is no longer the problem of the United States as a result of the war in Vietnam. I think this should be clearly understood. The fact is we accepted a great number of refugees. People can say that the refugee problem is the fault of the United States as a result of the war, but that war is over and we accepted the people here in this country. We accepted a great number of them. We have accepted our responsibility.⁴⁹⁰

Third, they were almost exclusively an American concern. Nothing in the Australian Cabinet or diplomatic documents in the lead up to the 1979 Conference mentions that Australia had any particular responsibility or affinity for those leaving on the grounds of its involvement in the Vietnam War. When priority was given, it was largely towards preferencing a particular bilateral relationship amongst the states of first asylum.⁴⁹¹ Moreover, as Michael MacKellar remembers, when it came to American interactions with Australians on the issue: “They never mentioned any argument about Vietnam guilt with us.”⁴⁹²

4.3.2.ORDER FRAMES

The second factor driving a change of approach was an acceptance on the part of potential resettlement countries that the arguments Thailand and Malaysia were themselves making about the inability to absorb or house refugees might well be true. Most significantly, countries came to believe the credibility of Thailand and Malaysia's threats that they would

⁴⁹⁰ ‘Indochinese Refugees’ *Hearings before the Subcommittee on Asia and Pacific Affairs of the Committee on Foreign Affairs, United States House of Representatives*, 5, 25, April, 22 May, 13 June, 1979, H381-43, pp. 89-90.

⁴⁹¹ An inter-departmental task force who undertook an urgent review into Australia’s policies towards the Indochinese noted that ‘The current emphasis is upon relieving boat camps in Malaysia and this emphasis should continue. Second priority should be given to honouring our gentlemen’s agreement with Indonesia which involves Australia accepting a substantial share of its refugees in return for Indonesia’s impeding boat movements otherwise destined for Australia.’ [NAA:A446 1981/95582, ‘Study Report – Task Force on Refugees from Indo-China’, 17 January 1978, p. 102].

⁴⁹² Interview, 31 October 2014.

shut their borders and return refugees as they saw the source of their hostility to be driven by ethnic and political concerns rather than economic concerns.

One of the paradoxes of the time was that there was very little public (or, as we now know, private) blame of the Thais or Malaysians. They were collectively seen in some quarters as unnecessarily cruel but they were not viewed in morally blameworthy terms.

The aversion to criticising Thailand and Malaysia was, I argue, a product of the concern that resettlement states had for their internal stability. The State Department briefing produced for Vice President Walter Mondale (the head of the American delegation to the Conference) made clear that 'it is important to be understanding of the special problems of our ASEAN friends in their time of crisis.'⁴⁹³ They advised Mondale that even though the U.S. 'would like to obtain a full restoration of first asylum policies by the ASEAN states,' he 'should push them- *but not hard* [emphasis added] – for public statements and try to obtain private assurances.'⁴⁹⁴ Curiously, even though ASEAN countries themselves wanted to set up refugee processing centres in the region (and had been arguing for such centres for many years) one of the seven objectives listed by State for Mondale to accomplish at the Conference was 'to obtain ASEAN agreement to the immediate establishment of refugee reprocessing centers in Southeast Asia that will accommodate at least 250,000 refugees.'⁴⁹⁵ So in thrall to the demands of the ASEAN countries was the State Department that they recommended that the U.S. set up a refugee processing centre at Fort Chafee in Arkansas as a gesture of solidarity with the first asylum states – a request that was ultimately over-ruled by President Carter as 'unnecessary.'⁴⁹⁶

⁴⁹³ United States Department of State, 'Briefing Book – The UN-Sponsored Meeting on Indochinese Refugees at Geneva' (WFM: Vice Presidential Papers), p. 4.

⁴⁹⁴ Ibid, p. 6.

⁴⁹⁵ Ibid, p. 4.

⁴⁹⁶ Cyrus Vance, 'Memorandum for the President – United States Initiatives at the United Nations Geneva Conference on Indochinese Refugees' July 18 1979 [WFM, Vice Presidential Papers, Vice President's Briefing Book – United Nations Geneva Conference on Indochinese Refugees, July 20-21, 1979]. The negotiations over where a regional processing centre would be based were intriguing. S.

Conciliation was the order of the day. Mondale's briefing notes for a press conference prior to the Conference outline that, if asked about Malaysian and Thai push-backs, he should simply observe that 'the Malaysians and others have always tied their acceptance of new refugees to assurances that the refugees will eventually be resettled out of the region' and that 'while the plight of the Cambodians is tragic [a reference to the deportation of Cambodians by Thailand], we are equally concerned about the 320,000 other Indochinese refugees who are now in refugee camps.'⁴⁹⁷

The Cabinet memorandum detailing Australia's plans for the Conference was similarly careful to enumerate the need to avoid public criticism of the first asylum states. As it explained:

allegations of lack of humanity against regional governments should be countered swiftly and effectively by pointing to the greater responsibility Vietnam must bear for the violation of human rights. ASEAN Governments should be protected from international censure which would only ease the pressures on the main culprit, Vietnam.⁴⁹⁸

Rajaratnam, the Singaporean Foreign Minister, suggested to the British High Commissioner in Singapore that offers from the Philippines and Indonesia to host a centre were 'perhaps little more than a device for getting international aid for its development. When that island was full, another would be offered for similar uplift. The Philippines had perhaps the same idea'. Thatcher, however, on reading the cable, presumably did not take this at face value. When talking with the Australians she noted that 'one possible solution was to buy an Indonesian or Philippine island, not only as a staging post but as a place for settlement -but the Prime Minister recognised the fear voiced by Singapore that such an island might become a rival entrepreneurial city.' [TNA PREM 129/19, 'Cable - Singapore to FCO - Telno 175 of 1 June 1979'; TNA PREM 19/2, 'Record of a Meeting Between the Prime Minister and the Prime Minister of Australia, the Rt. Hon. Malcolm Fraser, held in Parliament House, Canberra on Sunday, 1 July, 1979 at 1500'].

⁴⁹⁷ Author Unknown, 'Draft Speech, Geneva Arrival Statement and Other Public Statements Submitted to the White House for Review and Editing' July 19 1979 [WFM, Vice Presidential Papers]. Thatcher was similarly reluctant to criticise the Malaysians for their actions. A cable drafted by a senior Foreign Office official to Kurt Waldheim was edited to remove criticism. The initial draft referred to 'The actions of the Thai Government in expelling Cambodian refugees and *reported statement on 14 June by Dr Mahatir the Malaysian Deputy Prime Minister, that Malaysia intends to ship back to sea Vietnamese refugees in their country and to shoot on sight new boat people entering Malaysian waters makes the problem of the utmost urgency.* The words in italics were scratched out and replaced with 'problems of Malaysia' by 'MT'. [TNA: PREM 19/130, Draft Cable, 'Vietnamese Refugees' 18 June 1979].

⁴⁹⁸ NAA: A12930, 'Memorandum No. 380: Indo-Chinese Refugees', 11 July 1979, p. 12.

I argue that this is because mistreatment was framed as an indice of disorder and vulnerability.

4.3.2.1.(INTERNAL) ETHNIC STABILITY

One particular argument was especially persuasive: the idea that the refugee outflows threatened the ethnic stability of the first asylum countries. By the late 1970s, resettlement countries had come to accept an explicit connection between the character of the outflow of refugees from Vietnam and the fragile ethnic stability of first asylum countries, particularly Malaysia.

A submission to the Australian Cabinet prior to the December 1978 pledging Conference approving an increase in Australia's resettlement off take observed that unless the Vietnamese expulsions could be stopped, 'the way [would] be open for many thousands of ethnic Chinese to be pushed out of Vietnam into a region which, because of traditional enmity towards Chinese, will not accept them for resettlement.'⁴⁹⁹ It predicted that an increase in the flow meant that 'Malaysian attitudes will harden, as they have done in the case of the recent large refugee boat, the *Hai Hong* [and] [t]hey could arrive eventually at a decision to turn all boats away.'⁵⁰⁰

Just over six months later, an Australian Cabinet submission prior to the Geneva Conference put it even more bluntly when it warned of a 'regional crisis of major dimensions' because of:

the destabilising impact of the flood of refugees on the internal political, social and ethnic balance of ASEAN societies could generate pressures on the ethnic Chinese

⁴⁹⁹ NAA: A12909, 'Submission No 2271: Review of the Indo-Chinese Refugee Program' 28 November 1978, p. 4.

⁵⁰⁰ Ibid.

and other minorities in these countries. The balance is in some cases inherently fragile and has been maintained with difficulty.⁵⁰¹

But, critically, the same submission viewed resettlement sceptically suggesting that it was 'no longer adequate to the changing dimensions of the conflict' and that the 'most effective way that Australia can protect and serve its national interests is to shift the emphasis of its policy from resettlement to staunching the flow at source.'⁵⁰² The actions of the Malaysian government in closing borders and returning refugees were framed as evidence of just how over-burdened these countries felt and it was felt that Australia had an obvious interest in 'preventing the refugee problem from creating instability in the ASEAN region, by promoting domestic unrest by becoming a source of conflict among ASEAN countries, or by damaging their international reputation.'⁵⁰³

Margaret Thatcher underlined a single section of the review of Lee Kuan Yew's views on the crisis produced by the British Ambassador to Singapore:

Lee said he took a far more cynical view of the Vietnamese. They were expelling all ethnic Chinese, all other Vietnamese who could not adjust to their regime, and as many Cambodians as possible in order to resettle Cambodia with their own people and their own economic problems. At the same time, by this policy of genocide, they hoped also deliberately to unsettle and destabilise the whole of South East Asia.⁵⁰⁴

A 'special study' undertaken by the CIA into the issue prior to the Geneva Conference made clear that the influx meant that there was 'potential for domestic strife because of the refugees in Malaysia and Thailand'. In Malaysia, the study warned, the situation was 'explosive' with the real possibility that 'an incident at a refugee camp could spark racial

⁵⁰¹ NAA: A12930, 'Memorandum No. 380: Indo-Chinese Refugees', 11 July 1979, p. 1.

⁵⁰² Ibid, p. 2.

⁵⁰³ Ibid, p. 5.

⁵⁰⁴ TNA PREM 19/129, Cable - Singapore to London, 'Vietnamese Refugees - Talk with Lee Kuan Yew', 4 June 1979.

violence within Malaysia.⁵⁰⁵ In Thailand, the worry was that the opposition 'could use antirefugee (sic) sentiment to create a more general anti-government movement.' In both countries, the calculus was the same: 'the intensity of the political problems posed by the refugees will depend largely on whether the governments concerned can assure their people that the situation is temporary [and] that the refugees will be speedily resettled.'

Appearing before a subcommittee of the House of Representatives in June 1979, Richard Holbrooke, the then-Assistant Secretary of State for East Asian affairs, connected the fate of refugees in Thailand to the Cambodian conflict, suggesting that given the difficulties of telling genuine refugees apart from supporters of Pol Pot, the presence of large numbers of refugees on the Thai-Cambodian border could serve as a provocation 'for the Vietnamese to send forces into Thailand.'⁵⁰⁶

4.3.2.2. (EXTERNAL) THE NEXT DOMINO

Thailand expressly and not-so-expressly sought to link its security to the presence of refugees. For example, in a letter to Jimmy Carter from late June 1979 (roughly the period of maximum pushbacks leading up to the Geneva Conference), the Thai Prime Minister implored Carter that when he spoke about refugees with the Japanese Prime Minister Ohira at a forthcoming bilateral summit that 'it is my earnest hope that the matter will receive your sympathetic attention and consideration leading to a substantial easing of the enormous burden now being shouldered by Thailand and other countries in the region.' The letter made clear that the real concern of Thailand was a potential Vietnamese invasion and in addition to help on the refugee front, arms and military hardware were an 'urgent and vital'

⁵⁰⁵ Author Unknown, 'Special Study – Indochina Refugee Situation - July 1979' [VVA, Item Number: 2123309004].

⁵⁰⁶ Richard Holbrooke, 'Testimony before the Subcommittee on Asian and Pacific Affairs of the House Foreign Affairs Committee' 13 June 1979, United States Department of State, Bureau of Public Affairs, p. 6.

necessity.⁵⁰⁷ A similar letter one month later from Kriangsak to Carter (this one after the Geneva Conference) thanked Carter for America's assistance on refugee issues and again asked for military hardware, noting that 'our country is in danger, and we solicit your assistance in preparing us to deter Vietnamese aggression and to defend against it if deterrence fails.'⁵⁰⁸

A part of the fear for Thailand's security was the apparent expansionism of the Vietnamese. Chinese leaders like Deng Xiaoping, for example, were insistent that the Vietnamese were intent on invading Thailand to form an Indochinese Federation.⁵⁰⁹ There was no lack of irony that it was China preaching the virtues of the domino theory (itself historically always thought to be the force that would cause Southeast Asia to turn red). At a meeting in Beijing in early July 1979, Richard Holbrooke and Nick Platt (an assistant to Zbigniew Brzezinski) met with the Chinese Foreign Minister, Huang Hua. In Platt's summary of the meeting for Brzezinski, the domino theory was front and centre:

⁵⁰⁷ The letter makes the Thai conception of their own insecurity clear: 'Apart from the refugee problem, there are indications that Vietnam may launch an armed incursion into Thailand from across the Thai-Kampuchean border, although initially it may be limited in scope and come under the pretext of a 'hot pursuit.' It is noteworthy in this respect that both Phnom Penh and Hanoi have lately become much more vocal and strident in their accusations that Thailand has not been strictly neutral, and that we are still helping Pol Pot forces. Should such an incursion by Vietnam occur, armed clashes with Thai forces would be inevitable and could lead to uncontrollable escalation. Such an eventuality would not only impair Thailand's territorial integrity, but also gravely endanger peace and stability of the entire South-East Asian region and adverse effects on world peace would also be unavoidable.' [Letter, Kriangsak to Carter, Telno.No 1208572 (undated, probably late June), DDRS].

⁵⁰⁸ Letter, Kriangsak to Carter, 30 July 1979, DDRS.

⁵⁰⁹ See, for example, Deng Xiaoping's comments to Jimmy Carter in early 1979 ('Deng: "We find that Vietnam has become totally Soviet controlled, and the fact of its flagrant invasion of Cambodia, its plot to establish an Indochinese Federation under Vietnamese control is more grave than you think") or to Kurt Waldheim in May 1979 ('Mr. Deng said that Vietnam executed the Soviet plans for the establishment of an Asian collective security system. This was an old scheme which, however, had been shelved because none of the countries had responded to this idea. Now, after its successes in Afghanistan and Vietnam, the Soviet Union "pulled it out again". In the wider scope of this scheme, there was a plan to include at least some of the ASEAN countries - Thailand, Malaysia, Singapore as well as Burma.') or Huang Hua's (the Chinese Foreign Minister) comments to Waldheim in April 1979 ('Viet Nam had always wanted to exercise control over Indo-China. As soon as the war against the US had ended, it started to work for this dream... The Vietnamese were the Cubans of Asia but rather more dangerous. During the limited border conflict, China had captured many documents which proved that Viet Nam regarded itself as the third military power in the world and as "invincible") [FUS 1977-81, Vol. XIII, Document 205 - 'Memorandum of Conversation - Carter, Deng Xiaoping and others - Washington, January 29, 1979'; WCP, 'Notes on a meeting held during the Secretary-General's visit to Peking, 1 May 1979'; DDA, 'Meeting with Waldheim and Chinese - 'Notes on a meeting in the Great People's Palace in Peking on 30 April 1979 at 9 A.M.'].]

The refugee problem stems from Soviet domination [as Vietnam] is now a “semi-colony and a Russian military base”. Huang described the leadership in Hanoi as split and Vietnamese society as very tense.’

...

Huang did not say whether China was coming to the Geneva Conference on refugees. (We think they will come. The opportunity to pound on the Vietnamese is too good to miss.) He was very angry at SYG Waldheim for not inviting a Pol Pot representative. “This was wrong politically, legally, morally and we cannot forgive him.”

He stressed the threat to Thailand, where several Vietnamese divisions are poised on the border. If Thailand goes, “the rest of ASEAN will fall like dominoes.”⁵¹⁰

It is not necessarily self-evident that the Americans were initially as concerned about Thailand’s vulnerability as the Thais themselves were, however. In the immediate aftermath of the Vietnamese invasion of Cambodia in late 1978 (and subsequent border conflict with China in early 1979), Carter met with his top security advisers and his Ambassador to Thailand, Morton Abramowitz:

President: But what if the Vietnamese consolidate their position in Kampuchea? Won’t there be then a greater possibility of pressure on Thailand?

Abramowitz: It is not likely. It would be very difficult in the short run - the next year or two - for the Vietnamese to consolidate their hold over the area and be able at the same time to directly threaten Thailand.

President: To me it is a close call.

Abramowitz: It is a close call for me as well, and a very crucial one

...

Abramowitz: If the Vietnamese are successful in Kampuchea, we can kiss ASEAN good-bye. The Thai will move towards complete deference to the Vietnamese. If the Thai are soft, the rest of ASEAN will go the same way...⁵¹¹

⁵¹⁰ ‘Memorandum for Zbigniew Brzezinski: My Peking Stop’ by Nick Platt, 9 July 1979, DDRS.

⁵¹¹ ‘Memorandum of Conversation - Summary of the President’s Meeting with Ambassador Mort Abramowitz’ 1 February 1979, DDRS.

Yet in the wake of the boat people crisis, Carter no longer seemed convinced that Thai security was a 'close call'. In a letter later that year that was hand-delivered to Kriangsak by Rosalynn Carter (following on from Kriangsak's letters above), Jimmy Carter noted that 'Thailand's provision of temporary asylum and Thailand's full support of the international relief efforts have already done much to alleviate suffering.' Crucially, he reaffirmed that: 'I wish to reaffirm that a major objective of American policy is to maintain the security and territorial integrity of Thailand. The current tensions and the incidents recounted in your letter, with the possibility of even further intensified conflict on your border, are of great concern to the United States.'⁵¹²

Critically, the justification for action was in terms of reassurance. Rather than a feeling that a Vietnamese invasion across the Thai border was imminent, there was instead a sense that Thai insecurity needed to be assuaged and that assisting on refugees was a means of facilitating that.

Yet in many respects the security of Thailand was presented almost as a secondary concern to the security of the refugees themselves or the larger disorder that was being created by the pushbacks. Morton Abramowitz recalled many years later:

we wanted to keep Thailand stable, internally so that the government could deal with the refugee problem without having to worry about its domestic position. Furthermore, we wanted stability so that the government could deal with a Vietnamese threat, although we did not see that as a likely scenario. We were concerned with the possibility of the Vietnamese taking action against some of the refugee camps. Our ability to assist the refugees depended a great deal on Thailand internal stability which in part depended on the actions of its neighbors...The region needed a stable Thailand, sympathetic to the plight of the Indochinese refugees and willing to assist in a humanitarian effort.⁵¹³

⁵¹² Letter, Carter to Kriangsak, (undated, probably late October 1979), DDRS.

⁵¹³ 'Oral Interview' 10 April 2007, ADST, p. 81. [Available at: <http://www.adst.org/OH%20TOCs/Abramowitz,%20Morton%20I.toc.pdf>].

Abramowitz suggests that this required near constant reassurance, typically through accelerated efforts to assist on dealing with refugees:

The Thais kept pressuring us. We tried to mollify them. And still get the flow going. We had the biggest fights and conflicts over the boat people. It was the whole total of our relations. Holding their hands. Getting the Prime Minister to Washington. Making our concern known. Being a very visible presence.⁵¹⁴

In a debate in the Australian Parliament over recognition of Vietnam in 1980, the Australian Prime Minister, Malcolm Fraser gave a sense of the strength of this understanding of the geopolitics of Indochinese situation when he noted that:

We need to understand that the member countries of the Association of South East Asian Nations are in the front line of difficulties and problems as a result of that Vietnamese Soviet-supported invasion. Thailand in particular is in the front line of those difficulties, not only with mass refugee movement across the border from Kampuchea itself but also with the active intervention of Vietnamese armed forces across the border into Thailand. There are possibilities in the future that those incursions into Thailand will be increased.⁵¹⁵

Concerns over the fate of Thailand were front of mind for many of the resettlement states in 1979 and 1980. This explains the acceleration of military aid, the permissive blind eye turned to operations on the Thai-Cambodian border and the generalised need to 'reassure' Thailand. But it also in its own way, explains the generosity of resettlement.

4.4. PARTIAL EXPLANATIONS: STATE-CENTRED ACCOUNTS

Given their prominence as explanations for cooperation over the long-term, I consider regime-based accounts more fully in subsequent sections. Briefly, however, it is hard to locate persuasive accounts centred around U.S. hegemony. Margaret Thatcher, for example, was the one who pushed the U.N. to call a pledging conference. Most U.S. policy was

⁵¹⁴ Interview, 26 March 2015.

⁵¹⁵ Hansard Parliamentary Debates, Australian House of Representatives, 28 August 1980.

reactive more than proactive in trying to deal with the outflows. Internationalising the responsibility was a desired goal of U.S. refugee policy but in practice it translated to modest results, principally because many other countries saw the refugees as a distinctively American responsibility or were more concerned about their own internal ethnic balance.

How then should we understand more conventional state-focused accounts?

There are two relevant prisms through which an explanation premised on the self-interests of actors might explain costly moral action like refugee resettlement: a material interest-driven account that looks at the balance of material interests of unitary states (what I term a 'realist' account) and a liberal account that focuses on the individual interests of key policymakers and explains their behaviour through the lens of their incentives for political survival (what I term the 'liberal' account.)

Simply put, an account centred on material interests assumes that states are likely to support refugee resettlement when the benefits outweigh the costs. In this case, where states saw a strategic gain to be realised from the provision of generous assistance. A change to a policy of generous resettlement from little or no resettlement, from this angle, could be attributed to one of two processes: (1) simple adaptive learning (the realisation that the interests of potential resettlement states would be better served by embracing resettlement) or (2) the presence of coercion or inducements by other states to raise/lower the costs of action/inaction. Yet the evidentiary record makes it hard to apply in the Indochinese case precisely because it is hard to identify what the material benefits and costs were for resettlement countries.

4.4.1.1. REALIST ACCOUNTS

The best argument that accepting refugees reflected a conventional interest-driven calculus rather than a values-driven calculus was the need for strategic reassurance. A concern about Thai feelings of insecurity was an important factor in the outlook of the Americans in particular. As Holbrooke explained at one Congressional hearing:

I want to finally stress that given the limits on our interest and influences... the integrity and viability and stability of the nearest ASEAN country, and how terribly important it is that we recognize that Thailand is the key to ASEAN and ASEAN is a critical region and regional-concept for our country as well as that area, and to make sure that, at this moment, the Thais know through word and deed as appropriate that we are conscious of their problems and are trying to help them and that, of course, includes the tremendous refugee burden which the war in Cambodia throws upon them.⁵¹⁶

At a moment of great public outcry at the pushbacks, however, this was, it is fair to say, a consideration largely confined to foreign policy elites themselves. As one junior British diplomat noted at the time:

On the subject of refugees, we have received literally hundreds of letters which are either hostile to the Thai Government's policy of pushing them out, or to this Government's decision to accept some of them. Today, I received the first letter which urged that we must intervene to prevent the Vietnamese from destroying Thailand's sovereignty, and that Thailand must not be written off "as a small country far away, as Czechoslovakia once was."⁵¹⁷

But the strategic reassurance argument explains less than it looks to. Not only does it ignore that more reassurance was provided by weapons sales (which did escalate in the period after), but also it doesn't really explain the decision to resettle. Above all, it fails to account for why resettlement states didn't just turn a blind eye to mistreatment. A policy of widespread *refoulement* almost certainly would have staunched or significantly reduced the refugee flow. Following Malaysia's announcement in early 1979 that they would not allow boats to land,

⁵¹⁶ '1979 - Tragedy in Indochina Continues: War, Refugees, and Famine', *Hearings Before the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs, United States House of Representatives*, 28 February, 18 September, 10, 17 October, 18, 19 December 1979, Serial No. H381-46.

⁵¹⁷ TNA FCO15/2522, Letter – Donald MacLaren to Andrew N. George, 'Thailand's Internal Political Situation – The Constitution and Internal Politics' 6 July 1979.

onshore arrivals measurably dropped.⁵¹⁸ So too with Thailand, where sea arrivals dropped by more than half.⁵¹⁹ This may largely have been due to displacement (Indonesia saw greatly increased flows once Malaysia started turning boats around) but co-ordinated action between the ASEAN states would have made it very difficult for refugees to flee on the scale that they did. As Poul Hartling, the then-High Commissioner for Refugees observed in his background note for parties to the Conference, 'compared with the grave refugee problems of the past, the numbers involved in Southeast Asia are not unmanageable.'⁵²⁰ The absence of resettlement offers would also have removed a powerful pull factor. Instead, however, the reaction to the incidents of *refoulement* that did take place, notably the 40,000 Cambodians pushed back at Preah Vihear was profound regret and a determination to prevent it in future. Morton Abramowitz remembers of that particular incident, for example, that, "We begged the Thai... I called the Secretary of State to tell him to call the Prime Minister. Except in hindsight I should have gone higher up the food chain."⁵²¹

Second, even if it did not stop the flow, Southeast Asian states could have simply interned any refugees until such flows stopped without needing to resettle them. Indeed, one of the reasons why so few Cambodians were resettled during the course of the Indochinese outflow was that Thailand did precisely this. In four large camps along the Thai-Cambodian border, Thailand, with the assistance of the ICRC, housed Cambodian refugees, usually indefinitely. Resettlement from these camps by Western countries was actively resisted by Thailand. This was partly because they were concerned to avoid the creation of a pull factor encouraging more arrivals. But primarily because the camps acted as something of a human buffer zone

⁵¹⁸ UNHCR:11:2 'Statistics on Arrivals and Resettlement of Displaced Persons'.

⁵¹⁹ Ibid.

⁵²⁰ UNHCR:15:1, 'Background Note Prepared by the United Nations High Commissioner for Refugees for the Meeting on Refugees and Displaced Person in Southeast Asia' 9 July 1979.

⁵²¹ Interview, 26 March 2015.

between Thailand and the Vietnamese-backed Cambodian regime and proved to be useful recruiting grounds for the Cambodian resistance.⁵²²

Third, local settlement was more possible than either Thailand or Malaysia were prepared to admit. Malaysia had settled a sizeable number of Muslim refugees from both Cambodia and the Philippines earlier in the 1970s without significant difficulty. The reality was that Malaysia did not want any non-Muslim refugees for fear of upsetting the racial balance that ensured that Malays were a political majority. In Thailand, the ethnic similarities between the Lao and the people of Northwest Thailand would (and in some instances, did) make local settlement possible.⁵²³ While far from the middle-income countries they are now, neither Thailand nor Malaysia was in a state of penury by the late 1970s.⁵²⁴ In 1978, Thai GDP was growing at 9% annually, and in 1979, the growth rate was 8%.⁵²⁵ As Emily Macfarquar noted in *The Economist* at the time:

the drain on local exchequers from the refugees has been negligible. The United Nations High Commissioner for Refugees pays all capital and maintenance costs, except for those arrivals who are deliberately denied refugee status in order to justify pushing them back.⁵²⁶

The argument that local settlement was impossible because of ethnic or cultural dissimilarity became self-fulfilling. By turning back refugees, the states of first asylum were demonstrating the distinct lack of solidarism that would be required to host them.

⁵²² Fiona Terry, *Condemned to Repeat: The Paradox of Humanitarian Action* (Ithaca: Cornell University Press, 2002), pp. 114-154.

⁵²³ Pinkaew Laungaramsri, 'Ethnicity and the Politics of Ethnic Classification in Thailand' in Colin McKerras, ed., *Ethnicity in Asia* (London: Routledge, 2003), p. 163.

⁵²⁴ U.S. Department of Agriculture Economic Research Service, 'Historic Real Per Capita GDP Values'.

⁵²⁵ Ansil Ramsay, 'Thailand 1979: A Government in Trouble' in *Asian Survey* (1980) Vol. 20, No. 2, p. 116.

⁵²⁶ Emily MacFarquhar, 'Indochina's Refugees' in *The Economist* 21 July, 1979, pp. 19-26.

An alternative realist-inspired account of the generosity of resettlement might argue that resettlement states were just rewarding the people who had stood by them during the Vietnam War and enhancing their reputation as a worthy ally for any potential future conflicts. Yet this has a number of problems. First, a substantial number of countries that were not involved in the Vietnam War proved to be major resettlement destinations (notably Canada). Second, and far more importantly, there is little evidence to suggest that resettlement countries thought that the people that were arriving as refugees were the same people who had, especially in the case of the United States, proved firm allies during the Vietnam War.

The diminished sense of obligation could be seen in how American preference categories for admitting particular refugees were modified in the period between the end of the Vietnam War and the Geneva Conference. Initially, the preference categories for Indochinese refugees sought to prioritise the admission of orphans, Vietnamese relatives of American citizens and permanent residents, and "high risk Vietnamese" (largely those who directly supported American efforts during the Vietnam War). By the late 1970s, however, the preference process had been substantially modified to define down the criteria simply to allow anyone from Indochina refugee status on the basis of an 'obvious compelling humanitarian reason'.⁵²⁷ Exclusionary categories were also introduced that meant that refugee status would be denied to someone in fear of persecution if it were shown that that person had 'engaged in any persecution or torture of anybody on account of political opinion or race, religion, national origin or the like'.⁵²⁸ This had the direct effect of excluding many individuals, particularly those who served in the South Vietnamese army. That resettlement was not just about rescuing old friends was plain. Prior to the Geneva Conference, the State Department made it clear: while 'the United States may have had some responsibility for the exodus from

⁵²⁷ Bon Tempo, *Americans at the Gate*, p. 158.

⁵²⁸ Ibid, p. 161.

South Vietnam in 1975...the people subject to discrimination or persecution now – particularly the ethnic Chinese – had no association with the United States during the war.⁵²⁹

As will be explored in subsequent chapters, arguments about rescuing friends became much more significant in the later period of the outflow than in 1979.

Finally, the evidence also provides an awkward fit for those who argue that the dynamics of superpower competition justified resettling refugees in such large numbers. As Loescher and Scanlan note, one of the curious things about the Indochinese resettlement in comparison to other refugee resettlements (notably of Eastern Europeans and Cubans), is that it was not framed as a traditional 'refugee' situation of individuals 'voting with their feet.'⁵³⁰ The onset of détente in the mid-1970s between the USSR and the USA meant that the ideological value of taking refugees from a communist country was not what it once was. There was certainly a sense of anxiety about the former American naval base at Cam Ranh Bay being leased to the Soviets in 1979. But there was a real feeling that this was more an issue for the Chinese.⁵³¹

For the Americans in particular, many interpreted the legacy of the Vietnam War as evidence that Southeast Asia did not really matter as much as thought for the dynamics of superpower competition. As Leslie Denend, a national security staffer in the Carter White House, put it:

⁵²⁹ United States Department of State, 'Briefing Book – The UN-Sponsored Meeting on Indochinese Refugees at Geneva' (WFM: Vice Presidential Papers), 19 July 1979.

⁵³⁰ Loescher and Scanlan, *Calculated Kindness*, p. 113.

⁵³¹ Zbigniew Brzezinski notes that the Chinese were particularly worried about the arrival of the Soviets in Vietnam which did much to explain the Chinese incursion into Vietnam in early 1979: 'We knew from previous conversations with the Chinese that they were gravely concerned over the Vietnamese occupation of Cambodia, seeing it as a Soviet-sponsored aggression designed to strengthen Vietnam as a base for Soviet operations in Southeast Asia. In various conversations with top U.S. Officials, the Chinese leaders stressed that this represented a strategic threat to China's security, as well as a longer-range threat to the stability of Southeast Asia.' [Zbigniew Brzezinski, *Power and Principle* (Weidenfeld and Nicolson: London, 1983) p. 409].

“there was sometimes a sense when you looked at Southeast Asia and thought, “there’s an area that we’ve over-invested in in that part of the world.”

It is worth mentioning here, however, that these arguments are far less persuasive when applied to an Australian context. First, one self-interested desire which did motivate Australian action was the desire to prevent the secondary movement of the boats leaving Vietnam and arriving on Australian shores. As Michael MacKellar explains:

one thing that drove us was the fact that there was an enormous number of Indochinese refugees on small boats heading to Australia... We knew they were heading to Australia. We didn’t want them to keep on heading our way. We wanted to maintain some control over the number of boats and where they went.⁵³²

This reflected not only a desire to maintain both the appearance and reality of control over borders but also a concern for the welfare of those coming in boats: “In some of these very unseaworthy boats, you didn’t know where they’d end up. In one case, I remember a boat being shipwrecked somewhere between Darwin and Broome, a bloke found them wandering around a lonely road. We still don’t know if more died and perished.” An urgent review into Australia’s policies towards the Indochinese in early 1979 pointed out that ‘in the event of countries nearer Indo-China declining to accept refugees for first asylum, there is a strong probability that some will seek first refuge in Australia.’⁵³³

Second, the relationship with the ASEAN states was a much more central component of Australian security strategy than other resettlement states. But it is easy to overthink this. A Cabinet Submission in 1978 noted with some concern that ‘there has been some decline in Australia’s standing in the ASEAN region... presenting us with a real challenge to maintain

⁵³² Interview, 31 October 2014.

⁵³³ NAA:A446 1981/95582, ‘Study Report – Task Force on Refugees from Indo-China’, 17 January 1978, p. 50.

our regional influence.⁵³⁴ Yet even while noting the emerging significance of ASEAN and the intertwined nature of the relationship and the refugee question, the advice was ‘that every effort should be made to explain to the ASEAN countries the basis of our policy and the limits on our capacity to absorb refugees.’ Absent some intervening variable there is little sense that resettlement was destined.

4.4.1.2. LIBERAL ACCOUNTS

An account centred on individual policy-makers might look a lot like the one that Loescher and Scanlan offered for the American decision to generously assist when they were writing in the mid-1980s: that a particular configuration of policy-makers in resettlement states were able to pull and haul their way to getting the state to agree to resettle.

Yet even adherents of this account like Zolberg recognise that the important permissive condition leading to resettlement was something else, namely the ‘dramatic media coverage of the brutal *refoulement* of fleeing populations by Thailand and Malaysia provoked a groundswell of support throughout the West on behalf of a major rescue effort.’⁵³⁵

That certain key individuals were important in tilting policies in a more generous direction is undeniable. In explaining American policy, this was probably Jimmy Carter more than figures inside the State Department. As Dick Clark, the U.S. Co-ordinator for Refugees (who later left the role to campaign for Teddy Kennedy against Carter for the 1980 Democratic nomination) remembers: “the thing that pushed it along successfully was Carter himself. He had a particular moral orientation – shared by Vance. He had weaknesses in other areas but on this issue he was very clear.”⁵³⁶ Similarly, Leslie Denend, a National Security Council

⁵³⁴ NAA:A12909 2861, ‘Attachment A to Submission 2861, Report for Cabinet on Australia’s Relations with the ASEAN Countries’, 28 November 1978.

⁵³⁵ Ibid.

⁵³⁶ Interview, 17 July 2014.

staffer under Carter who played a central role in the inter-agency process regarding the Indochinese refugees, remembers that what reconciled differing positions between the branches of government (the State Department wanted more admitted, the INS wanted fewer) was that “they knew that the President saw this as a priority.”⁵³⁷

Recognising that states everywhere have powerful incentives to avoid resettling refugees, any account focussed on individual interests needs to explain why these individuals and groups were able to get their way at a particular moment. And for that, the necessary condition enabling them to act has to lie elsewhere. At best, an account that focuses only on the configuration of preferences of groups will be a partial one. This is because public opinion in a broad sense was never in favour of large-scale resettlement. Any argument that relies on showing how the intensity of a minority's preferences translated itself into collective public action would need supplementary context about what the permissive condition allowing them to do that was. And in all probability, the presence of that structural condition would explain more variation than the focus on a particular agent.

This does, however, speak to what may be the best argument against the transformative effect of mistreatment: public opinion. As noted, public opinion within resettlement states was never more than lukewarm towards resettlement, even after the issue became salient and framed in an evocative way.

Instead, enthusiasm among the general public for the admission of Indochinese refugees had a recurring restrictionist tendency. A Gallup poll in August 1979, conducted after the First Geneva Conference, found that 57 percent of Americans were opposed to the idea of the United States relaxing its immigration policies so that 'boat people' from Indochina could

⁵³⁷ Interview, 25 August 2014.

live in the U.S. and just 32 percent were in favour.⁵³⁸ It is hard to conclude from this that the shocking images or news stories about the plight of Indochinese refugees had of themselves created an irrepressible public urge for something to be done.

In Australia, the polls were a little more suggestive of a change in attitude. In October 1978, one Gallup poll of Australian opinion found that just 29 percent of respondents thought that Indochinese refugees should be allowed to settle in Australia. 39 percent thought they should be sent back and the remainder thought that efforts should be made to get other countries to take them.⁵³⁹

But by July 1979, in the wake of the Geneva Conference where Australia had pledged to take in 14,000 Indochinese refugees annually, a poll found a significant shift in attitudes. A majority (55 percent) agreed with the intake, some (18 percent) thought it should be larger and a minority (37 percent) thought it was too large.⁵⁴⁰ Crucially, there was little disagreement with the generous intake levels from editorial boards or opposition politicians. This was itself a concern for some in the government as one Cabinet submission from late 1978 observed that 'Australian editorial opinion' was '*too uncritical*' (emphasis added) in echoing 'the American line' that 'every person leaving Vietnam was a refugee' and instead advised caution, pointing out that 'we cannot assert that every Vietnamese who presents himself is a refugee.'⁵⁴¹

There are several reasons why we should discount these concerns about public opinion, however. First, the same 1979 poll that indicated that fewer than a third of Americans

⁵³⁸ George Gallup, *The Gallup Poll: Public Opinion 1979* (Wilmington: Scholarly Resources, 1980) p. 246.

⁵³⁹ Quoted in Peter Lawrence, *Australian Opinion on the Indo-Chinese Influx, 1975 to 1979* (Brisbane: Griffith University Centre for the Study of Australian-Asian Relations, 1983), p. 13.

⁵⁴⁰ Ibid.

⁵⁴¹ NAA: A12909, 'Submission No 2271: Review of the Indo-Chinese Refugee Program' 28 November 1978, p. 6.

thought that the U.S. should welcome more boat people showed that 57 percent of people would welcome Indochinese refugees if they came to live in their community and 47 percent would actually like to see some of the refugees come live in their community.⁵⁴² This suggests an amenability to temper restrictionism. Second, as Elizabeth Holtzman, the then-Chairwoman of the House Subcommittee on Immigration, remembers, there were few people beating down the door of Congress to protest the resettlement of refugees in the U.S. “I just don’t recall any opposition to this in Congress... it was a black and white humanitarian crisis.”⁵⁴³

This was not unexpected given the general public's broader hostility towards immigration at the time. A 1980 Gallup Poll, for example, showed 66 percent of people in favour of halting the immigration of all political refugees until the national unemployment rate fell below 5 percent.⁵⁴⁴ Carl Bon Tempo has put it well: 'Americans believed in human rights enough to help some of the Indochinese; but not enough to welcome them warmly or without complaint.'⁵⁴⁵

These profound disincentives of cost and popularity certainly offer a partial explanation of why at the same time America was taking hundreds of thousands of Indochinese refugees it was turning boats back to Haiti full of refugees. Although this probably also stemmed from the fact that ‘refugee flows are regarded by governments as a humanitarian issue if the refugees are going to another country, but as a security issue if the refugees are crossing their own borders.’⁵⁴⁶ But the pattern of public opinion makes clear that something else was

⁵⁴² George Gallup, *The Gallup Poll: Public Opinion 1979*, (Wilmington: Scholarly Resources, 1980), pp. 247-248.

⁵⁴³ Interview, July 2014.

⁵⁴⁴ George Gallup, *The Gallup Poll: Public Opinion 1980*, (Wilmington: Scholarly Resources, 1981), p. 122.

⁵⁴⁵ Bon Tempo, *Americans at the Gate*, p. 166.

⁵⁴⁶ Teitelbaum and Weiner, ‘Introduction’ in Teitelbaum and Weiner, (eds.), *Threatened Peoples, Threatened Borders*, p. 30.

probably playing on the minds of policy-makers. The evocation of compassion and anxiety over order are two powerful candidates for what that might have been.

Finally, it bears observing that distinct lobbying efforts by co-ethnics were a minimal to non-existent feature of the response to the Indochinese in the late 1970s (particularly compared to a decade later). As Roger Daniels observes, ‘unlike the Hungarians and most other twentieth-century refugees coming to the United States, there was no significant immigrant population in the United States with whom Southeast Asians could identify.’⁵⁴⁷ As late as 1970, there were probably not even 10,000 Southeast Asians in the United States. Moreover, the Indochinese in the United States tended to be divided by nationality and sub-divided by factions within that (particularly the Cambodians), which, as Kathleen Newland suggests, limited their capacity to form a coherent and powerful ethnic lobby in the vein of the Cuban, Jewish or Armenian lobbies.⁵⁴⁸

Robert van Leeuwen, a senior staffer to Hartling at the time, the then High Commissioner for Refugees, reflecting on the crisis summed it up nicely: “Thailand basically gambled that the outrage of what they were doing would spark an international humanitarian reaction. And it did.”⁵⁴⁹

⁵⁴⁷ Roger Daniels, *Guarding the Golden Door* (New York: Hill and Wang, 2004), p. 216.

⁵⁴⁸ Kathleen Newland, ‘The Impact of U.S. Refugee Policies on U.S. Foreign Policy: A Case of the Tail Wagging the Dog?’ in Michael Teitelbaum and Myron Weiner, (eds.), *Threatened Peoples, Threatened Borders* (New York: W.W. Norton & Son, 1995), pp. 202-204.

⁵⁴⁹ Interview, 18 July 2014.

5. MANAGING A CRISIS: A BARGAIN ENDURES (1980-1987)

'The definition of alternatives is the supreme instrument of power; the antagonists can rarely agree on what the issues are because power is involved in the definition. He who determines what politics is about runs the country because the definition of the alternatives is the choice of conflicts, and the choice of conflicts allocates power.'

- E.E. Schattschneider⁵⁵⁰

IN MARCH 1982, Ian Macphie, the Australian Minister for Immigration, took to the floor of the Australian Parliament to announce the results of a review into Australia's policies towards refugees. Which refugees Australia admitted, he contended, inevitably required 'a balance between compassion and realism.' A balance that flowed, he proffered, from a 'need to reassure the Australian community that people being brought to Australia for resettlement as refugees under generous arrangements are indeed refugees.' Refugees, it seemed, were different to what they used to be:

During my visit last year I reached the conclusion, commonly held by many involved in both the Indo-Chinese and Eastern European refugee situations, that a proportion of people now leaving their homelands were doing so to seek a better way of life rather than to escape from some form of persecution. In other words their motivation is the same as over one million others who apply annually to migrate to Australia. To accept them as refugees would in effect condone queue-jumping as migrants.⁵⁵¹

⁵⁵⁰ 'APSA Presidential Address: Intensity, Visibility, Direction and Scope' in *The American Political Science Review* (1957) Vol. LI, No.4, p. 937.

⁵⁵¹ *Hansard Parliamentary Debates*, Australian House of Representatives, 16 March 1982, p. 991.

Hospitality had its limits. Yet, however dissonant it might appear given that it was the trip to Southeast Asia that changed his mind, in the same speech Macphee announced that for the Indochinese, generosity must continue as ‘the plight of people on those voyages has often been frightful and has aroused pity, horror and anger simultaneously in the hearts of those of us who have seen the results of those experiences.’ Macphee’s sceptical compassion illustrated a paradox at the heart of the Indochinese outflow: resettlement states were dubious about the formal claims to refugee protection of those fleeing Indochina almost from the beginning yet the process of leaving and the impossibility of their return had rendered them to be sufficiently worthy of compassion and resettlement.

Ongoing mass resettlement was an option arrived at through a process of elimination. Keen to avoid the spectacle of widespread refoulement, the resettlement states willingly agreed to assist in preserving first asylum. Even those who had a weak claim to individual persecution would not be returned to Vietnam, even if Vietnam was prepared to have them (which they weren’t). Given that local integration was out of the question, the only option, by elimination, was resettlement in the West.

Macphee’s scepticism was far from an entirely novel sentiment. A year earlier, Senator Walter D. Huddleston, a Democrat from Kentucky, charged on the floor of the U.S. Senate that the United States had “gone far beyond the original intent of our Southeast Asian refugee resettlement program... [and has] created a multi-million dollar refugee recruiting program.”⁵⁵² The *Far Eastern Economic Review* was reporting that ‘a clear majority of those leaving Vietnam are economic migrants motivated by the country’s poor economic performance and spurred by the open opportunity to resettle in the U.S. or elsewhere with little delay.’⁵⁵³ Sam Hall, a Democrat from Texas, put it bluntly at one Congressional hearing:

⁵⁵² *Congressional Record - Senate*, July 22, 1981, p. 16924.

⁵⁵³ ‘Pull Factor Gets the Push’ in *Far Eastern Economic Review*, 17 July 1981.

“They are coming over here as economic immigrants. I don't care how you cut it. I don't care how you say it.”⁵⁵⁴

That these sentiments were being aired is not surprising. Most scholars of the international refugee regime observe that the early 1980s marked the arrival of a new restrictionism, particularly among developed states, suddenly conscious that the new opportunities afforded by global mobility threatened to disrupt traditional migration controls. Asylum applications to EU states, for example, grew from 50,000 in 1983 to 684,000 in 1992.⁵⁵⁵ Barbara Harrell-Bond wrote at the time that when comparing the mid-1980s to the aftermath of the Second World War, a remarkable shift had apparently taken place where the collective image of the refugee had changed from being an economic opportunity to being a burden.⁵⁵⁶

But there are three things that are remarkable about how the resettlement of Indochinese intersected with these currents. First, that it was largely indiscriminate. Notwithstanding the relatively widespread perception that the flow of Indochinese was a mixed flow of genuine asylum seekers and economic opportunists, mooted attempts to screen for the basis of a legitimate claim to refugee status were consistently thwarted. For nearly a decade, most Indochinese refugees were resettled without needing to meaningfully prove an individual claim to refugee status. Second, that even though resettlement states bristled at taking Indochinese refugees above other more worthy candidates, the Indochinese were always afforded priority. And third, that this all went on for so long.

There is a genuine puzzle at issue here rather than it simply being an instance of bureaucratic inertia. Against the Milton Friedmans of the world who might wryly suggest that there is

⁵⁵⁴ ‘Refugee Admission Proposal’, *Hearing before the Committee on the Judiciary, U.S. House of Representatives*, 29 September 1981, Serial No. 22, p. 36.

⁵⁵⁵ Gil Loescher and James Milner, ‘The Missing Link: The Need for Comprehensive Engagement in Regions of Refugee Origin’ in *International Affairs* (2003) Vol. 79, No. 3, pp. 595-618, p. 596.

⁵⁵⁶ Barbara Harrell-Bond, *Imposing Aid* (Oxford: Oxford University Press, 1986), p. 11.

nothing quite as permanent as a temporary government programme, I contend that the salience of the frailty of first asylum does much to explain the liberal and generous approach of most resettlement countries. The spectral possibility that any moment the first asylum countries could shut the door served as a constant reminder to the resettlement countries of the need to continue resettlement. Resettlement states could and did worry about the magnet effect of resettlement, about whether those resettled truly deserved it, and about the possibility that large-scale resettlement was the cause for domestic unrest. Yet the broad contours of the arrangements struck in 1979 endured.

This chapter explores how this dynamic played out. First, it sets out how the countries of first asylum used real and threatened mistreatment as a means of burden-shifting. Second, it demonstrates how the spectre of mistreatment weighed into the decisions of resettlement states to assist. Then it examines two particular aspects of the resettlement state response that are empirically revealing about how the concern over preserving first asylum motivated assistance: (1) the Intergovernmental Consultations Group that formed between the resettlement countries; and (2) the inter-agency disputes that arose following attempts to introduce screening of refugees. Finally, it canvasses the merits of competing explanations for the generosity of resettlement.

5.1. DEALING WITH THE THREAT OF MISTREATMENT

5.1.1. KEEPING ASYLUM CONDITIONAL

In a speech to the UN General Assembly not long after the conclusion of the First Geneva Conference, Upadit Pachariyangkun, the Thai Foreign Minister set out his understanding of the international bargain that had been struck. When it came to “one of the grave problems facing mankind today...my country, purely for humanitarian reasons, has agreed to give

temporary refuge to [the refugees] pending permanent resettlement in third countries.”⁵⁵⁷

Notwithstanding these humanitarian impulses, the “continuing influx has created a multitude of security, political and socio-economic problems for Thailand.” This was “a heavy financial and administrative burden which is only partially alleviated by assistance from the office of the United Nations High Commissioner for Refugees as well as from other international sources.” Given all that, “the heavy burden involving the Indochinese refugees, both the land and boat cases, must be shouldered by the whole international community, and not just left to the transit countries in Southeast Asia alone.”

Upadit’s speech just three months after the Geneva Conference usefully encapsulates the narrative continuity that ran through Thai attitudes towards the Indochinese refugees: that they represented an unfathomably large burden and one that was the problem largely for other states to solve. Offers of interest-free loans for refugee assistance were resisted, for example, as Thailand claimed that ‘refugee assistance should be given free and unconditionally.’⁵⁵⁸ Sometimes the message of burden and threat was lost in translation. To a visiting group of American Congressmen just a month after the Geneva Conference, the Thai Prime Minister, Prem Tinsulanonda, noted that there were ‘currently only about seven to eight thousand boat people in Thailand’ (a not especially significant number) but that “we can push them out whenever we want.”⁵⁵⁹

That the continued protection of refugees was contingent on a steady flow of resettlement was not in any doubt. An American intelligence assessment produced in November 1979 after Thailand had again opened its borders made clear that:

⁵⁵⁷ UNHCR:11:2:100.THA.GEN, ‘Press Release – Excerpts from Statement by H.E. Dr. Upadit Pachariyangkun Minister of Foreign Affairs of Thailand at the Thirty-Fourth Regular Session of the United Nations General Assembly’, 10 October 1979.

⁵⁵⁸ UNHCR:11:2:100.THA.GEN, ‘Cable – BKK to HCR’, 31 August 1979.

⁵⁵⁹ UNHCR:11:2:100.THA.SRV, Cable, Bangkok to Geneva, BKK560, 10 August 1979.

Thailand's new, more lenient refugee policy is undoubtedly contingent on the timely movement of refugees to countries of permanent resettlement... [and] if this does not proceed as expected... the policy may be reversed and forced repatriation again employed.⁵⁶⁰

Perhaps in light of this, decreased resettlement rates meant increased anxiety. One Australian diplomatic cable in late 1980 noted that:

over the past few months we have noted with growing concern the decreasing third country resettlement of Indochinese refugees from the camps in Southeast Asia. In May and again in June the U.S. reminded other governments through working level approaches of the serious impact a continuation of this lessened offtake would have on the ability to assure governments of first asylum countries of continued international interest in removing refugees from their jurisdictions both to relieve the great pressure they are under and to resolve the Indochinese refugee problem as a whole.⁵⁶¹

Whenever concerns arose over declining resettlement rates, Thailand would frequently threaten to deport particular refugees. Moreover, one way in which the prospects of mistreatment hovered in the background for resettlement countries was that push-backs never entirely stopped, occurring on a relatively local level on a fairly consistent basis. Recounting a conversation with Michael Eiland, the co-ordinator of American refugee efforts in Thailand, an Australian diplomat cabled back to Canberra that:

Eiland noted that push offs of refugee boats were occurring (30 proven cases so far this year) and while it was often claimed that push offs were undertaken solely at the initiative of local authorities, senior Thai officials had confirmed to him... [the existence of] pushoffs as part of refugee policy. In Eiland's opinion, the Thai military was prepared to "take the heat" from the international community and would not hesitate to stage another crisis similar to that which occurred in 1979 if resettlement countries failed to address Thai concerns.⁵⁶²

At one particular moment of heightened concern in 1982, a UNHCR cable from Bangkok grimly reported that the 'present position is unless UNHCR field staff have prior knowledge

⁵⁶⁰ National Foreign Assessment Centre, 'The Indochina Refugee Situation: An Update' November 1979, p. 4. [available at: <http://catalog.hathitrust.org/Record/000718477>].

⁵⁶¹ NAA:A1838, 'Resettlement of Indochinese Refugees', 2 December 1980.

⁵⁶² NAA:A1838:3004/10/3, Cable, Washington to Canberra, WH20173, 'Inter-Governmental Consultations - Indo-Chinese Refugees', 3 August 1982.

of landing and ensure physical presence and intervention which was not case above it is becoming [the] rule that boats are being pushed off.⁵⁶³

The very real prospect of a return to the pushbacks of 1978 and 1979 unless resettlement countries lifted their game continually coloured the attitudes of the officials of the resettlement countries too. When meeting with Tan Sri Ghazali, the Malaysian Foreign minister who was also responsible for refugee policy, in June 1981, Ian Macphree asked whether Malaysia would change its attitude given its view that ‘the vast majority of those leaving Vietnam were in fact refugees or economic migrants.’ The response was straightforward: ‘Ghazali said that while wanting to maintain its humanitarian approach to the refugees... if it became evident that Malaysia was not being relieved of the burden of refugees than other solutions would need to be considered.’⁵⁶⁴ Perhaps, Ghazali added, ‘the next step might be to accept for resettlement all those now in asylum countries but to declare all those coming henceforth as being ineligible, and perhaps turn them back.’ Macphree indicated only that ‘that type of policy would not have any appeal for Australia.’

The Australian Ambassador to Thailand summarized the situation neatly in 1982:

The Thais have said that if this growing tendency continued, it would be necessary for Thailand, to take some ‘drastic measures’ in settling the problem in its own way. It is not clear to what extent the Thai proposal is a bluff to resettlement countries but it is clear that the Thai authorities had been focussing on this problem recently and may use the device to put pressure on resettlement countries to do more.⁵⁶⁵

5.1.2. A CREDIBLE MESSENGER

⁵⁶³ UNHCR:11:2:100.THA.SRV, Cable, Bangkok to Geneva, HCR/BKK/1842, ‘Further to our HCR/BKK/1828’ 2 January 1982.

⁵⁶⁴ NAA:A1209 1981/186, Cable, KL to Canberra, KL44650, ‘Indo Chinese Refugees’, 12 June 1981.

⁵⁶⁵ NAA:A1838:3004/10/3, Memorandum, ‘Indochinese Land Refugees’, 19 November 1982.

The threats to return refugees unless resettlement rates were lifted were openly made and reasonably direct. In late 1982, for example, Squadron Leader Prasong Soonsiri (the head of the Thai National Security Council and the man responsible both for Thai refugee policy and policy towards Indochina) brought together the diplomatic representatives of the resettlement countries as well as the UNHCR to 'express the serious concern of his Government at the declining rate of resettlement of Indochinese refugees from Thailand.' His proposition was simple:

At this moment, the Thai Government and people is (sic) not confident about the promises and commitments pledged by our friends. If this growing tendency continues to cause worries and grievance towards us, it is necessary for Thailand to take some drastic measures in settling this problem in her own way.⁵⁶⁶

Not wishing to leave any ambiguity as to his plans, Prasong added that 'if Thailand lacks sustained sincere help from the UNHCR and other countries, she can do any thing that can lessen her grave burdens.' He indicated that plans were already afoot to send back a group of Indochinese refugees for whom resettlement guarantees had been too slow in arriving.⁵⁶⁷

These threats were credible in part because the principal messenger was thought credible. The fact that Prasong was the military's man running refugee policy and that 'in the real world the Thai military really ran refugee policy' probably only served to magnify the credibility of any claims he made.⁵⁶⁸ Prasong was the central figure in managing Thai refugee policy for almost the entire duration of the Indochinese outflow and was a central player in the labyrinthine world of Thai politics. Notwithstanding the observation of one British diplomat in 1980 that Prasong was 'very largely a mouthpiece for Siddhi' [Savetsila, the Thai Foreign Minister] and his prediction that Prasong was 'likely to sink back into obscurity'

⁵⁶⁶ UNHCR:11:2:100.THA, Cable, Bangkok to Geneva, THA/HCR/1121, 17 September 1982.

⁵⁶⁷ UNHCR:11:2:602.3, Memorandum, Irene Khan to Pierre-Michel Moussali, 'Weekly Notes (17-23 September 1982)', 23 September 1982.

⁵⁶⁸ Daniel O'Donohue, Deputy Chief of Mission Bangkok (1977-1978), Ambassador Thailand (1988-1991) 'Oral History Interview', 28 May 1996, ADST, p. 184.

once Siddhi departed the scene, Prasong proved an enduring presence (no doubt perhaps partly because Siddhi stayed around as Foreign Minister until 1990).⁵⁶⁹ Some even suggested that his durability sprang from his refusal to move on to other positions given that ‘he was the person who received the assurances from the United States that Thailand would not be left holding the refugee bag.’⁵⁷⁰

As Gene Dewey, a key figure in the State Department’s Refugee Bureau for much of the 1980s, remembers, Prasong was a man who “didn’t have a humanitarian bone in his body... but he was somebody we could talk with.”⁵⁷¹ James Purcell, who was head of the Bureau for much of the same period, saw Prasong as a transactional figure:

I met him every year on the basis that I was the one who called the shots in the U.S., he was the one in Thailand. I told Prasong I was willing to budge on resettlement numbers if these other concerns are satisfied i.e. you don’t put them next to a border being bombed... I argued with Prasong constantly... Every time I sat down with Prasong, he had a resettlement agenda, I had a protection agenda.⁵⁷²

Opinions differ on whether Prasong himself would have authorised pushbacks at a local or regional level.⁵⁷³ But Barbara Crossette, the correspondent for *The New York Times* in the region for most of the 1980s recalls Prasong as “an extremely crafty man and an extremely authoritarian figure as much as he could be...His job was covering up, denying, being

⁵⁶⁹ TNA FCO15/2758, Cable – Bangkok to London, T.J. Duggin to R.D. Tauwhare, ‘Internal Politics’, 10 November 1980.

⁵⁷⁰ “The Thai National Security Council and its leader Colonel (sic) Prasong gave a high priority to the refugee issue in Thai-American relations. Colonel Prasong became NSC director when the refugees first arrived. He was still there in 1987 when I left because he made it a personal pledge that he wouldn’t move from that job because he was the person who received the assurances from the United States that Thailand would not be left holding the refugee bag. So, rather than move on to other jobs, he stayed there as the institutional memory of that pledge.” [David E. Reuther, U.S. Foreign Service Officer, Thailand (1985-1987), ‘Oral History Interview’, 29 August 1996, ADST, p. 66.]

⁵⁷¹ Interview, 22 August 2014.

⁵⁷² Interview, 14 August 2014.

⁵⁷³ Richard Childress, for example, suggests that “Prasong was serious about cleaning it all up. He told me once ‘I want these people to get education and have good memories of Thailand.’ We made a lot of progress that way. They became reassured with our quotas that they weren’t going to be stuck with refugees that would be a third force against their own sovereignty... Prasong’s attitude about the abuses that were taking place was that they were disapproved.” [Interview, 6 March 2015.]

offended if anyone asked tough questions... It was all business, there was no chat.”⁵⁷⁴

Stephen Solarz, Chair of the U.S. House Subcommittee on Asian Affairs for most of the 1980s, wrote of being left ‘speechless’ for the first time in his life after his suggestion of a new program of rescue for boat people in the Gulf of Thailand was rebuffed by Prasong’s rejoinder that it would mean “we’ll have more refugees than we can deal with.” Solarz realized ‘he was responsible for protecting the boat people, yet he was obviously more interested in preventing them from coming to Thailand than in saving them from the pirates.’⁵⁷⁵

Notwithstanding this assessment, two of the UNHCR representatives in Thailand in the 1980s (Gerald Walzer and Pierre Jambor) remember Prasong fondly, although each noted his guile. Gerald Walzer observed that:

I got to know Prasong very well. I really appreciated him, feared as he was... You could have confidence in him. But you had to be very careful listening to what he said. Sometimes you would leave a meeting knowing exactly what would happen. You’d believe you would have agreed on something. But then when it comes to writing down what the result was, it would occur to you that it hasn’t been said.⁵⁷⁶

Yet there was often no such ambiguity in Prasong’s recurrent threats to return refugees unless countries resettled them. Prasong would regularly gather the diplomatic representatives of the resettlement states when he needed to convey a message. At one such meeting in 1983, he announced that ‘if the rate of resettlement is not improved and there are

⁵⁷⁴ Interview, 18 March 2015.

⁵⁷⁵ Stephen Solarz, *Journeys to War and Peace: A Congressional Memoir* (Waltham: Brandeis University Press, 2011), p. 107. An exchange between Solarz and Jim Purcell at a 1985 Congressional hearing made clear that there was no love lost between them:

Solarz: ... On the question of an ODP for Cambodia, have the Thais expressed any views on this? Are they for it? Against it? Or what?...

Purcell: I am not aware of any official Thai position on that idea. I think they certainly would endorse programs that would allow people to leave without having to come into Thailand.

Solarz: I suspect my friend Squadron Leader Prasong would be among the most enthusiastic supporters of such a program. We have found something that we can agree upon. [‘Cambodian Refugees in Southeast Asia’, *Hearing Before the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs*, U.S House of Representatives, H381-5, 31 July 1985, p. 32.]

⁵⁷⁶ Interview, 23 February 2015.

uninspiring indications that many countries have forgotten their promises... [then Thailand will] seek a proper way of solving the illegal immigrants problem corresponding to the national interest.’⁵⁷⁷ Faced with such a situation he outlined that ‘we in Thailand cannot uphold the humanitarian rule much longer while the rest of the world has begun to loosen faith in it.’

These threats were not just privately made. This was most evident at the regular annual conferences held in July by the CCSDPT (the central organising body for the NGOs involved in refugee protection in Thailand).⁵⁷⁸ In 1982, the UNCHR cable summarising the conference noted that Prasong ‘threatened that Thailand would have to take a “new step” in its refugee policy if “all countries and international organizations fail to honour their commitments and Thailand has to bear these grave burdens alone.”’⁵⁷⁹ The reason, Prasong is noted as having suggested, for the “Thai people’s anxiety” was the reduction in resettlement offtake. In 1983, to the same forum, Prasong noted that should the rate of resettlement not improve, then the Thai Government would have no problem in “solving the illegal immigrants problem correspondingly to the national interest and security (sic) [as] we in Thailand cannot uphold the humanitarian rule much longer while the rest of the world has begun to lose faith in it.”⁵⁸⁰ In his 1984 speech he set out that “there is no government in the world daring to give assistance to such extent while her own people are suffer[ing] from hardship.” Any suggestion of pursuing local settlement was vehemently resisted by Prasong too. While “local resettlement programmes may well be applied in other countries as some factors and circumstances are more available”, for Thailand, this was inconceivable

⁵⁷⁷ UNHCR:11:2:100.THA.GEN, Vol. 11, ‘Cable – THA/HCR/0763’, 7 July 1983.

⁵⁷⁸ Committee for Coordination of Services to Displaced Persons in Thailand.

⁵⁷⁹ UNHCR:11:2:100.THA.GEN, Cable, Bangkok to Geneva, THA/HCR/0829, 16 July 1982.

⁵⁸⁰ UNHCR:11:2:110.THA.GEN, Cable, Bangkok to Geneva, THA/HCR/0760, ‘Speech by Sq. Ldr. Prasong’, 7 July 1983.

given it had “a lot of indigent population who own no land [and] a large number of people who trespass national reservation to seek land for earning their livings every year.”⁵⁸¹

Thailand repeatedly and directly linked any generosity in hosting refugees with the maintenance of resettlement. A 1982 letter from Prasong to Poul Hartling, the then High Commissioner, noted tersely that “Thailand shall continue to uphold the present policy as long as all countries and international organisations concerned continue to honour their commitments and fully share the burdens imposed upon Thailand.”⁵⁸² Given that ‘the rate of resettlement is now sharply declined... Thailand, a small developing country with limited resources will increasingly find it difficult to continue to bear the burden of the displaced persons.’⁵⁸³

While resettlement levels had declined, this was a function of reduced arrivals. Resettlement rates (measured either by a percentage of those in camps who were being resettled or as a percentage of those arriving) were largely flat and the population in Thai camps (outside of the UNBRO camps on the Thailand-Cambodia border) remained fairly static. What had changed was that UNHCR had become slightly more assertive in pointing out to Thailand instances where its conduct fell short of the expected humanitarian standard. A letter from Poul Hartling one month before to the Thai Prime Minister expressed ‘deep concern’ over ‘recurring instances where asylum seekers arriving by boat were towed out to sea both before and after having landed’.⁵⁸⁴ This followed on from a series of incidents earlier that year in which UNHCR officials had witnessed push-backs and *refoulement*.

⁵⁸¹ UNHCR:11:2:100.THA.ICH, Cable, Bangkok to Geneva, THA/HCA/1195, 3 August 1984.

⁵⁸² UNHCR:11:2:100.THA.SRV, ‘Letter - Prasong Soonsiri to Poul Hartling’, 29 July 1982.

⁵⁸³ *ibid.*

⁵⁸⁴ UNHCR:11:2:100.THA.SRV, ‘Letter - Poul Hartling to General Prem Tinsulanonda’, 21 June 1982.

Prasong's capacity to stop all pushoffs may well have been constrained but typically the Thai response was to deny that they had occurred, a position that often stretched credulity, as one UNCHR cable from Geneva to Bangkok after a series of pushoffs in 1982 reflected, 'We [are] most concerned about reported push-offs and especially [the] very grave nature and consequences of incidents such as that mentioned... which continue to occur despite repeated assurances to the contrary Thai authorities including by Prasong during recent visit to Geneva.'⁵⁸⁵

That this was deliberate seems self-evident. Judith Kumin, a UNHCR staffer in Thailand for much of the 1980s recalls at one of the CCSDPT meetings attended by Prasong:

We were sitting in a row and Prasong got up to speak and leaned over to Gerald Walzer [the UNHCR representative in Thailand] and said "I'm going to blow you out of the water." He got up and gave one of his hardline speeches about how UNHCR wasn't doing enough. They milked it for everything it was worth. They've always gotten away with treating people really, really badly.⁵⁸⁶

The coupling of resettlement with protection often meant that the UNHCR frequently found itself needing to appeal to Western countries to expand admissions quotas and accept more refugees in a rather urgent fashion. This was frequently as much a matter of discretion as it was a question of increasing or decreasing organised formal quotas. A 1984 letter from Poul Hartling to the Dutch Government bears this out. Hartling explained that:

200 Vietnamese refugees who arrived in Thailand overland... find themselves precariously situated in Phanat Nikhom Refugee Centre. The Royal Thai Government has recently stated its intention to transfer this group of refugees to the Thai-Kampuchean border at Dong Ruk unless they are accepted immediately for resettlement in third countries. Such a transfer could place the refugees, many of whom have served in the Vietnamese armed forces in Kampuchea, in a dangerous position... I would like to request your Government to consider urgently admitting some of these refugees for resettlement.⁵⁸⁷

⁵⁸⁵ UNCHR:11:2:100.THA.SRV, Cable, Geneva to Bangkok, HCR/THA/1336, 22 December 1982.

⁵⁸⁶ Interview, 20 February 2015.

⁵⁸⁷ UNHCR:11:2:100.THA.SRV, 'Letter - Poul Hartling to Robert van Schaik, Permanent Representative of the Netherlands of the United Nations Office in Geneva', 16 May 1984.

The Netherlands ultimately agreed to accept 40 of the individuals the next day.⁵⁸⁸

Requests like these were typically channelled through the embassies of resettlement nations in Bangkok by the local UNHCR representative in Thailand rather than through the UNHCR in Geneva. In much the same manner as the emergency appeal, the local UNHCR representative would identify a particular group of people who needed resettlement due to the risks of *refoulement* and would shop them around to various resettlement countries. There were occasional efforts to foster some sort of moral competition between countries. One cable, for example, noted that:

Australia responded immediately to appeal by sending special selection team to Phanat Nikhom which resulted in acceptance of 25 land Vietnamese. We are trying to use the Australian response as an example to encourage other countries to admit some refugees from this group which is most difficult to resettle.⁵⁸⁹

Even if the memories of the pushbacks of the late 1970s had faded, it is clear that the protection offered by the first asylum states was frail and conditional.

5.2. ESTABLISHING SALIENCE: THE ROLE OF THREATENED MISTREATMENT

“The Thais had made it very clear that they were a country of first asylum and that they were only going to be a country of first asylum if there was a second asylum country, somewhere else where these people were going to go”⁵⁹⁰

How do we really know that the threat to the availability of first asylum formed a meaningful part of the decision of resettlement states to assist?

⁵⁸⁸ UNHCR:11:2:100.THA.SRV, ‘Note for the File’, 18 May 1984.

⁵⁸⁹ UNHCR:11:2:100.THA.SRV, Cable – Bangkok to Various, THA/HCR/67, 20 April 1984.

⁵⁹⁰ Joseph A.B. Winder, Deputy Chief of Mission Bangkok (1986-1989), ‘Oral History Interview’, 23 August 1999, ADST, p. 35.

In explaining why resettlement assistance proved to be generous in an on-going fashion, I do not pretend that the threat of mistreatment (and isolated instances of mistreatment) proved comparably powerful in garnering media attention as it had in the late 1970s. But it didn't have to. Once a generous program of resettlement had been initiated, all that mattered was that those with power over the levers of that program were sufficiently convinced that mistreatment would arise absent resettlement and that there were no other solutions to preserve first asylum. Despite the tens of thousands of Indochinese admitted on an annual basis, the U.S. resettlement program for Indochinese wasn't debated even once on the U.S. Senate floor between 1980 and 1987, as one Senator duly noted.⁵⁹¹ The salience of mistreatment was always a salience that applied more to governmental decision makers than the general public. Plainly public opinion and the salience of other issues might have affected the salience of the Indochinese question but it is their personal understanding that mattered most. And it is in the private assessments of those decision makers and the public justifications for assistance that we can see how the continued framing of resettlement as the price of preventing mistreatment mattered.

5.2.1. PRIVATE ASSESSMENTS

The first thing to note is that the threats formed a consistent part of various private and confidential government assessments of the situation. The British Ambassador, for example, in providing an overview of Thai policy for the Foreign Secretary noted in 1980 that:

⁵⁹¹ Mark Hatfield, *Congressional Record - Senate*, 7 October 1987, p. S13697. In the same speech, proposing a 'sense of the Senate' resolution supporting the need for longer-term resettlement commitments to the Southeast Asian countries, Hatfield noted that "I am certain that the situation in Southeast Asia is a matter of life and death and that if the Senate does not go on record in support of a continued humane and generous refugee program, there will be consequences of our inaction that will be deeply regretted... the protection of refugees in Southeast Asia is linked to a reasonable resettlement effort by donor countries... The other preferred solution, local resettlement, can be further explored, but ASEAN countries face economic problems of their own. And furthermore, local resettlement was not the agreement we struck with them when the refugees first started pouring out." Curiously, while little mention was made of the need for other resettlement states or the states of first asylum to do more, no such reticence marked the debate that immediately followed on military burden-sharing in the Gulf of Arabia.

The chief foreign policy issues facing the Government are the related problems of Cambodia, and the presence of close to a million refugees in Thailand or on her borders... It seems likely that the Thais will take some dramatic action such as repatriation of substantial numbers of Cambodian refugees - if the international response is not adequate.⁵⁹²

This was a not unreasonable conclusion given that when he met with the Thai Foreign Minister, Siddhi Savetsila, two weeks later, a clear message was conveyed:

Siddhi emphasised that Thailand was prepared to continue with its present refugee policy with all the burdens that that entailed, so long as the international community continued to give adequate support. If further large numbers of refugees appeared on the border and there was no satisfactory outcome... Thailand would definitely have to review its policy. The main message Siddhi was at pains to convey was Thailand's determination... not to compromise on Cambodia and particularly not to be forced into compromise by the refugee issue.⁵⁹³

On visiting Washington in June 1980, the message from Savetsila to Edmund Muskie, the U.S. Secretary of State, was precisely the same, 'the Thai Government's humanitarian approach would continue so long as international support continued.'⁵⁹⁴

Particularly in the early 1980s, when uncertainty about Vietnamese intentions in Cambodia were at their peak, these assessments typically also linked the frailty of first asylum to a larger concern about order and the frailty of Thailand. Following his trip to the region in early 1980, Peter Blaker, a British Foreign Office Minister observed that 'the primary danger to Thailand did not lie in a possible military attack by Vietnamese troops from Kampuchea but arose from the problem of the refugees.'⁵⁹⁵ Thailand remained the next domino and a 'frontline' state. The annual assessment of Thailand set out that Britain's primary interest in Thailand was a 'political' one: 'Thailand is a relatively democratic pro-Western country in the front line

⁵⁹² TNA FCO 15/2758, Diplomatic Report No. 129/80, 'Thailand: Prime Minister Prem's Prospects', 12 April 1980.

⁵⁹³ TNA FCO 15/2765, Cable, Bangkok to FCO, 'Indochina: Thailand's Attitude', 23 April 1980

⁵⁹⁴ TNA FCO 15/2764, Cable, Bangkok to FCO, 12 June 1980.

⁵⁹⁵ TNA FCO 37/2314, Cable - Carrington to Various, Telno. 22, 'Briefing for heads of ASEAN missions in London: Mr Blaker's visit to South East Asia and Delhi', 31 January 1980

against Vietnamese expansionism. It is in Britain's interest to demonstrate support for the Thais in every way possible.⁵⁹⁶ After meeting UNHCR staff in Thailand later in 1980, another British minister reinforced their message: "The Thais could easily repeat their action of pushing the refugees back into Cambodia. They pushed 40,000 back before, and thousands died. So long as the international community will pay the camps should be all right. This is an issue that brings down governments."⁵⁹⁷

Even the small forced repatriations had a way of reminding resettlement states that things could escalate. That this played on the minds of officials is clear. Having replaced Ian Macphree as the Australian Immigration Minister, John Hodges wrote to Tony Street, the then Foreign Minister, recommending an increased intake of Indochinese because he was:

anxious to avoid a repetition of recent events arising from the inability of the Americans to fulfil what the Royal Thai Government perceived as Refugee Program commitments. I refer to recent reports that the Thai authorities forcibly repatriated a group of Lao fugitives as an apparent demonstration to the United States that Thailand's tolerance of fugitives on its territory is directly linked to evidence that resettlement efforts are being maintained.⁵⁹⁸

One Staff Study mission of the U.S. House Foreign Affairs Committee reported in March 1982 that U.S. officials in the region feared the flow of resettlement dropping for a familiar set of reasons:

U.S. Embassy Officials fear two possible consequences: (a) that ASEAN countries will return to boat pushoffs, and (b) that the ASEAN countries might renounce their policy of providing the refugees conditional first asylum and move toward an accommodation with Vietnam at the expense of U.S. interests in the region.⁵⁹⁹

⁵⁹⁶ TNA FCO 15/2760, 'Country Assessment Paper - Thailand', 28 April 1980.

⁵⁹⁷ TNA FCO 15/2767, 'Brief produced for Visit of Mr Raison to Thailand, 21-25 September 1980' Subsection: 'Call on UNHCR (Mr Rizvi and Mr Barber in Bangkok).

⁵⁹⁸ NAA: A6980 S241346, Letter - John Hodges to A.A. Street, 10 June 1982.

⁵⁹⁹ 'Domestic and Foreign Policy Implications of U.S. Immigration and Refugee Resettlement Policy' *Hearings and Staff Report before the Committee on Foreign Affairs, U.S. House of Representatives*, 5 October 1981, 16 March 1982, p. 212.

The absence of trust between the resettlement states and the states of first asylum was obvious. Even programmes that were designed to combat piracy in the Gulf of Thailand (a recurrent threat to boat refugees) were a worry. Australia opposed one request to donate to an ICRC program to combat piracy due to the concerns of UNHCR that the ‘obviously grossly exaggerated’ amount request was a ruse for the Thai to add to their military assets. Their resistance was also attributable to the fact that they were keen to ensure that any assistance ‘does not give the Thais an enhanced ability sufficient to enable them to make greater efforts to push off refugees seeking to land.’⁶⁰⁰

5.2.2. PUBLIC JUSTIFICATIONS

Second, beyond the evidence that the prospect of mistreatment substantively weighed on the minds of key decision makers, the claims about the putative consequences of the withdrawal of first asylum resonated in public accounts for ongoing generosity.

The salience of the threat of mistreatment can be seen in a variety of ways. First, it was frequently invoked by officials dealing with other branches of government. U.S. State Department officials when dealing with Congress would frequently justify the on-going generosity towards the Indochinese in just those terms. The following exchange from a routine oversight hearing in late 1981 between Hamilton Fish (a liberal Republican Congressman from New York) and James Purcell, the State Department official in charge of refugee programmes, illustrates the attitude neatly:

Mr. FISH. We are left with this problem of people persisting to leave Vietnam by boat. I was interested in Marshall Green's report where he said: "It has been the stated policy of the ASEAN countries not to accept refugees or settle displaced

⁶⁰⁰ NAA: A1838 3004/10/3, Cable, Bangkok to Canberra, BK39923, ‘Indochinese Refugees – Piracy’ 6 August 1981.

persons. Their willingness to provide first asylum to refugees from Indochinese countries was and is contingent upon expeditious third-country resettlement. Hence, if refugees arrive in ASEAN countries in numbers exceeding what third countries are willing to accept, they may once again be pushed back to sea or across borders.”

Mr. PURCELL. That is right.

Mr. FISH. Was that part of the report challenged by anyone in the State Department?

Mr. PURCELL. No, sir, it certainly is not. The ASEANs (sic) have humanely and effectively dealt with the refugee problem for the past couple of years. They have done so with the firm assurance of the international community that we would be in there with them, that we would assist them financially, that we would assure a steady flow of refugees for resettlement in other countries so that those camp populations continue to decline.

We saw back in the 1979 era with the big surge in boat people that without international participation boats were being pushed or towed back out to sea. We were seeing severe loss of life. It was only with the agreement of the international community in the summer of 1979 that we began to come to grips with that problem. That was with the firm assurance to Thai and other first asylum governments that we were partners.

Mr. FISH. You have no doubt but that boats would be pushed off to sea again were our policy to change?

Mr. PURCELL. We have no doubts that if the Thai perceive that they are left to deal with this problem alone, they would take actions to assure that it did not produce a political problem.⁶⁰¹

The belief that local integration was impossible because of racial and ethnic cleavages, and that pushbacks were inevitable absent resettlement was a constant feature whenever U.S. officials were testifying before Congress. As Doris Meissner, the Acting Commissioner of the INS explained to the House Subcommittee on Immigration at the annual consultations on refugees in 1982:

A major factor has been the extreme ethnic and cultural animosities in the region which have made it impossible to rely on local settlement in the same fashion as in Africa and Latin America... When in 1979 it appeared that the problem had outrun the capability of the international community, tens of thousands of Kampuchean refugees were forced back across the Thai/Kampuchean border and thousands of boat refugees were forced back to sea by the first asylum nations. This not only had serious humanitarian consequences, including extensive loss of life, but also created

⁶⁰¹ U.S. Refugee Program - Oversight Hearings' Subcommittee on Immigration, Refugees and International Law of the Committee on the Judiciary, United States House of Representatives, September 16, 17 and 23 1981, Serial No. 23, pp. 56-57.

instabilities in the area which threatened ASEAN cohesion and unity, an important United States foreign policy goal.⁶⁰²

The prospect of a termination of first asylum was frequently conceived both as an affront to compassion and an affront to order. As Paul Wolfowitz, then Assistant Secretary of State for East Asia, explained before the House Subcommittee on Asia in 1985:

Our support for ASEAN is demonstrated in other ways by our efforts... to ease... the dangerous pressure of the hundreds of thousands of Indochinese refugees who have flooded into those countries... They have made clear that they will bear the burden of the refugee influx only so long as the United States and other members of the international community continue to assist by offering financial aid and resettlement opportunities.⁶⁰³

While ‘pushbacks remain an unacceptable and abhorrent measure’, as Wolfowitz saw it, without resettlement assistance, ‘the first asylum countries have no humane alternative.’⁶⁰⁴

The recurrent salience of the frame of primordial ethnic difference was frequently used to explain why it made sense to take so many Indochinese refugees rather than those from other parts of the world. Wolfowitz spoke, for example, of the ‘historic ethnic antagonisms’ that made questions of local integration impossible.⁶⁰⁵ As James Purcell explained when asked to justify the comparatively low planned admissions for other regions:

The application of that system has to vary by region depending on the politics and the requirements. For instance, in Africa where there is a tradition of contiguous countries providing asylum, accepting refugees, and the governments themselves are not requesting big admissions levels, that is a far sight different than in Indochina where our policy requires U.S. admissions in order to carry it out. The governments

⁶⁰² ‘Domestic and Foreign Policy Implications of U.S. Immigration and Refugee Resettlement Policy’ *Hearings and Staff Report before the Committee on Foreign Affairs, U.S. House of Representatives*, 5 October 1981, 16 March 1982, p. 9.

⁶⁰³ ‘Cambodian Refugees in Southeast Asia’ *Hearing Before the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs, U.S. House of Representatives*, 31 July 1985, H381-5, p. 41.

⁶⁰⁴ *Ibid.*, p. 39.

⁶⁰⁵ ‘Overview of Refugee Situation in Southeast Asia’ *Hearing before the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs, U.S. House of Representatives*, 5 April 1984, p. 14.

there accept them. They are not forcing them out.⁶⁰⁶

John Holdridge, the Assistant Secretary of State for East Asia and the Pacific, similarly noted in 1981 that American resettlement was justified both retrospectively and prospectively given the ethnic fissures that were simmering in the states of first asylum:

In Thailand, for example, large numbers of unassimilable Kampuchean and Vietnamese refugees would have put an economic burden on the country and would have imposed serious political strains which could have brought about a change in the government to a point of view which is not so consonant with our own point of view. That didn't happen there. Similarly, in Malaysia, the impact of large numbers of Chinese coming into a situation where the racial balance politically inside Malaysia is pretty close--Chinese versus Malays--that could have had serious repercussions in the political structure of Malaysia.⁶⁰⁷

This is not to suggest that other options were never on the table. As Purcell noted when I interviewed him, “I tried over the years I was director to get a big budget for local integration [for the Indochinese] but the Thais were saying, “we’ll have a revolution on our hands” or “nobody was addressing the problems of the local population” so it couldn’t work.”⁶⁰⁸ What it does reinforce is that the enabling act in explaining resettlement above other options was that the credible threat of a humanitarian disaster came to justify resettlement.

Second, beyond conversations between government branches, the frailty of first asylum also formed part of the larger public justification. When the prospect of terminating admissions from Thai camps was raised, the spectre of what would result was clear. As one State Department official admitted to *The New York Times*, “It is not acceptable to say we will stop processing on June 7...what will happen is that the Thais will bulldoze the camp and force all of the 25,000 to the border.”⁶⁰⁹

⁶⁰⁶ U.S. Refugee Program - Oversight Hearings’ Subcommittee on Immigration, Refugees and International Law of the Committee on the Judiciary, U.S. House of Representatives, September 16, 17 and 23 1981, Serial No. 23, p. 63.

⁶⁰⁷ ‘Domestic and Foreign Policy Implications of U.S. Immigration and Refugee Resettlement Policy’ Hearings and Staff Report before the Committee on Foreign Affairs, U.S. House of Representatives, 5 October 1981, 16 March 1982, p. 7.

⁶⁰⁸ Interview, 14 August 2014.

⁶⁰⁹ Quoted in Bernard Gertzmann, ‘U.S. May Soon Stop Taking Refugees from Thai Camps’ in *The New York Times* 22 May 1985.

Reports of pushbacks and mistreatment in the states of first asylum were far less prominent in the 1980s partly because there were demonstrably fewer than there had been in 1978/1979. But they still had the capacity to affect particular engaged policymakers. After reports filtered out about Thai border troops shooting Laotian asylum seekers crossing the Mekong, Mark Hatfield, a Republican Senator from Oregon, publicly wrote to George Shultz decrying that 'the apparent erosion of first asylum for refugees from Laos is a grave concern', demanding an 'urgent intervention' on a 'lie threatening problem' and insisting on finding out 'what the United States is doing to moderate Thai policy.'⁶¹⁰

5.3. THE INTERGOVERNMENTAL CONSULTATIONS GROUP

In seeking to understand what motivated resettlement countries to assist, one of the most useful windows into state motivation is to understand the conversations that they were having between themselves regarding their resettlement programmes. While dialogue between the primary resettlement countries (Australia, Canada and the United States) was fairly constant in both multilateral and bilateral settings, by the early 1980s a perceived need arose for new and additional channels of communication. This section explores at length some of the conversations within the framework of the Intergovernmental Consultations Group (IGC),⁶¹¹ which provided a forum for the major resettlement states (primarily Australia, the United States and Canada), Japan and UNHCR (sometimes) to privately co-ordinate their positions.⁶¹² Not only do they demonstrate the salience of mistreatment in

⁶¹⁰ Quoted in 'Thailand Said To Use Force to Rebuff Laotian Refugees' in *The New York Times*, 19 February 1985.

⁶¹¹ The Intergovernmental Consultations Group (sometimes known as the 'Honolulu Group') seem to have often been referred to as both the 'ICG' or 'IGC'. They later became a more formalised forum for discussion known as the IGC so I have preferred IGC throughout for ease of understanding, however anachronistic.

⁶¹² UNHCR participation in these meetings became more regular as the years wore on. Prior to the first formal meeting, the American Coordinator for Refugee Affairs, Eugene Douglas, sought to exclude them on the grounds of "their apparent inability to comprehend fully the domestic considerations which, to some degree, affected the ability of refugee recipient countries to take refugees" [NAA:A1838

explaining why the resettlement states continued to assist, but also the discussions reveal that it was ultimately how their collective reservations about resettlement were overcome.

Initially, the IGC discussions began in October 1982 as informal meetings convened by the Canadians in Geneva but they subsequently developed into more formal annual meetings. They were, as Mike Molloy, a Canadian diplomat who participated in the first meeting, remembers, “not a decision making mechanism but a place where a good deal of information and perceptions could be exchanged and where the governments concerned could do enough coordination and strategizing to prevent tripping over each other.”⁶¹³ James Purcell, the U.S. Assistant Secretary of State for Refugees between 1983 and 1987, recalled that the IGC provided a vital forum for the coordination of policy between the resettlement states, noting that it was “like this little clique, we had arguments but we generally all agreed where it came out.”⁶¹⁴

The Australian memorandum recommending participation in the embryonic discussions saw the value of consultation between the resettlement states in simple terms: the IGC would help in ‘achieving common goals and reducing the movement of economically motivated refugees in Indo-China while maintaining very important humanitarian and political commitments to alleviate the situation.’⁶¹⁵ Gervais Appave, an Australian diplomat at the time, remembers its genesis in precisely those terms: “If there was one reason why it was created it was precisely because debates over asylum and migration were changing in the West. Population flows, mixed population flows, the shift from refugee motivations to migratory motivations – all of that.”⁶¹⁶

3004/10/3, Cable - Geneva to Canberra, ‘Indo Chinese Refugees - Possible Intergovernmental Consultations’, 21/6/1982].

⁶¹³ Interview, 2 April 2015.

⁶¹⁴ Interview, 14 August 2014.

⁶¹⁵ NAA:A1838:3004/10/3, Cable, Canberra to various, CH45927, ‘Indo-Chinese Refugees: Possible Intergovernmental Consultations’, 6 July 1982.

⁶¹⁶ Interview, 18 March 2015.

In Courtland Robinson's history of the Indochinese outflow, the meetings are presented as a mere talking shop. He quotes one Australian diplomat as noting that "for several years this is the way the meetings went: Australia would say, "these are not refugees. Something must be done." Canada would agree completely and do nothing about it. The US would agree at some level but also do nothing."⁶¹⁷ Certainly the first of the meetings had an ephemeral feel, described as 'somewhat disappointing' by the head of the Australian delegation, 'it did not really come to grips with the basic issue of a co-ordinated approach to finding solutions [and] discussion tended to be general and inconclusive.'⁶¹⁸ Yet the Australian report on the first big meeting in Honolulu in August 1983 noted that they were 'a forum for lively and relatively uninhibited discussion which gave new and clearer insights into the constraints, pressures and degree of commitment... to the Indochinese problem.'⁶¹⁹

Paying attention to the informal coalitions and sub-groups of states within larger structures of cooperation offers an invaluable opportunity to better understand the inner workings of cooperative arrangements.⁶²⁰ Robinson's characterisation of the IGC meetings above is unduly limiting and there is more that we need to add. As a means of understanding what motivated the decision to resettle and how that decision intersected with the quality of refuge offered by the states of first asylum, the deliberations within and around the environment of the IGC provide an immensely valuable insight into state motivation and the strategic landscape for action. The very first meetings in 1982, for example, revealed that the

⁶¹⁷ Evan Arthur, quoted in Robinson, *Terms of Refuge*, p. 175.

⁶¹⁸ NAA:A1838:3004/10/3, Cable, Geneva to Canberra, GE60649, 'Indo-Chinese Refugees: Intergovernmental Consultations', 8 October 1982.

⁶¹⁹ NAA:A1838:3004/10/3, Cable, Honolulu to Canberra, HL7512, 'IGC Consultations on Indochinese Refugees', 4 August 1983.

⁶²⁰ See, for example, Amrita Narlikar's work on developing country coalitions (particularly the 'Like Minded Group') within the WTO and what it reveals much about the nature of multilateral cooperation on trade issues: Amrita Narlikar and John Odell, 'The Strict Distributive Strategy for a Bargaining Coalition: The Like Minded Group in the World Trade Organization' in John Odell, (ed.), *Negotiating Trade: Developing Countries in the WTO and NAFTA* (New York: Cambridge University Press, 2006) and Amrita Narlikar and Diana Tussie, 'The G20 at the Cancun Ministerial: Developing Countries and Their Evolving Coalitions in the WTO' in *The World Economy* (2004) Vol. 27, No. 7, pp. 947-966.

resettlement states were already conscious of the frailty of their resettlement commitments amidst ‘economic difficulty and unemployment’, were alert to the need for screening procedures and in turn collectively ‘stressed the importance of voluntary repatriation as the most desirable durable solution’ even if ‘there would be emotions on both sides of this issue.’⁶²¹ Gervais Appave, who was later closely involved in the CPA, suggests that “the informal discussions between Australia and the US were eventually quite influential...they were essential in the end. Because when the CPA process began the two countries had reached a sufficient level of agreement that this was a mixed flow and had to be dealt with as such.”⁶²²

The impetus for formalising and expanding the meetings and conversations between the resettlement countries for the 1983 Honolulu meeting came primarily from the U.S. Coordinator for Refugees, Eugene Douglas, who in writing to the Australian Minister for Immigration, Stewart West, outlined that the central benefit of high-level meetings would be that they presented an opportunity to “formulate a strategy for bringing the Indochinese refugee problem in South East Asia under control within the next two years.”⁶²³

While the timeline proved hopelessly ambitious, its mere suggestion illustrated the unease that all the resettlement countries felt about their commitments. And at the Honolulu meeting this was to become completely clear.

5.3.1. REAL REFUGEES?

⁶²¹ NAA:A1838:3004/10/3, Cable, Geneva to Canberra, GE60649, ‘Indo-Chinese Refugees: Intergovernmental Consultations’, 8 October 1982.

⁶²² Interview, 18 March 2015.

⁶²³ NAA:A1838:3004/10/3, ‘Letter to Stewart West, Minister for Immigration’, 16 June 1983.

First, there was a profound uncertainty about whether the fleeing Indochinese met a threshold of persecution to justify their claims to refugee status. This was not just an Australian concern. For the Canadians it was easily their single biggest reservation about the Indochinese program. Lloyd Axworthy, the Canadian Minister for Employment and Immigration, illustrated the Canadian bind:

Prefacing his remarks with the comment that Canada had no indigenous reasons for being in the region, Canadian minister Axworthy queried whether there were other alternatives to resettlement... Axworthy complained that resettlement was dragging on. This created difficulties for countries operating world-wide humanitarian programs, countries which wanted to give priority to the most persecuted.⁶²⁴

The briefing paper produced for the Australian delegation to the Honolulu meeting made it clear that the question of whether or not the Indochinese had a claim to refugee status had important ramifications for the Australian resettlement programme more generally: 'In domestic political terms Australia must be able to demonstrate that it is only taking genuine refugees both from Asia and elsewhere. This conviction is essential to maintaining high program levels.'⁶²⁵ Reticence about the Indochinese was driven by a real sense that more worthy candidates for resettlement were missing out.

This was particularly so given that the economic circumstances of the early 1980s were creating new pressures on resettlement governments. As Stewart West, the Australian Minister for Immigration, explained, 'double-digit unemployment and the erosion of household incomes through inflation... have led groups within our communities to question the extent to which we are still able to be generous.'⁶²⁶ The situation had rapidly become one where 'we, as a government are being told that compassion must be tempered by realism.'

⁶²⁴ NAA:A1838 3004/10/3, Cable, Honolulu to Canberra, HL7512, 'IGC Consultations on Indochinese Refugees', 4 August 1983.

⁶²⁵ NAA:A1838 3004/10/3, 'Intergovernmental Consultations on Indochinese Refugees: Strategy Paper', Undated (probably July 1983).

⁶²⁶ NAA:A1838 3004/10/3, Cable, Honolulu to Canberra, HL7490, 'IGC on Refugees', 2 August 1983.

The need for alternative solutions to resettlement was at the forefront of the discussions. As Stewart West described in his subsequent report to the Australian Parliament, his main accomplishment at the first meeting was to stress “the pursuit of voluntary repatriation of refugees from ASEAN countries of first refuge as an alternative to resettlement.”⁶²⁷ Moreover, West agreed that the need for alternatives was driven by an emerging sense of the need for some sort of humanitarian reallocation as the report of the meeting made clear:

Axworthy said we should appeal to the Thais and other regional countries to be a part of the international community and of durable solutions. Expanding on an earlier theme he said that the resettlement effort in Indochina restricted settlement countries taking people in real life threatening situations in other parts of the world. West Agreed.⁶²⁸

5.3.2. CONSTRAINED OPTIONS

Against this unease, what made the resettlement states reluctant to turn off the tap? Even as the resettlement countries started to tire of resettlement, it is clear that their private discussions were still largely driven by the concerns of the countries of first asylum. Discussions about the potential need to promote self-sufficiency amongst the refugees were conducted in an almost bizarrely confidential manner as this extract from the Australian report meeting in Honolulu reveals:

Douglas said that he viewed self-sufficiency as the last of the three options available - after repatriation and resettlement. One precondition would be that the presence of refugees was non-threatening to the general community. He noted that this was the first time groups like that present in Honolulu had talked about self-sufficiency. The USA would be very cautious about disclosing its interests in self-sufficiency particularly with the Thais and especially outside the context of resettlement and repatriation. He again urged discretion in approaching the ASEANS on this.⁶²⁹

⁶²⁷ *Hansard Parliamentary Debates*, Australian House of Representatives, 1 November 1983, p. 2101.

⁶²⁸ NAA:A1838:3004/10/3, Cable, Honolulu to Canberra, HL712, 'IGC Consultations on Indochinese Refugees', 4/8/1983.

⁶²⁹ NAA:A1838:3004/10/3, Cable, Honolulu to Canberra, HL712, 'IGC Consultations on Indochinese Refugees', 4/8/1983.

It was a subject that ‘might be discussed with ASEAN in a low key way among junior officials but any high level bilateral initiative would be provocative and counter productive.’⁶³⁰ There was, it seemed, a great fear that the whole operation could unravel if not handled delicately: ‘It was noteworthy that the Japanese in particular (but also the U.S. State Department) were most anxious not to venture far in any direction that might upset the ASEAN countries - and principally Thailand.’⁶³¹

The possibility that the ASEAN countries might react negatively to news of the consultations had nearly prevented the consultations even occurring a year earlier. The Americans and Canadians were both reported as being ‘very disappointed’ and ‘annoyed’ at Australia’s refusal to participate unless the ASEAN countries were informed that the consultations were even taking place, a condition largely imposed due to fear of negative repercussions if the ASEAN countries had found out about their existence.⁶³² The original plan to meet in Ottawa had to be shelved due to the fact that against the Australian insistence that they be notified, ‘the French had been categorical in basing their attendance at a meeting on the understanding that the ASEANS would not be informed.’⁶³³ And the caution was not unjustified as the first asylum countries were genuinely suspicious of the meetings.⁶³⁴

⁶³⁰ NAA:A1838:3004/10/3, Cable, Honolulu to Canberra, HL712, ‘IGC Consultations on Indochinese Refugees’, 4/8/1983.

⁶³¹ NAA:A1838:3004/10/3, Cable, Honolulu to Canberra, HL712, ‘IGC Consultations on Indochinese Refugees’, 4/8/1983.

⁶³² NAA:A1838:3004/10/3, Cable, Washington to Canberra, WH19611 ‘Indo-Chinese Refugees – Inter Governmental Consultations’, 21 July 1982.

⁶³³ NAA:A1838:3004/10/3, Cable, Ottawa to Canberra, OT8775, ‘Indo-Chinese Refugees: Possible Intergovernmental Consultations’, 28 July 1982.

⁶³⁴ One UNHCR official noted of his meeting with a Thai Foreign Ministry official that ‘[he] made a number of critical references to the meeting in Honolulu and asked for some explanation of what had happened.’ [UNHCR:11:2:100.THA.GEN, Memorandum, Ian Simington to Jamshid Anvar, ‘Relations with RTG’, 30 August 1983.]

The same impulse that propelled extreme caution in any interactions with the ASEAN countries ultimately explained what lay behind the reticence to act to reduce the outflow despite its real costs: the frailty of first asylum.

An internal Australian briefing paper evaluating the Honolulu meeting set out that the principal aim of 'a vigorous US resettlement effort out of Thailand' was to 'reduce the risk of the Thais taking unacceptable measures against refugees in Thailand such as forcible repatriation and push-offs.'⁶³⁵ The strategy paper produced before the meeting was roughly synchronous but with different countries involved, worrying whether 'America's disengagement from boat people resettlement might not trigger great concern on the part of Indonesia and Malaysia, with possible adverse consequences for the latter's' first refugee policies.'⁶³⁶ Indeed, Australian participation in the earlier 1982 consultations had been recommended on the basis that 'concerted action by the major resettlement countries to plan a forward strategy is imperative now if we are not to see a rapid deterioration in the policies of first refuge countries.'⁶³⁷

The familiar frame of ethnic vulnerability and disorder also reemerged. The same speech of Stewart West which made clear the emerging constraints facing Australian refugee policy noted that:

the Australian Government is well aware of the many social problems associated with mass outflows of people from developing countries. These problems arise because of the population composition of adjacent countries of first refuge... Vietnamese refugees, also, excite hostilities which are not merely political in nature. All first refuge countries in South East Asia are densely, if not over, populated, all have been through periods of social and political upheaval, and they are not

⁶³⁵ NAA:A1838:3004/10/3, Briefing Memorandum, 'The American Proposals – Advantages and Disadvantages', Undated (probably late August 1983).

⁶³⁶ NAA:A1838:3004/10/3, 'Intergovernmental Consultations on Indochinese Refugees: Strategy Paper' Undated (probably July 1983).

⁶³⁷ NAA:A1838:3004/10/3 Cable, Canberra to various, CH45927, 'Indo-Chinese Refugees: Possible Intergovernmental Consultations', 6 July 1982.

strangers to ethnic and religious differences.⁶³⁸

5.3.3. CANBERRA CONSULTATIONS

The next substantial set of IGC meetings took place in Canberra in December 1985. The very same concerns seemed ever-present, albeit that the principals were all the more sceptical about the individual claim to refugee status of those Indochinese leaving. Over ten years after the fall of Saigon, the feeling that resettlement countries had created something of a self-fulfilling refugee program was more than apparent. In the weeks prior to the IGC meeting in Canberra, Bill Morrison, the Australian Ambassador to Indonesia (and a former senior Australian politician), cabled both the Australian Foreign Minister and Immigration Minister personally and confidentially with his assessment of the outflow from Galang Island – the staging area for Indochinese refugees in Indonesia. In his eyes, ‘a vicious circle has been created... [where] the good prospects for resettlement encourage further departures from Vietnam.’⁶³⁹ The problem with this was that Morrison thought their claims to refugee status to be weak: ‘although they claim political persecution, the general assessment is that they are lured by the prospects of a better life... the people of Ethiopia or Bangladesh would have better grounds on which to appeal to our humanitarian instincts.’

Unsurprisingly, these sentiments were then echoed in the speech that Chris Hurford, the Australian Minister for Immigration, delivered to open the 1985 consultations, setting out that:

It has been clear to the Australian Government at least since 1981 that a very significant proportion of those leaving Indochina have no claims to refugee status and that the existence of resettlement programs is part of the reason for the continued outflow of such people... it is difficult not to reflect on the disparity

⁶³⁸ NAA:A1838:3004/10/3 Cable, Honolulu to Canberra, HL7490, ‘IGC on Refugees’, 2 August 1983.

⁶³⁹ NAA:A1838:1634/77/2, Cable, Jakarta to Canberra, JA71769, ‘Indo-Chinese Refugees’, 25 October 1985.

between the situation in South East Asia and that in other regions, notably Africa.⁶⁴⁰

These were not just private sentiments either. In response to a question in the Australian Parliament six weeks prior, Hurford had noted that, “There is increasing evidence now that the more recent arrivals of boat people in some of these camps, particularly the Hong Kong camp, are economic rather than political refugees. There is a limit to the number of refugees we can take from any one part of the world in perpetuity.”⁶⁴¹

And they were not exclusively Australian sentiments. James Purcell observed at the IGC meeting that:

The U.S. is increasingly reluctant to keep on resettling as refugees Indochinese with no claim either to refugee status or resettlement in the U.S. There is a genuine feeling that refugee places are being wasted on such people while genuine U.S. interest cases are not being picked up by the program... It has long been apparent to many observers that the Indochinese refugee exodus, so called, has acquired as it has evolved many of the characteristics of a migration, rather than a refugee movement.⁶⁴²

The Canadian representative at the consultations was in near complete agreement:

In August 1983... we agreed that third country resettlement alone cannot solve the Indochinese Refugee problem... A growing proportion of the outflow of Indochinese refugees is comprised of those who are seeking better economic and social conditions abroad and who do not meet eligibility criteria as Convention Refugees. This has led to a convergence of opinion that we need to stress voluntary repatriation as a more suitable response to this growing phenomenon, rather than massive resettlement to the West... Consultations have to move away from resettlement as the only viable solution to the problem of refugees in Southeast Asia.⁶⁴³

⁶⁴⁰ NAA:A1838:1634/77/2, ‘Speech at IGC Meeting’, 9 December 1985.

⁶⁴¹ He also suggested that “the feeling amongst those who are involved with the refugee responsibility, both the United States and Canada as well as Australia, is that a screening process possibly will have to commence in regard to people arriving in Hong Kong from Vietnam with a view to repatriation.” *Hansard Parliamentary Debates*, Australian House of Representatives, 17 October 1985, p. 2328.

⁶⁴² NAA:A1838:1634/77/2, ‘Migration Alternatives To Refugee Resettlement from Indochina - US Perspectives’, 9 December 1985.

⁶⁴³ NAA:A1838:1634/77/2, ‘Introductory Statement - Canada’, 9 December 1985.

Unsurprisingly given such sentiments, the post-consultation submission to the Australian Cabinet made clear that the need for new solutions was afoot: 'the focus of the meeting was very much on non-resettlement solutions to the Indochinese refugee situation. All participants showed an awareness of the need to move away from refugee resettlement programs as the principal response to the situation to move towards the implementation of alternative measures.'⁶⁴⁴

Following a direct request by Hurford to confirm that those leaving Vietnam had little claim to refugee status, a briefing memorandum was even produced by his Department that declared in a (relatively) unambiguous fashion:

the majority of people now leaving Vietnam probably do not meet [the Convention] definition. They are generally regarded by the international community as "economic migrants" inasmuch as their desire for economic advancement seems to be their prime motivation.⁶⁴⁵

Yet notwithstanding these clear sentiments from senior policy-makers that those leaving Indochina were only tenuously entitled to refugee status and that resettlement was in many ways responsible for the outflow, there was a powerful sense that first asylum needed to be maintained. The same above Cabinet submission noted the meeting had been characterised by the need to maintain a level of 'concern to keep resettlement at a level which will ensure continuation of first refuge.'⁶⁴⁶

The Canadian delegate to the consultations noted that the central achievement of the consultations had been 'diminishing the possibility of unilateral action, which might create preconditions in countries of first asylum that would lead to *refoulement* of refugees, or create

⁶⁴⁴ NAA:A1838:1634/77/2, Ministerial Submission, 'Intergovernmental Consultations on Indochinese Refugees, Canberra - 9/10 December 1985', 11 December 1985.

⁶⁴⁵ NAA:A1838:1634/77/2, 'Indochinese Refugees: Current Outflow from Vietnam', 24 December 1985.

⁶⁴⁶ NAA:A1838:1634/77/2, Ministerial Submission, 'Intergovernmental Consultations on Indochinese Refugees, Canberra - 9/10 December 1985', 11 December 1985.

situations which indirectly would have the result of expanding resettlement requirements.⁶⁴⁷

Chris Hurford made clear that Australian action and attitudes to the Indochinese were significantly constrained by the threat to first asylum:

The question of local integration is, of course, a very delicate one. The ASEAN states of first refuge have decided views on the possibility of accepting significant numbers of Indochinese for long-term settlement. Precipitate action to reinterpret the 1979 understandings on the role of countries of first refuge and countries of resettlement towards Indochinese asylum seekers could jeopardise the stability of first refuge arrangements.⁶⁴⁸

That same caution to avoid any precipitate action that could result in escalation of push-offs characterized UNHCR's dealings with the states of first asylum. William Smyser, the Deputy High Commissioner for Refugees, when meeting with Australian diplomats before the consultations, noted the 'need for care in handling Thai sensitivities, including the need for something (more) to be done by the international community if the RTG is to be persuaded to do its bit (eg integration). It is important not to expect the Thais to put everything in writing.'⁶⁴⁹

In arguing that an affective concern for refugee welfare played an important role in shaping resettlement state policy, I do not mean to suggest that the resettlement states were all doe-eyed sentimentalists.

In early 1981, a new policy of 'humane deterrence' was introduced by the Thai Government towards Laotian asylum seekers which had three limbs: (1) imposing austere camp conditions; (2) denying resettlement processing to new arrivals; and (3) renewing efforts to prevent people crossing the border into Thailand.⁶⁵⁰ Dennis McNamara, writing about the

⁶⁴⁷ NAA:A1838:1634/77/2, 'Introductory Statement – Canada', 9 December 1985.

⁶⁴⁸ NAA:A1838:1634/77/2, 'Opening Address', 9 December 1985.

⁶⁴⁹ NAA:A1838:1634/77/2, Cable, Geneva to Canberra, GE73211, 'Indochinese Refugees: IGC: Canberra Meeting: Deputy High Commissioner for Refugees', 7 December 1985.

⁶⁵⁰ Dennis McNamara, 'The Origins of 'Humane Deterrence' in South-east Asia' in Gil Loescher and Laila Monahan, (eds.), *Refugees in International Relations* (Oxford: OUP, 1989), pp. 123-133.

policy's origins some years later, saw this as 'largely a reactive response by regional states frustrated by the endless flow of refugees whose status and motivation they seriously questioned.'⁶⁵¹ Humane deterrence met broad support from the resettlement countries. But two factors informed that: first, that it remained humane, and, second, because it was a way of arguably preventing a return to the pushbacks. As one Australian diplomat cabled back to Canberra, support for humane deterrence was vital as 'if the ASEAN countries begin pushing people back into the sea, as they did in 1979, we shall not wish to feel that we have been thoughtlessly encouraging people to leave their country.'⁶⁵²

Throughout the Indochinese outflow, resettlement states' desire for fewer people to resettle was ultimately less significant than their desire to avoid any escalation of pushbacks. One Australian diplomat aptly summarised the politics of support for such policies in 1982:

For the reasons described... Australia in particular, but also Canada and the United States, have begun to speak more loudly about the need for voluntary repatriation and increasingly hint, almost with a note of desperation, that the return of most refugees to their homelands is almost certainly the only solution. Such an attitude necessitates, for example, increasing connivance with Thailand, through silence, as the Thai authorities nudge and encourage a not always willing displaced person to go back home or, at least, to stay on the border... If, however, Thailand and other first countries of first refuge were to resort to crude, hasty or inhumane actions on any scale, that would serve to reawaken the protection conscience of Geneva though not necessarily in ways that would lessen West European expectations of the main countries of resettlement. Accordingly, it remains in Australia's material as well as moral interest to discourage such excesses.⁶⁵³

5.4. BATTLES OVER SCREENING

One of the distinctive features of the international response to the Indochinese crisis is that it was so indiscriminate for so long. By this, I mean that not only were the absolute numbers

⁶⁵¹ McNamara, 'The Origins of Humane Deterrence', p. 130.

⁶⁵² NAA: A6980, 'Teleletter - Vietnam: Boat and Land Refugees', 29 June 1981.

⁶⁵³ NAA:A1838:3004/10/3, Cable, Geneva to Canberra, GE60856, 'UNHCR: Trends and Pressures in 1983', 28 October 1982.

of Indochinese resettled large but also that it is curious that refugee status was largely granted *en masse*, despite real and significant reservations about whether it was truly merited. One of the principal reasons for this was the fear that first asylum would be curtailed completely should rigorous screening start to screen out those without a legitimate claim.

This is not to suggest that there was never any screening of refugees according to their need for protection. One of the misconceptions about the Indochinese outflow is that up until the CPA all people fleeing Indochina (particularly Vietnam) who arrived in the states of first asylum were resettled. This was certainly close to true in the early days of the outflow, but the arrival of the Refugee Act in 1980 in the United States and the on-going procedural formalisation of Australian refugee law and policy (the Special Humanitarian Programme arrived in 1981), all of which sought to codify the Refugee Convention and align the intake of refugees to its strictures, helped formalise at least the principles of selection.⁶⁵⁴ How those criteria were to be applied became the subject of an enduring inter-agency dispute, which in itself reveals much about the substantive motivations for contributing to protection.

By 1981, the mixture of a recession and the influx of close to half a million refugees to the U.S. in the preceding six years had begun to tax the on-going strength of political support for resettlement of any refugees, let alone the Indochinese. The concentration of refugees in particular clusters (such as Orange County, California) also served to concentrate the costs and created small pockets of vocal restrictionism.

Perhaps in response to some of these pressures, in early 1981, the INS District Officer in Hong Kong (effectively the head of INS in East Asia), Joseph Sureck, began to demand the

⁶⁵⁴ Claire Higgins has a useful overview of the bureaucratic and legal formalisation of Australian refugee policy in this period: 'Australia's Little Known In-Country Programme in Latin America' in *Refugee Survey Quarterly* (2014) pp. 1-17. John Blount notes that prior to the Indochinese outflow, "refugees were determined in Australia in a very ad hoc way. They were handled by the old Interdepartmental Committee. This was just people from several departments plus UNHCR with scones and coffee and they'd sit down one afternoon and work them out" [Interview, 2 March 2015].

screening of Indochinese refugees on a case-by-case basis. In his mind, the absence of screening was effectively a blank cheque for would-be economic migrants: 'An unregulated open-ended policy to accept applicants at 14,000 a month is an invitation which is irresistible and will encourage persons to depart these countries for some time to come.'⁶⁵⁵

For these actions Sureck was to become something of a quixotic hero to the small group of restrictionist legislators on Capitol Hill. On his death in 1984, Walter Huddleston mourned him as someone who 'stood fast against the powerful refugee industry lobby operating from the private sector, against the do-gooders in the State Department, and even against some in the Department of Justice and INS who have sought to interpret the law to fit their own conceits and predilections.'⁶⁵⁶ In a Senate debate in 1987, Alan Simpson recalled him as something of a martyr, recalling the campaign to turn Joe Sureck into a 'great hideous ogre, the evil one, the personification...because Joe Sureck was saying, "Read the book. A refugee is a refugee is a refugee."' And they bounced Joe Sureck out on his head in a most remarkable way.'⁶⁵⁷

The viciousness of the dispute over whether refugees should be screened by INS officers for conformity with the Refugee Act was obvious early. As Robert de Vecchi, an advocate with the International Rescue Committee, explained, 'the import of what seemed to be, at first blush, a minor modification of existing policy, or even a liberalization of it was sudden, unexpected, and devastating.'⁶⁵⁸ It triggered a 'bitter and protracted dispute involving refugee policy' that involved all the 'elements of traditional inter-service rivalries... [and] the ability of an administration to enforce policy decisions.'⁶⁵⁹

⁶⁵⁵ Quoted in *Congressional Record – Senate*, 1 October 1981, p. 22742.

⁶⁵⁶ *Congressional Record – Senate*, 2 October 1984, p. 28436.

⁶⁵⁷ *Congressional Record – Senate*, 7 October 1987, p. 26480.

⁶⁵⁸ Supplemental Material, 'Determining Refugee Status: Towards a Coherent Policy' in 'Refugee Assistance' *Hearings Before the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary*, U.S. House of Representatives, Serial No. 13, 7, 9 and 22 June 1983, p. 377.

⁶⁵⁹ *Ibid.*

One Australian diplomat in Kuala Lumpur cabled back to Canberra that from the ‘unusually high rate of rejections by INS officers in the field, it appears that the section of the 1980 US refugee law defining refugee status is being strictly applied.’ This was, in the eyes of U.S. State Department officials in Malaysia, ‘an unexpected development and is causing them serious concern’ due to its possible impact on the continuation of first asylum.⁶⁶⁰

As ‘deferred’ cases began to accumulate in the refugee camps, the pushback on the screening began. Morton Abramowitz cabled his bosses in Washington, ‘Presumably after World War II, INS would have rejected as refugees the remaining Jews from Germany on the grounds they could go back.’⁶⁶¹ Along with senior State Department officials such as Walter Stoessel, the Under Secretary for Political Affairs, Abramowitz approached William French-Smith, the Attorney General, directly demanding that he overturn local INS policies to increase the rate of resettlement. Rudy Giuliani, then the Associate Attorney General, announced to the press after the first of these meetings that he was satisfied the “vast majority” of those whose applications had been deferred were legitimately refugees.⁶⁶²

The ebb and flow of the bureaucratic brawling is absorbing in itself but significant particularly for what it reveals about the substantive motivation for resettlement.

The tensions between INS and the State Department ran through the entirety of the crisis.

As Lacy Wright recalls:

the INS would decide whether they were "real" refugees, that is, people who had fled because of a real fear of persecution, or whether they had left for some other reason, such as for economic reasons, to gain a better life somewhere else. Needless to say,

⁶⁶⁰ NAA:A1209 1981/186, Cable, KL to Canberra, KL412424, 4 February 1981.

⁶⁶¹ Quoted in Loescher and Scanlan, *Calculated Kindness*, p. 199.

⁶⁶² ‘U.S. Aides’ Uncertainty on Rules is Keeping Thousands in Asia Refugee Camps’ in *The New York Times* 17 May 1981.

the line between these two was very murky, so it really came down in very many instances to a pretty subjective decision by the INS officers, which itself was a source of a huge amount of tension.⁶⁶³

But crucially, in almost all instances, the State Department prevailed over its foes.

As a means of defusing the controversy, the State Department appointed Marshall Green (a former Ambassador to Australia and a senior figure within the State Department) along with a number of other Republican civic worthies to head up a 'Special Advisory Panel' to investigate American resettlement efforts in the region in July 1981.⁶⁶⁴

The Panel's report in August of 1981 justified the on-going resettlement in terms that made it clear that the preservation of first asylum was a vital goal. First, it took great pains to assert that those fleeing were refugees within the meaning of the Refugee Act, not primarily because of any status prior to their flight but because of the impossibility of return: 'the people fleeing from Vietnam are unwilling to return and they would face persecution on the stated grounds were they to do so. Moreover they are unable to return as Vietnam will not take them back. They are therefore entitled to refugee status.'⁶⁶⁵ When touring the region for the purposes of the report, Green noted that when it came to Vietnam 'it was difficult... to distinguish between political and economic refugees' but 'it was clear that the Vietnamese would not be taking any back and the United States was resigned to his.'⁶⁶⁶

Second, it is clear that protective concerns about first asylum were foremost in the minds of the Panel. The report made clear that, 'if refugees arrive in ASEAN countries in numbers

⁶⁶³ Lacy A. Wright, 'Oral Interview, 6 January 1998, ADST, p. 79. [Available at: <http://www.adst.org/OH%20TOCs/Wright,%20Lacy%20A.toc.pdf>].

⁶⁶⁴ The other panel members were Rita Hauser (a human rights lawyer), Richard Wheeler (a banker with Citibank), and James Greene (a former Deputy Commissioner of the INS).

⁶⁶⁵ Special Refugee Advisory Panel, 'The Indochinese Refugee Situation: Report to the Secretary of State by the Special Refugee Advisory Panel', *U.S. Department of State*, 12 August 1981, p. 10.

⁶⁶⁶ Quoted in NAA: A6980 S251346, Record of Conversation with Green Panel, Australian High Commission, Kuala Lumpur, 'Vietnamese Refugees', 17 July 1981.

exceeding what third countries are willing to accept, they may once again be pushed back to sea or across borders. This is a solution with which we cannot live in all conscience.⁶⁶⁷ This was sufficient reason to advise caution when it came to formulating American policy towards Vietnam, Cambodia and Laos too: 'Actions, whatever their merits, which have the effect of generating refugee flows beyond the capacity of the international community to handle, may well result in the pushing off of boats and similar scenes of horror.'⁶⁶⁸ In the report's annex summarizing the contextual history of the outflow, it even took pains to note the significance of the 1979 Thai pushback at Preah Vihear where 'in the absence of international support or apparent resettlement opportunities, the Thai in June 1979 forced some 40,000 Cambodian refugees back into Cambodia where, caught in minefields and military cross fire, many were killed.'⁶⁶⁹

That this was weighing on the Panel's minds as they toured the region was also apparent from their discussions with the Australians in Kuala Lumpur:

Mr Wheeler [Green Panel member] also asked what the Australian assessment was of how the ASEANs, including Malaysia, would respond if a different approach were taken by the resettlement countries. Mr Woodard [Australian High Commissioner in Malaysia] replied that so far the only "Asian" alternative which had appeared was the horrifying one of pushing people off.⁶⁷⁰

As Green himself observed, "if we were to signal any intention of forcing people back there would be severe recriminations – including from the ASEANs."⁶⁷¹

⁶⁶⁷ Special Refugee Advisory Panel, 'The Indochinese Refugee Situation: Report to the Secretary fo State by the Special Refugee Advisory Panel', *U.S. Department of State*, 12 August 1981, p. 4.

⁶⁶⁸ Special Refugee Advisory Panel, 'The Indochinese Refugee Situation: Report to the Secretary fo State by the Special Refugee Advisory Panel', *U.S. Department of State*, 12 August 1981, p. 7.

⁶⁶⁹ *Ibid*, annex.

⁶⁷⁰ NAA: A6980 S251346, Record of Conversation with Green Panel, Australian High Commission, Kuala Lumpur, 'Vietnamese Refugees', 17 July 1981.

⁶⁷¹ NAA: A6980 S251346, Record of Conversation with Green Panel, Australian High Commission, Kuala Lumpur, 'Vietnamese Refugees', 17 July 1981.

Finally, it is clear the Panel continued to see the need for resettlement above other solutions as emerging from basic ethnic difference. In its clarity on this point it almost echoed the words of the ASEAN countries themselves verbatim: ‘it must be emphasized that the Indochinese refugee resettlement program is not an Asian solution to an Asian problem. It is essentially a Western solution. It has been the stated policy of the ASEAN countries not to accept refugees or settle displaced persons.’⁶⁷²

The panel was probably more palliative than genuinely investigative, largely concocted to reassure the states of first asylum and the other resettlement states that the U.S. could be relied upon. When asked by one Australian diplomat of the results of the INS/State turf war, Rita Hauser ‘replied that the INS question had been resolved by [the] State Department and Justice Department decision that all boat people would be regarded as “putative refugees”. Mrs Hauser said that a purpose of the Green Panel’s visit was to remove any impressions that the INS question remained unresolved.’⁶⁷³

Yet it helped purchase inter-agency peace at least for some time. As Doris Meissner, the Acting Commissioner of the INS, explained at one Congressional Hearing, even though Indochinese refugees did not really have a *prima facie* claim to refugee status, the impossibility of their return made them refugees:

A refugee is someone who is unable or unwilling to return to his country because of a fear of persecution... By the same token, the act also requires that people not be returned to their home country if they would suffer persecution upon return. So while the reasons for leaving may be economic, if, once the person has left, his return would bring about harsh punishment or death, nonetheless he could receive

⁶⁷² Special Refugee Advisory Panel, ‘The Indochinese Refugee Situation: Report to the Secretary of State by the Special Refugee Advisory Panel’, *U.S. Department of State*, 12 August 1981, p. 4.

⁶⁷³ NAA: A6980 S251346, Record of Conversation with Green Panel, Australian High Commission, Kuala Lumpur, ‘Vietnamese Refugees’, 17 July 1981.

refugee status.⁶⁷⁴

Most crucially, however, as Walter Stoessel, the Under Secretary of State for Political Affairs, pointed out, aggressive screening could bring the whole resettlement effort down:

Any precipitous decline in our support may undermine their current resolve to cooperate with us to permit humane treatment of the 300,000 Indochinese in camps, and especially to extend asylum to new arrivals.- A loss of confidence in the U.S. willingness to honor our commitments could bring a return to the brutal policies of forced repatriation and death at sea that shocked the world in 1979-80... We do not want to be responsible for risking this fragile cooperative effort. A major cut in our resettlement pledge might well precipitate a crisis with broad ramifications.⁶⁷⁵

An Australian diplomatic cable reported back on a chat with Sureck at a 'social occasion' that the INS would likely accept a higher proportion of Khmer in Kamput (one of the camps at which case-by-case determinations had proved most controversial) for admissions, an outcome that 'we feel reflects increasing pressure on INS from very high levels in Washington to be more flexible in their approach to help resolve this problem.'⁶⁷⁶ This squared with the reassurance that the Australians had earlier received in Washington from Roger Holdridge, the Assistant Secretary of State for East Asia and the Pacific:

Referring to past differences with INS, Holdridge said that these had been matters of interpretation and to a large extent had been overcome. Discussions had taken place with the Regional Director, INS, Hong Kong, and these had resulted in assurance to act in a way which demonstrated that the "United States wishes to live up to what it says it will do". More INS personnel are to be provided in the area and the rate of processing and acceptance should improve.⁶⁷⁷

⁶⁷⁴ 'Domestic and Foreign Policy Implications of U.S. Immigration and Refugee Resettlement Policy' *Hearings and Staff Report before the Committee on Foreign Affairs, U.S. House of Representatives*, 5 October 1981, 16 March 1982, p. 16.

⁶⁷⁵ 'Domestic and Foreign Policy Implications of U.S. Immigration and Refugee Resettlement Policy' *Hearings and Staff Report before the Committee on Foreign Affairs, U.S. House of Representatives*, 5 October 1981, 16 March 1982, p. 2.

⁶⁷⁶ NAA:A1838 3004/10/3, Cable, Bangkok to Canberra, BK48185, 'Indo Chinese Refugees - Discussion with UNHCR Regional Representative', 24 September 1982

⁶⁷⁷ NAA:A1838 3004/10/3, Cable, Washington to Canberra, WH20444, 'Indo-China Refugees: U.S. Policies', 6 August 1982.

The dispute was only effectively solved in May 1983 when Ronald Reagan signed off on National Security Decision Directive 93 which outlined that any asylum seeker falling into predetermined categories of Indochinese refugees⁶⁷⁸ and alleging persecution would 'not have to present independent evidence regarding persecution.'⁶⁷⁹ Moreover, the Directive called for the 'regular rotation' of INS officers – essentially ensuring the removal of those who had been screening out refugees.⁶⁸⁰

Loescher and Scanlan see the dispute over screening as essentially a dispute between a 'restrictive Justice Department against a State Department still seeking to fight Communism in Southeast Asia with a generous refugee admissions policy.'⁶⁸¹ Courtland Robinson similarly sees it as a 'bitter fight for control of the Indochinese admissions programme.'⁶⁸² But conceiving it simply as a Washington turf war for budgetary appropriations ignores its very real significance as a crucible into how and why assessments of the protection environment in Southeast Asia factored into the decision to keep assistance high.

Perhaps the proof of this is that The Indochinese Refugee Panel led by Robert Ray, the Governor of Iowa in late 1985 produced almost exactly the same conclusions as the Green Panel of 1981, when it reported back to George Shultz in April 1986. As was explained to Australia diplomats in Kuala Lumpur, 'although panel members expressed understanding that many Indochinese arrivals no longer met refugee criteria they saw few alternatives to continuing third country resettlement.'⁶⁸³ This was even though there were 'domestic

⁶⁷⁸ The categories were: (1) 'those who fled Cambodia because of occurrences during the Pol Pot regime; (2) 'former members of the military'; (3) 'those with close relatives in the United States'; and (4) 'persons who refuse to work with the new regime in Cambodia.'

⁶⁷⁹ National Security Decision Directive Number 93, 'Refugee Policy and Processing Refugees from Indochina', 13 May 1983, available at: <http://www.reagan.utexas.edu/archives/reference/NSDDs.html#VTRctBf3DCA>.

⁶⁸⁰ Larry C. Thompson, *Refugee Workers in the Indochina Exodus*, p. 245.

⁶⁸¹ Loescher and Scanlan, *Calculated Kindness*, p. 204.

⁶⁸² Robinson, *Terms of Refuge*, p. 165.

⁶⁸³ NAA:A9737 1991/112, Cable, KL to Canberra, KL86833, 'US Refugee Review Panel Visit' 21 November 1985.

difficulties in taking what were increasingly economic rather than persecuted refugees ahead of normal migration applicants many of whom had been waiting for years.’ Moreover, one panel member even noted that ‘it would be difficult to maintain offtake levels unless their current criteria were relaxed.’ Notwithstanding these reservations that the intake levels were insufficient to even encompass the very broad selection criteria of the American resettlement programme, the report made clear that more efforts were needed, calling for a renewed effort to resettle the approximately 150,000 long-staying refugees living in camps in order to prevent them ‘being pushed back into the sea.’⁶⁸⁴ Mistreatment still seemed salient.

5.5. ALTERNATIVE EXPLANATIONS

My ambition in this section has been to demonstrate the centrality of protective concerns about refugee welfare and the preservation of first asylum to the continued willingness to assist. But what else mattered when it came to trying to understand the length and form of resettlement state burden-sharing? In this section, I seek only to demonstrate that other explanations are insufficient in themselves for understanding the willingness to assist. My account is cumulative rather than exclusive. As with the early phase of the crisis, additional concerns about order and security only served to magnify the need for burden-sharing.

5.5.1. REGIME-CENTRED ACCOUNTS

5.5.1.1. HEGEMONIC WEIGHT-THROWING?

⁶⁸⁴ Quoted in ‘State Department Panel Says U.S. Should Provide Haven for More Refugees’ in *The Associated Press* 18 April 1986, available at: <http://www.apnewsarchive.com/1986/State-Department-Panel-Says-U-S-Should-Provide-Haven-For-More-Refugees/id-295bdab33d5eb486bd0c3653c147a9ae>.

Much is made of the central American role in fostering cooperation amongst the resettlement states. Yet an account of the sustained generosity of the resettlement states is hard to square with a vision of public goods provision flowing from the hegemonic flexing of power.

American diplomats and government officials did occasionally mention to their foreign counterparts that it would be helpful if they contributed more, but rarely was this ever even remotely coercive. Having reviewed Australian diplomatic records of the period, there are strikingly few references to any concerted pressure from the United States to take more. The few instances of ‘pressure’ were really just requests to increase numbers.

Moreover, the perception of burden-sharing seemed to matter more than the reality of burden-sharing. ‘Internationalising’ the response allowed American officials to credibly argue to Congress that their tails weren’t being twisted. The demonstration effect of other countries assisting enabled greater support from Congress in budgeting for larger admissions.⁶⁸⁵ Much as with the Marshall Islands and Tongan participation in the 49-state “Coalition of the Willing” during the Second Gulf War, the focus was really more on the volume of countries participating than necessarily on the volume of their cooperation. The mere fact of the IGC existing, for example, was used by State Department officials testifying before Congress as an instance of demonstrated solidarity and burden-sharing amongst the resettlement states.⁶⁸⁶

⁶⁸⁵ This informed cooperation from the very early days of the outflow. As Patricia Derian, the Assistant Secretary of State for Human Rights, noted in a letter to David Owen, the U.K. Foreign Secretary in late 1977: ‘In our efforts with Congress to gain a consensus on a generous long-term American policy it will be vital to show that other nations are sharing the burden and that the international community remains interested in the Indochinese refugees.’ [Letter, ‘Indochinese Refugees: Letter from Assistant Secretary Derian to Foreign Secretary Owen’ 23 December 1977, PLUS ID: 1977STATE306257_c].

⁶⁸⁶ See, for example, the following exchange from one Congressional hearing in 1984:

Mr. DYMALLY. What are we doing to internationalize the burden of the refugee care and resettlement program in Southeast Asia?

Mr. PURCELL: ... It is our belief that this must be a shared burden. In that regard, we have, in the State Department formed a consultative group of the major resettlement governments. We did meet in

Recognition of these legislative constraints facing American refugee policy certainly entered into Australian Government thinking. As Ian Macphee, the Australian Immigration Minister, detailed in a 1981 letter to Malcolm Fraser, the Prime Minister, recommending an increase of 1000 admissions in the annual admissions quota of 14,000 refugees, ‘an important element in the United States’ thinking is the need to counter attitudes emanating from Congress critical of the need for the United States to continue to take large numbers of Indo-Chinese refugees in the absence of strong support from other resettlement governments.’⁶⁸⁷ Marshall Green pointed out to the Australian Ambassador to Japan on the way back from his panel’s study mission that ‘members of Congress were insistently asking why the United States should be bearing so much of the burden and why other countries were not doing their share. It was of great value that the administration was able to say to Congress that per head of population Australia was doing at least as much and probably more than the United States.’⁶⁸⁸ But it is hard to attribute any significance to these intimations about assistance beyond an ancillary motivation. Australia had a pre-existing interest in America staying committed.

Resettlement countries were thanked by the U.S. for their support but there is no indication that it was a central aspect to the bilateral relationships with resettlement states. Further, there was no indication that they were pressured to take more or that this meant anything larger in the context of their bilateral relationship. When pressed about any American pressure, Peter Hughes, a senior figure in the Australian Immigration Department for much

Honolulu this past summer and we committed ourselves, this is the United States, Australia, Canada, Japan, we committed ourselves to the continuance of this program until we had a resolution of it.

[‘Overview of Refugee Situation in Southeast Asia’ *Hearing before the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs, U.S. House of Representatives*, 5 April 1984, p. 45.].

⁶⁸⁷ NAA:A1209 1981/186, Letter – Macphee to Fraser, 6 March 1981.

⁶⁸⁸ NAA: A1838 1981/186, Cable – Tokyo to Canberra, TK21881, ‘Vietnamese Refugees and American Domestic Factors’, 30 July 1981.

of the 1980s averred simply “I have no recollection of any. It’s not to say it didn’t happen. But it certainly wasn’t sustained if I don’t remember it.”⁶⁸⁹

Critically, too, that fact that by the early to mid-1980s, the only real states assisting the U.S. in resettlement were Canada and Australia should tell us that this was not an issue that other states were pressed particularly hard on.

5.5.2. STATE-CENTRED ACCOUNTS

5.5.2.1. REALIST ACCOUNTS

Suhrke and Klink in 1987 noted that the dominant impulse explaining American willingness to assist the Indochinese was that:

The refugee flow was cited as proof of the bankruptcy of Vietnamese socialism and its alliance with the Soviet Union. The point served retrospectively to vindicate American involvement in Vietnam as well as to emphasize the moral superiority of the United States over the Soviet Union. The lesson learned in Vietnam was employed in arguments supporting American policy closer to home.⁶⁹⁰

This obviously might have played an important role as a background variable yet as with the earlier period of the outflow, the cultural battleground of the memory of Vietnam is hard to embrace as a catch-all explanation.

First, there little evidence to suggest that the resettlement states were motivated by any apparent logic of running up the score as refugees ‘voted with their feet’ as to the superiority of the capitalist or communist system. For most of the outflow, the preference of

⁶⁸⁹ Interview, 10 March 2015.

⁶⁹⁰ Astri Surhke and Frank Klink, ‘Contrasting Patterns of Asian Refugee Movements: The Vietnamese and Afghan Syndromes’ in *Centre for Migration Studies Special Issue* (1987) Vol. 5, No. 3, pp. 85-102, p. 92.

resettlement states might comfortably be characterised as a desire that the Indochinese refugees stay put and be processed through the Orderly Departure Program. The determination to reduce the 'pull factor' of resettlement so as to reduce both the number needed resettlement and the prospect of deaths at sea was ever-present. Alan Heil, the head of Voice of America, when testifying before the House Asian Affairs Committee in 1981 took great pains to convey that VOA, in its commitment to accurate news, was actively communicating the new restrictionist attitudes bubbling away in the U.S.:

As refugee quotas have been proposed and enacted they have been reported by VOA as straight news items. VOA's treatment of all elements of the refugee story has been as factual as possible. VOA has not sought to use these developments to lure or "pull" refugees from Indochina. On the contrary, VOA has repeatedly mentioned in newscasts and reports the dangerous aspects of flight, including the hazards of the sea, exposure, pirates etc. as well as the long wait and complex processing before resettlement. In almost every VOA news report, dealing with a rescue at sea reference has been made to the hardships endured by the survivors. Even the difficulties of life in the United States--e.g. conflicts between Vietnamese and local fishermen in Louisiana and Texas--have been treated in VOA Vietnamese language broadcasts.⁶⁹¹

This may have simply reflected the reduced role of propaganda in the post-détente Cold War but even as tensions between East and West increased in the 1980s, Indochinese refugees were rarely identified as a cultural battleground.⁶⁹² Second, it is hard to truly account for the psychosocial impact of the Vietnam War on American thinking. Part of the reason for this is no doubt that it didn't reveal itself in obvious ways. As Robert J. McMahon contends, the absence of any public introspection on the part of American leaders regarding the Indochinese legacy, 'mirrors the common historical trend, well identified by students of collective memory, toward state-sponsored triumphalism in official remembrances of national travails.'⁶⁹³ In many

⁶⁹¹ 'Domestic and Foreign Policy Implications of U.S. Immigration and Refugee Resettlement Policy', *Hearings and Staff Reports before the Committee on Foreign Affairs*, U.S House of Representatives, 5 October 1981, 16 March 1982, H381-56, p. 37.

⁶⁹² One measure of the reduced role of propaganda in this period is that Voice of America had become highly circumspect even in what it sought to broadcast into the USSR. It apparently even refused to read excerpts from Solzhenitsyn's *The Gulag Archipelago* on the off chance that it was seen as using dissidents as a crude political weapon. [Michael Nelson, *War of the Black Heavens* (New York: Syracuse University Press, 1997), p. 148.]

⁶⁹³ Robert J. McMahon, 'SHAFR Presidential Address: Contested Memory: the Vietnam War and American Society, 1975-2001' in *Diplomatic History* (2002) Vol. 26, No.2, pp. 159-184, p. 171.

respects it makes more sense to view the importance of any sense of affinity or obligation within the frame of mistreatment. With several exceptions, the open celebration of the Indochinese outflow for most of the 1980s created real risks in so far as it often served to remind a restrictionist public both of the trauma of Vietnam and of anxieties over immigration.

There is similarly little evidence to suggest that resettlement states saw any value in undermining Vietnam by accepting refugees. As the British Ambassador in Hanoi (in a cable shared with the Australians) noted in a cable to his colleagues, 'it is clear to me that it is in the Western interest for the ethnic Vietnamese to stay in Vietnam, however unpleasant they may find it.'⁶⁹⁴ This was principally because 'it is in the [Vietnamese] regime's interest for them to go.' When asked by Australian diplomats as to whether it was true that the present U.S. administration would continue taking diplomats till it "hurt" Vietnam, 'Mr Marshall Green said that this was totally untrue... Other countries such as Thailand were undoubtedly using the refugee issue to hurt the Vietnamese although they continued to insist that others take them.'⁶⁹⁵

Attitudes to Vietnam certainly constrained the availability of solutions (as will be developed in the next chapter). But that in itself does not explain resettlement. Resettlement states could have turned a blind eye as the states of first asylum turned refugees back or could have pressured them to temporarily house them until the frozen conflict with Vietnam thawed. Genuine protective concern for their welfare made that difficult, however.

⁶⁹⁴ NAA: A6980 S251346, Cable (FCO), Hanoi to various, 'Vietnam: Boat and Land Refugees' 29 June 1981.

⁶⁹⁵ NAA: A6980 S251346, Record of Conversation with Green Panel, Australian High Commission, Kuala Lumpur, 'Vietnamese Refugees', 17 July 1981.

Did resettlement states agree to assist the Southeast Asian states simply out of geopolitical exigency? Plainly concerns about order mattered far less after the early 1980s as the much feared ascent of the Vietnamese Indochinese federation never came to pass. Moreover, notwithstanding the continual suffering in Cambodia, this was a region that was largely peaceable and that did not absorb a particularly large share of foreign policy-making attention for most of the 1980s. There is, for example, just a single mention of ASEAN in George Shultz's 1184 page memoirs of his six-and-a-half-year-long reign as U.S. Secretary of State.⁶⁹⁶ As Donald Weatherbee noted in 1986, "Today, more than a decade after the fall of Saigon, it is in a real sense remarkable, given the forebodings of the time - the apocalyptic vision of falling dominos that had underpinned security perceptions for a quarter of a century - how politically stable the Southeast Asian region has been, compared with other regions of the world."⁶⁹⁷ This may have had something to do with the volume of aid and assistance that came the states of first asylum's way in the early 1980s. Amitav Acharya suggests that the Vietnamese invasion of Cambodia and subsequent regional fears of Vietnamese expansion helped spur the growth of the first asylum states as it directly motivated the nearly \$1 billion in Japanese development aid received between 1982 and 1986 by the four biggest ASEAN states (Indonesia, Malaysia, Thailand and the Philippines).⁶⁹⁸

One way we can understand the role of protective concern for the refugees themselves is by noting that the protection of Indochinese refugees was framed as a matter of strategic interest in itself. When assessments were made of the importance of Southeast Asia for American grand strategy the Indochinese refugee problem was typically referred to as a separate and distinct interest (albeit with knock-on effects). One National Security Council-led inter-agency review into U.S. policy in Cambodia in 1985, for example, concluded that

⁶⁹⁶ George Schultz, *Turmoil and Triumph* (New York: Charles Scribner's Sons, 1993).

⁶⁹⁷ Donald Weatherbee, 'U.S. Perspectives on ASEAN and Regional Security' in Karl D. Jackson and Wiwat Mungkandi, (eds.) *United States - Thailand Relations* (Berkeley: Institute of East Asian Studies, 1986) pp. 215-230, p. 215.

⁶⁹⁸ Amitav Acharya, *The Making of Southeast Asia* (Ithaca: Cornell University Press, 2012), 193.

one of the principal interests that the U.S. held in the larger Cambodian question was the ‘major humanitarian problem’ of Indochinese refugees, which was a ‘drain on U.S. and friendly resources... [and] poses a particular difficulty for Thailand.’⁶⁹⁹ In assuaging Thailand’s sense of its own insecurity, the U.S. should ‘reassure Thailand that its concerns over a residual refugee population will be taken into account as we phased down the special Indochinese refugee program.’⁷⁰⁰ Much as mistreatment was interpreted as an indice of disorder in the early phase of the crisis, a protective concern for the refugees themselves fed into any concerns about regional security. For example, following Vietnamese incursions into Thailand across the Cambodian border in 1980, Edmund Muskie, the then Secretary of State, recommended to Jimmy Carter that various military aid be furnished not only because ‘it is imperative that we act to reinforce Thai confidence and to give physical expression of our support for this friend and ally’ but also because ‘effective assistance will also help Thailand to maintain a generous first asylum policy for Khmer refugees.’⁷⁰¹

The refugee question was nested in larger, usually extremely friendly, relationships with the countries of first asylum. Two of the states of first asylum were American treaty allies and the others were at least allied as non-communist regimes. Support on refugees served an instrumental purpose of strategic reassurance. As David Lambertson suggests, “The Thai were dismayed when our side lost in Vietnam, but we repaired some of that damage by supporting ASEAN in its efforts to get the Vietnamese out of Cambodia, and we also offered a counterweight to other, large and closer nations whose intentions were sometimes suspect.”⁷⁰² As Michael MacKellar, the Australian Minister for Immigration in the early period of the outflow, recalls:

⁶⁹⁹ ‘National Security Decision Directive on United States Policy in Southeast Asia (the Kampuchea Problem)’ 7 January 1985, DDRS, p.3.

⁷⁰⁰ Ibid, p. 18.

⁷⁰¹ ‘Memorandum for the President from Edmund S. Muskie – Determination to Authorize the Furnishing of Immediate Military Assistance to Thailand’ 30 June 1980, DDRS.

⁷⁰² Interview, 29 August 2014.

We wanted to help these ASEAN countries. It showed that if we said we'd do something and we carried it out that we would be good allies...If we could be seen to be helpful then that couldn't hurt us at all with our relationships within the region.⁷⁰³

The same Cabinet-level review noted above similarly recognised that 'Australia's refugee policies... have formed a positive element in our relationship with ASEAN... The issue will remain politically sensitive for the ASEAN countries and for Australia.'⁷⁰⁴

There is an inescapable sense when it comes to understanding the attitudes of resettlement states to the region for much of the 1980s that the tail was wagging the dog. American and Australian policies towards Vietnam and Cambodia were largely the product of ASEAN positioning than their own organic processes. Great pains were taken to consistently assert that the U.S. and Australia would follow the ASEAN lead on the resolution of the Cambodian question. Marshall Green noted on his visit to the region in 1981 that this often meant that the ASEAN states put the U.S. in a curious bind given that 'the Kampuchea question and the ASEAN approach to Indo-China involved also the refugee issue. The ASEANs were helping to generate a situation where the refugee flow continued and countries of first asylum still refused to take them.'⁷⁰⁵

This context goes a long way to explaining why the states of first asylum were rarely if ever criticised for their treatment of refugees and why other elements to the bilateral relations were rarely leveraged to improve refugee protection. But it does not really explain the generosity of resettlement over time or why the resettlement states themselves worried about

⁷⁰³ Interview, 31 October 2014.

⁷⁰⁴ NAA: A10756, Cabinet Submission No. 5460, 'Australia's Relations with the ASEAN Countries', 27 May 1982.

⁷⁰⁵ NAA: A6980 S251346, Record of Conversation with Green Panel, Australian High Commission, Kuala Lumpur, 'Vietnamese Refugees', 17 July 1981.

the termination of first asylum. Had they had their way, the ASEAN states possibly would have just kept turning back boats.

Finally, was costly burden-sharing largely just a means of keeping costlier problems at bay? Plainly for Australia, the prospect that refugees turned back by the states of first asylum might find their way to Australia (especially if reequipped for a longer journey) was a powerful motivation for assistance. The annual Cabinet-level review of Australia's relations with the ASEAN countries in 1981 noted with respect to the Cambodian refugees on the Thai border that 'the refugee situation in Thailand is worrying but does not carry the same implications for us as the boat refugees.'⁷⁰⁶ 1982's equivalent review expressed that 'refugee movements from Indochina, **particularly Vietnamese boat people** [emphasis added], are an area of important mutual concern for Australia and ASEAN.'⁷⁰⁷

Gervais Appave, an Australian immigration official in Southeast Asia during this period, contends that "Australia was well aware that if these boats did not stop in Southeast Asia then they would be arriving in Darwin. In fact, they had arrived in Darwin."⁷⁰⁸ Senior Australian political figures were more than prepared to make the same point publicly to justify a generous admissions policy.⁷⁰⁹

⁷⁰⁶ NAA:1838 1634/77/2 Memorandum, 'Australia's Relations with the ASEAN Countries - Report to the Minister for Foreign Affairs of the IDC (ASEAN)' (Undated, probably early 1981)

⁷⁰⁷ NAA:A10756, Cabinet Submission No. 5460, 'Australia's Relations with the ASEAN Countries', 27 May 1982.

⁷⁰⁸ Interview, 18 March 2015.

⁷⁰⁹ See, for example, Bill Hayden, the then-Australian Foreign Minister, speaking in a 1984 parliamentary debate on Australian refugee policy:

"[The refugees] are creating pressures on the countries of that region which, in turn, are applying pressure to this country. Are we proposing to ignore that? If we ignore it, have we thought of the consequences? We would no longer have the regulated flow of these people... The people who are in those forlorn refugee camps in South East Asia, a burden on the countries of that region-we make our contribution, but it is still a burden-will seek to come here in other ways. They will start arriving as they started arriving in the initial movement that took place. Yes, boat people. What happens then? Will we erect a fortress around our shores to try to repel them? That is nonsense. Would we be so intolerant? We would then have an immigration policy over which we had no control at all; we would have no selection procedures at all. We should make no mistake about it!" *Hansard Parliamentary Debates*, Australian House of Representatives, 8 May 1984, p. 2012.

5.5.2.2. LIBERAL ACCOUNTS

5.5.2.2.1. REFUGEES, INC.

Walter Huddleston, the restrictionist Senator from Kentucky, put it to the Attorney General, William French Smith in 1981 that:

There is no question in my mind, and this is agreed to by officials of the United Nations, by officials of the other countries that are interested in the resettlement program in Southeast Asia, that our policies now are contributing to the problems there and are not to the solution. We have an international incident that is brewing, and if we don't change our position there, we are going to have a lot of difficulty with our allies and our friends because we are causing the continued flow of refugees in that part of the country. I don't think there is any question about that.⁷¹⁰

As one of Huddleston's staffers later observed in a law review article, despite many different attempts by Congress to codify principles of refugee law, these were typically observed in the breach. Indeed, 'the most flagrant violation of these doctrines comes from Southeast Asia [where] for several years the Department of State has persisted in removing hundreds of thousands of Indochinese who did not qualify for refugee status despite complaints from other governments and from other American personnel responsible for approving refugee applications.'⁷¹¹ The defeat of the Huddleston amendment, a legislative attempt to include the quota for refugees in the overall immigration quota, for example, was blamed on the machinations of the 'refugee resettlement industry'.⁷¹² These claims about the power of pressure groups, were, as has been explored in this chapter, not entirely uncommon. Bennett Johnston, a Democratic Senator from Louisiana, suggested that the 'industry' of refugee

⁷¹⁰ 'Administration's Proposals on Immigration and Refugee Policy', *Joint Hearing before the Subcommittee on Immigration, Refugees and International Law of the House Committee on the Judiciary and the Subcommittee on Immigration and Refugee Policy of the Senate Committee on the Judiciary*, Serial No. 21, 30 July 1981, p. 30.

⁷¹¹ Roger LeMaster and Barnaby Zall, 'Compassion Fatigue: The Expansion of Refugee Admissions into the United States' in *Boston College International and Comparative Law Review* (1983) Vol. 6, No. 2, pp. 447-474, p. 465.

⁷¹² Ibid.

resettlement required enormous resettlement numbers so as to continue to prosper and accordingly operated 'somewhat of a propaganda machine' to facilitate admissions.⁷¹³ These types of sentiments were (and sometimes still are) common enough when talking about American refugee policy. Romano Mazzoli, Chair of the relevant House Committee with oversight of refugee policy, noted that the involvement of the voluntary agencies should be closely examined by the State Department:

I think that it is very important that those agencies be looked at. I hope that you do not exempt the colossus or the colossi of the industry. I do call it Refugee, Inc., because it is, indeed, an industry. It is a multinational industry, pure and simple, and it can, like any other industry, become ponderous to the point of being a dinosaur, which, of course, means that you are not going to exist in the new future.⁷¹⁴

Yet do they really explain the response to the Indochinese? The problem with the 'Refugees, Inc.' bureaucratic interest account is that the two logical outcomes of restrictionism towards refugees (reduced resettlement places and budgets) do not presuppose that refugees from one part of the world are chosen above another, just that fewer refugees are chosen.

In Loescher and Scanlan's account of American policy in this period, much is made of the Congressional role in reducing refugee admissions over the course of the early 1980s and the particular reductions in quotas that Congress recommended.⁷¹⁵ Yet these were trifling in the scheme of things. The Refugee Act of 1980 had established an annual quota of 50,000 refugees as the desired ceiling for American resettlement programs. In 1981, for example, Loescher and Scanlan note the divergence between the Reagan administration's initial estimate of admissions (173,000) and the desired ceiling of Romano Mazzoli, Chairman of the House Judiciary Committee (120,000).⁷¹⁶ But these are still figures that are orders of magnitude higher than what might have been considered 'normal.' Moreover, while the

⁷¹³ *Congressional Record – Senate*, 12 August 1982, p. 20873.

⁷¹⁴ 'Refugee Assistance', *Hearings before the Subcommittee on Immigration, Refugees and International Law of the Committee on the Judiciary, United States House of Representatives*, Serial No. 13, 7, 9 and 22 June 1983, p. 191.

⁷¹⁵ Loescher and Scanlan, *Calculated Kindness*, pp. 200-205.

⁷¹⁶ Loescher and Scanlan, *Calculated Kindness*, p. 201.

intake did reduce over the course of the 1980s, this tracked reduced arrivals in the states of first asylum. In Thailand, for example, the number of non-Cambodian refugees never really rose much above 150,000, even as resettlement quotas dropped.

There is something a bit conspiratorial in the accounts of how the State Department was able to repeatedly prevail over Congressional opposition. First, it overstates the extent of Congressional opposition to the Indochinese intake. There were sceptics (Walter Huddleston, Romano Mazzoli, Alan Simpson) but they were rarely if ever inclined to grind things to a halt. As the disputes over screening and the IGC meetings demonstrated, the precariousness of first asylum and the precipitous moral consequences of reduced resettlement played much more significantly on the minds of decision makers. Second, those who fought the turf wars don't remember the pressure from the 'refugee industry' so often attributed to them playing a particularly significant role in the distributional choices about assistance. Gene Dewey, a long-serving refugee policymaker both in Geneva and in D.C., doesn't remember the voluntary agencies exerting any real pressure on the State Department regarding refugee admissions or more importantly for any one group over another.⁷¹⁷

5.5.2.2.2. IDENTITY ENGINEERING

Finally, mention must be made of the recursive effects of resettlement. By this, I do not suggest that new ethnic pressure groups or voting constituencies formed to pressure for higher admissions, but the curious way in which refugee admissions had come to be seen by many of the resettlement countries as both a cause and symptom of national identity. For the Australians, resettling Indochinese served a powerful instrumental purpose of rebranding.

⁷¹⁷ "They weren't pushing for any particular population... Even if [there was] no humanitarian impetus at all, there were no particular pressures on PRM to take one group over another" [Interview, 22 August 2014].

Most obviously, resettling Indochinese refugees was a very self-conscious means of removing the stain of the White Australia policy. Cavan Hogue, a senior figure within both the Department of Immigration and the Department of Foreign Affairs during the period of the outflow, recalls cleaning up Australia's "corporate image" as an important factor in generating willingness to assist, principally because "there were still a lot of people about who wondered whether the leopard had changed their spots."⁷¹⁸

As Stewart West noted at the IGC meeting in Honolulu:

The presence of more visible populations of Indochinese in Australia has created a new awareness of this region. This has in turn contributed to greater social and political understanding of Asian mores and aspirations on the part of Australian community leaders. The media, politicians, trade unions and the business community. It is no longer possible for South-East Asian politicians to point to a White Australia, either in fact or in policy, as means of illustrating Australia's ignorance of or antipathy towards non-European countries.⁷¹⁹

John Menadue, head of the Australian Department of Immigration in the early 1980s and a senior figure in Australian political life for much of the period before and after, remembers that:

White Australia is a critical point...The Indochina program buried White Australia forever...I wouldn't put it as currying favour with our neighbours – but I do think in the minds of many people including Fraser that this was a crunch issue in terms of White Australia...It was never publicised but the view that Fraser, Ian Macphie and I had was that this Indochina refugee program was undercutting White Australia.⁷²⁰

Similarly too, an argument can be advanced that refugee policy became a vehicle for humanitarian status-building. Resettlement countries started to see their refugee policy in terms of their humanitarian reputation and used it to burnish their credentials. As Gareth Evans, the Australian Foreign Minister, explained in the late 1980s, 'Our refugee program, for example, shows how we can be faithful to humanitarian concerns... in the pursuit of

⁷¹⁸ Interview, 17 March 2015.

⁷¹⁹ NAA:A1838 3004/10/3, Cable, Honolulu to Canberra, HL7490, 'IGC on Refugees', 2 August 1983.

⁷²⁰ Interview, 25 February 2015.

good international citizenship.⁷²¹ There is a thread of argument in the discussions between the resettlement states, particularly within the IGC consultations, that did seek to ask larger questions about maximising the humanitarian impact of their policies as a means of maximising reputation as a humanitarian actor. As Menadue concedes, however, these kinds of identity-based justifications for resettlement were very much post-facto and didn't really go any way to explaining why refugee policy was the vehicle for rebranding or why particular refugees were favoured above others. While they had to be 'discreet and deliberate about it [as] that's what Fraser wanted to do', they were instrumental justifications that came to underpin the policy rather than impel it. A useful way of understanding the significance of these factors is to see them as part of a distinctive pattern of immigration policy at the time, where, as William Maley suggests, 'immigration and multiculturalism were long excluded from the public agenda by an elite consensus that recognised the dangers associated with exploiting them for political purposes.'⁷²²

⁷²¹ Gareth Evans, 'Australian Foreign Policy: Priorities in a Changing World' in *Australian Outlook* (1989) Vol. 43, No. 2, pp. 1-15, p. 13.

⁷²² William Maley, 'Asylum-seekers in Australia's International Relations' in *Australian Journal of International Affairs* (2003) Vol. 57, No.1, pp. 187-202, p. 193.

6. RESOLVING A CRISIS: THE COMPREHENSIVE PLAN OF ACTION (1988-1996)

I've been thinking a bit at that window. I've been reflecting on what the past eight years have meant and mean. And the image that comes to mind like a refrain is a nautical one – a small story about a big ship, and a refugee, and a sailor. It was back in the early '80s, at the height of the boat people. And the sailor was hard at work on the carrier Midway, which was patrolling the South China Sea. The sailor, like most American servicemen, was young, smart, and fiercely observant. The crew spied on the horizon a leaky little boat. And crammed inside were refugees from Indochina hoping to get to America. The Midway sent a small launch to bring them to the ship and safety. As the refugees made their way through the choppy seas, one spied the sailor on deck, and stood up, and called out to him. He yelled, "Hello, American sailor. Hello, freedom man." – Ronald Reagan, Farewell Address, January 11 1989.⁷²³

THE PREVIOUS TWO CHAPTERS HAVE DEMONSTRATED how a concern for refugee welfare shaped the international response to the Indochinese refugees in important ways, largely as a force driving greater assistance and generosity. In this final empirical chapter, I show how the same affective regard for refugee welfare served to complicate the resolution of the crisis, and possibly even prolong it. The bulk of the empirical content of the Chapter concerns the dispute over involuntary repatriation – an episode that has largely escaped any scholarly attention and that forms an important descriptive contribution of this thesis. In exploring this, it sets out an important scope condition to my claim about the implications of mistreatment for the willingness to resettle: once repatriation was feasible, resettlement states were keen to turn the tap off. Yet the virulently contested nature of that debate over the feasibility and morality of return was, I contend, revealing of the salience of affective concerns for refugee welfare in explaining larger international cooperation.

⁷²³ Ronald Reagan, 'Farewell Address', 11 January 1989. Available at: <http://millercenter.org/president/speeches/speech-3418>.

This Chapter proceeds in four parts. First, it looks to the immediate context leading up to the agreement of the Comprehensive Plan of Action (CPA) for what it reveals about the on-going willingness of resettlement states to assist in burden-sharing before examining the final bargain struck. Second, it canvasses the role of mistreatment in explaining the re-engagement of various international actors towards reaching a comprehensive solution. Third, it examines the most controversial aspect of the CPA: the agreement to forcibly repatriate screened-out refugees as a puzzle for our understanding of the motivation for burden-sharing. Finally, it examines in some detail the proposition that the CPA's success in fostering North-South cooperation should be interpreted as vindication of the importance of linkages to other issues in explaining refugee protection.

6.1. BREAKDOWN: NEGOTIATING THE CPA

By early 1988, it was becoming clear that the arrangements and understandings that had been reached in 1979 were at a breaking point. In January, Thailand publicly announced that it was initiating a policy of maritime pushbacks for any incoming Vietnamese boat people.⁷²⁴ In April, Malaysia announced that Pulau Bidong, the island processing centre where Indochinese refugees were kept, would be closed within one year.⁷²⁵ In June, Hong Kong announced that it would no longer automatically consider asylum-seekers as refugees but instead would reverse the presumption, deeming them 'illegal immigrants' unless they could otherwise prove a claim to refugee status.⁷²⁶ Courtland Robinson suggests that the problem was simple: 'the old formula of an open door for an open shore had fallen victim... to its own success.'⁷²⁷ The open-ended resettlement guarantee had created a continuous stream of refugees, predominantly from Vietnam, that showed few signs of abating. There was, as

⁷²⁴ 'Thailand to Turn Back Vietnamese Refugee Boats', *The New York Times*, 30 January 1988, p. 4.

⁷²⁵ 'Southeast Asian Nations Weary of Refugee Influx; Countries Receiving Vietnamese Want to Send More to the West - or Back to Hanoi' in *The Washington Post*, 10 June 1988, p. a30.

⁷²⁶ 'Hong Kong Sinks the Boat People', *The Sydney Morning Herald*, 20 June 1988, p. 16.

⁷²⁷ Robinson, *Terms of Refuge*, p. 188.

Allan Jury (the counsellor for refugee affairs in the U.S. Embassy in Bangkok at the time) puts it, “a new impatience that this problem wasn’t going to wind itself down.”⁷²⁸

6.1.1. NEW SOLUTIONS: THE CHA-AM MEETING AND THE CPA PROCESS

The generalised fraying of arrangements and well-documented compassion fatigue amongst donor states and states of first asylum by the late 1980s had led to a diverse series of initiatives designed to bring some sort of conclusion to the outflow.

From within UNHCR, efforts were being made to stimulate new thinking on resolving the issue. These impulses were not entirely novel. In 1986, a workshop in Manila led by the Resettlement Services section of UNHCR concluded that ‘resettlement alone cannot solve the problems of Indochinese refugees’ and recommended that an ‘international conference be convened as soon as possible, with a view to redefining the international community’s commitment towards Indochinese refugee.’⁷²⁹ A more detailed proposal set out by Gregg Bayer, the UNHCR representative in Manila, suggested that a focus on the end would help make it a “self-fulfilling prophecy” and arrest the slightly dissonant inertia that characterized the international response (‘While most parties concerned appear reluctant to take the political decisions necessary to change the relative “comforts” of the current equilibrium, almost all current parties acknowledge that “it simply cannot continue on like this for another 10-20 years”’).⁷³⁰ The collective response from most senior UNHCR figures at the time was to note that proposals such as the introduction of individual screening had been

⁷²⁸ Interview, 12 February 2015.

⁷²⁹ UNHCR:11:3:391.46.1.GEN, A.R. Issaka to various, ‘Memorandum - International Conference on Indochinese Refugees’, 14 May 1986.

⁷³⁰ UNHCR:11:3:391.46.1.GEN, Gregg Bayer to UNHCR Headquarters, ‘Proposal to Call, Under UNHCR Auspices in 1987 a Conference on International Approaches to Resolve the Problem of Indochinese Refugees (“CIARPIR, ’87”)’ 3 June 1986.

‘often spoken about in recent years but blocked due to difficulty of [the] answer “what do we do with the screened-out?”’, ultimately concluding that the proposal was ‘premature.’⁷³¹

Pierre Jambor, the head of UNHCR in Thailand from 1988, remembers, however, that upon returning to Thailand (having served there in the late 1970s) that there was a certain absurdity to the situation as refugee flows were increasing: “Everybody knew that these people were not really refugees in the traditional sense of the term - it was like the Emperor with no clothes. They were people who were pushed out because of the economic conditions and were seeking a better life.”⁷³²

At a meeting organised at Cha-Am in Thailand in late May 1988 to discuss a Ford Foundation study setting out the need for a new collective response to the outflow, the initial signs for an agreement on new international understandings were inauspicious. As Pierre Jambor recalls, Thanat Khoman, the former Thai foreign minister, stood up and tried “to rally the other ASEAN countries to the Thai position, that was ‘let’s close the door and forget about the whole thing.’ ‘The resettlement countries have not respected their promises so we are not bound by our commitment.’ ‘We are being invaded’, ‘fifth column’, et cetera et cetera. All that usual Thai stuff.”⁷³³ Yet for the most part the meeting proved a productive forum for open conversation about the need for new solutions. The Thai Foreign Affairs

⁷³¹ UNHCR:11:3:391.46.1.GEN, See comments on Action Sheet Covering Memo, 12 June 1986.

⁷³² Interview, 5 March 2015.

⁷³³ Ibid. It was, as Jambor recalls, a potentially hazardous outcome for the organizer of the conference too: “[Khoman’s] proposal was to bring all the first asylum countries together and lock the door, throw away the key. And right away I remember that there was this moment of fright from the organiser: what would happen if it was found out that the Ford Foundation organiser had given rise to this outcome where all the borders would be shut?” Khoman’s public claims about the refugees match this account. See, for example, his suggestion that ‘In faraway places in America and Europe, some “armchair philosophers” are indulging in theories that people who decide to leave their homelands for any reasons, whether economic or political, irrespective of whether they can be considered refugees in the true sense the term, must be admitted by neighbouring lands... For these “humanitarian” preachers and advocates (or devil’s advocates) the mission has been discharged and they can now bask in the sun and enjoy their affluence. Let the lands of “first asylum” manage as best they can to accomplish their part of the “humanitarian” duty - such is their attitude.’ Thanat Khoman, ‘Current Trends and Future Prospects for Thai-American Relations’ in Karl D. Jackson and Wiwat Mungkandi, (eds.) *United States - Thailand Relations* (Berkeley: Institute of East Asian Studies, 1986) pp. 305-315, p. 310.

Ministry announced that following the Cha-Am meeting, it was clear that a 'new comprehensive program of action needs to be developed' which called for status determination on a regional basis, new multi-year resettlement commitments and a new international conference under UN auspices.⁷³⁴

A constellation of events and meetings took place shortly after, notably an ASEAN Working Group on Refugees meeting in early June 1988 that culminated in a joint statement of the ASEAN foreign ministers on July the 4th that called for a new 'CPA', which was subsequently reaffirmed in the Joint Communiqué of the Ministerial Meeting, which noted that:

The Foreign Ministers were of the view that thirteen years after the end of the Vietnam War, the root causes of the refugee problem in South-East Asia still have not been effectively dealt with and thus more innovative and effective strategies will have to be developed to deal with the continuing refugee problem. In this regard, the Foreign Ministers reiterated their call for the convening of an international conference on Indochinese refugees under the auspices of the United Nations Secretary-General.⁷³⁵

Just days later, the U.S. presented its own plan to a group of ASEAN senior officials, which was then revisited by George Shultz, the Secretary of State at the ASEAN Post-Ministerial Conference on July the 6th that proposed a Bangkok-based working group comprising the resettlement states, UNHCR and the states of first asylum.⁷³⁶

There were, as Allan Jury noted, a series of common threads that united the various proposals: the need for a screening process, an expanded Orderly Departure Program to discourage boat arrivals, the repatriation of those who would be screened out and an

⁷³⁴ UNHCR:15:1:5, Press Release, Permanent Mission of Thailand to the Office of the United Nations in Geneva, 'Seminar on First Asylum for Vietnamese Boat People', 8 June 1988.

⁷³⁵ 'Joint Communiqué of the Twenty First ASEAN Ministerial Meeting', Bangkok, 5 July 1988, available at: <http://cil.nus.edu.sg/rp/pdf/1988%20Joint%20Communique%20Of%20The%20Twenty%20First%20ASEAN%20Ministerial%20Meeting-pdf.pdf>.

⁷³⁶ 'U.S. Urges Vietnam to Halt Refugees Exodus' *Reuters*, 7 July 1988.

expanded program of humane deterrence amongst other things.⁷³⁷ Most crucially, Jury's own proposal set out that screening 'should be based on strict refugee criteria of a 'well-founded fear of persecution' – a category that would include former employees of Western governments but only those 'who can show clear evidence of subsequent persecution based on such employment.' Conscious of the sensitivities of such moves coming from the U.S., as Jury explained to Pierre Jambor, the U.S. Government 'could live with a plan such as the attached, although Washington would be unlikely to take the initiative on some of the elements.'⁷³⁸

The synthesis of the various proposals then translated into a UNHCR-run consultations process. UNHCR convened an "informal consultations" meeting in October 1988 in Bangkok of 17 governments, crucially also including Vietnam and Laos as countries of origin. Following this, the momentum towards the formalisation of the CPA was set. In early December 1989, the UN General Assembly officially requested the Secretary-General to convene an international conference in the first half of 1989 that would seek a 'comprehensive and durable solution which is acceptable to all parties.'⁷³⁹

Throughout the evolution of the CPA's development UNHCR coordinated the drafting of the agreed text, although it largely reflected the text constructed by the working group in Bangkok of Pierre Jambor, Allan Jury, Kasit Piromya (a Thai Foreign Affairs official) and a few others. In March, an official Preparatory Conference was held in Kuala Lumpur that hammered out the final text that was to be agreed upon. Jambor recalls that at this point the text agreed upon by the Bangkok working group had been altered by officials in Geneva and

⁷³⁷ UNHCR:15:1:5, Allan Jury 'Towards a New Indochinese Refugee Strategy: A Draft Plan of Action' Undated, (probably July 1988).

⁷³⁸ UNHCR:15:1:5, Allan Jury 'Towards a New Indochinese Refugee Strategy: A Draft Plan of Action' Undated, (probably late July 1988).

⁷³⁹ UNGA 43/119, 75th Plenary Meeting, 8 December 1988.[Available at: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/43/119.]

turned into “the most classic UN-text you could imagine – referring to lots of treaties and conventions. And losing sight of the main text which was very concrete and defined everyone’s roles clearly.”⁷⁴⁰ As Jambor remembers, “the first step in KL was the trashing of the text from Geneva and the adoption of our original draft.” Following this meeting a Coordinating Committee (which became known as the Steering Committee) was set up with three subcommittees on status determination, repatriation and resettlement. Following this an International Conference on Indochinese Refugees (ICIR) was again held in Geneva to set out an international mechanism to conclusively solve the problem of the Indochinese outflow.

6.1.2. CHANGED CONTEXT

Underpinning all of this was an increasing sense that the profile of the caseload had changed and that resettlement states were on the brink of withdrawal. *The New York Times* noted that Vietnamese refugees ‘now face a fresh peril: compassion fatigue, an official euphemism that amounts to blaming victims for the cruelty of their jailers.’⁷⁴¹

It is not necessarily clear that the profile of the refugee caseload had fundamentally changed to the extent that is commonly assumed. The first asylum states contended that where once those fleeing Indochina had genuine reasons to fear persecution, the new leavers were ‘economic migrants.’ As one Malaysian official made clear: “in 1975 to 1979 they were refugees. Now they are illegal immigrants, what we call economic migrants. They don’t leave to escape political persecution but are seeking greener pastures.”⁷⁴² Yet these same views were heard within and outside of governments from the early days of the outflow. With the exception of the flow of North Vietnamese boat people into Hong Kong, the profile of the

⁷⁴⁰ Interview, 5 March 2015.

⁷⁴¹ ‘Boat People and Compassion Fatigue’, *The New York Times* 14 July 1988, p. A28.

⁷⁴² Quoted in ‘Malaysia Acts to Halt Refugee Influx’, *The New York Times* 10 July 1988, p. 3.

caseload was fairly similar to what it had been for most of the preceding decade. That is, it had been a mixed flow for a long time and any refugee component to the flow was not entirely negligible. As James Hathaway observed in his critique of the CPA, 'the conceptual shift between the unbridled inclusion of Vietnamese asylum-seekers under the 1979 Accord and the presumption of economic motivation in the 1989 Plan is not explained by a substantive shift in the nature of the protection claims advanced.'⁷⁴³

This is not to suggest that the caseload was, however, full of people fleeing with a strong claim to a Convention-level of persecution. One UNHCR assessment at the time, noted that just 8 per cent of those leaving Vietnam had a 'firm and clear claim to refugee status.'⁷⁴⁴ Some 'nevertheless have a reasonable and justifiable cause to fear persecution should they be returned to Vietnam.'⁷⁴⁵ But even with this expanded definition and with a more liberal approach to determination, it was noted that 'somewhat less than two thirds have no claim to refugee status on this basis.' Fewer than 10% of those leaving were estimated to have a connection with the former regime and most people leaving were 'unmarried youngsters, fishermen and persons from the cities who were involved in so called non-professional occupations.' Moreover, the report noted that 'in no instance is it possible to conclude that a particular large group or class of persons are persecuted in Vietnam.' These were not new or sudden findings. One UNHCR survey of Vietnamese maritime arrivals in Malaysia from 1986 revealed that almost 70 per cent of the new arrivals were 'non-refugees.'⁷⁴⁶ Later surveys in Malaysia, adopting a slightly more lenient attitude, put the non-refugee portion at around 40 per cent. But, crucially, the proportion of cases where it was estimated that a

⁷⁴³ James Hathaway, 'Labelling the "Boat People"' in *Human Rights Quarterly* (1993) Vol. 15, No.4, pp. 686-702, p. 689.

⁷⁴⁴ UNHCR:15:5:1, Cable, Bangkok to Geneva, 'An Assessment' 8 July 1988.

⁷⁴⁵ Ibid.

⁷⁴⁶ UNHCR:15:5:1, Memorandum, 87/KL/HQ.029, C Toscani to UNHCR Headquarters, 'Survey on VNBP: New Arrivals in Malaysia 24/11-24/12/86' 20 January 1987.

claimant had a 'good' claim never moved beyond 20 per cent.⁷⁴⁷ What these assessments did reinforce was that in any comprehensive solution, a need for screening was a particular priority.

Finally, the claims of many first asylum states to being swamped by new refugees were only partly plausible. The numbers grew throughout 1988 and 1989 but there were still only around 40,000 long-stayers in camps in the region at the time that ICIR was convened (although it was believed then that there were 50,000). Moreover, there were around 300,000 Laotian and Cambodian long-stayers in Thailand alone at that point – yet these people were not the subject of complaints.⁷⁴⁸ As Dennis Gallagher, a leading refugee advocate, noted at the time, by comparison to 1979, 'the overall camp populations are considerably lower, and the rates of arrival of new refugees have come nowhere near those of the 1979-80 period, when the situation reached crisis proportions.'⁷⁴⁹

6.1.3. RENEWING THE BARGAIN

By the time that ICIR was held in June 1989, the agreement had largely been worked out. Labelled the 'Comprehensive Plan of Action' (CPA) it set out a series of interlocking obligations and commitments between states of first asylum, resettlement states and Vietnam to essentially guarantee asylum, resettlement and return.

Sten Bronée, a UNHCR official at the time of the Conference, argued that the most distinguishing feature of the conference was its ambitious breadth, seeking to resolve the 'regional refugee crisis in its totality, as opposed to exclusively from the point of view of

⁷⁴⁷ UNCHR:15:5:1, Memorandum, 87/KL/HG.460, Eric Morris to UNHCR Headquarters, 'III Survey on Vietnamese Boat People New Arrivals' 26 November 1987.

⁷⁴⁸ Ibid, p. 10.

⁷⁴⁹ Gallagher, 'The Second International Conference on Indochinese Refugees: A New Humanitarian Consensus?', p. 9.

coping with the influx itself.⁷⁵⁰ Richard Towle, another UNHCR official at the time, saw it more as a ‘geopolitical *volte face*’⁷⁵¹ where the procedures that had governed asylum and refugee policy in the region for nearly a decade were suddenly and irrevocably changed.

Vietnam accepted three obligations under the CPA: first, to combat illegal departures; second, to assist with a mass information campaign run by the UNHCR warning potential departees of the perils they faced in trying to secure refugee status and resettlement; and third, the continuation of the Orderly Departure Program for those approved refugees wishing to leave.

Resettlement states similarly made three core commitments: first, they would accept the 50,000 refugees resident in camps who had arrived before the ‘cut-off dates’; second, they undertook to promptly resettle all those recognized as refugees under the relevant determination procedures; and third, they would provide channels for regular supervised departure from Vietnam itself.

States of first asylum had two clear duties: first, they were to introduce (with assistance from UNHCR) screening processes in order to determine who was and was not a refugee; and, second, they were to guarantee the on-going availability of first asylum for anyone seeking to claim it.

Although seeking to solve the refugee problem holistically, the focus was primarily on Vietnamese boat and land refugees. Cambodian refugees were specifically not addressed, reserved as an issue to be solved through broader resolution of the Cambodian conflict. The

⁷⁵⁰ Sten Bronée, ‘The History of the Comprehensive Plan of Action’ in *International Journal of Refugee Law* (1993), Vol. 5, No. 4, p. 539.

⁷⁵¹ Richard Towle, ‘Processes and Critiques of the Indo-Chinese Comprehensive Plan of Action: An Instrument of International Burden-Sharing?’ in *International Journal of Refugee Law* (2006) Vol. 18, No 3-4, pp. 537-570, p. 539.

Laotians were mentioned specifically but only insofar as states committed to agreeing that ‘future measures are to be worked out through intensified trilateral negotiations between UNHCR, the Laos Republic and Thailand.’⁷⁵²

Perhaps because most of the hard bargaining had been done in advance, the Conference itself provided a distinct opportunity for the states of first asylum to project their dissatisfaction at having to endure a continuous stream of refugees from Indochina claiming asylum.

Abu Hassan Omar, the Malaysian Foreign Minister (who was also President of the Conference), set the tone in his opening address by declaring that “one can never over-emphasize the burden placed on the first asylum countries arising from the continuous influx of the Vietnamese boat people.”⁷⁵³ For Omar, “countries in the South-east (sic) Asian region, presently undergoing adjustment, both political and economic... should instead be concentrating their energies on national efforts towards providing for their peoples the basic economic growth needed to sustain their well-being.” For those who still had any doubts about the burden this placed on Malaysia, his closing remarks to the Conference reinforced his central theme: “as has been pointed out, the urgency of the matter can never be over-emphasized. The conference has recognized that a number of countries of first asylum are stretched beyond their fullest limit.”⁷⁵⁴

The unique vulnerability of Southeast Asian countries and the developmental cost of accommodating asylum seekers ran through the remarks of all their representatives. The Thai Foreign Minister stated that “countries providing temporary refuge cannot be left to bear the

⁷⁵² CPA, Section G.

⁷⁵³ UNHCR:15:1, ‘Opening Speech by H.E Dato Abu Hassan Omar, Malaysian Foreign Minister at ICIR’, 13 June 1989.

⁷⁵⁴ UNHCR:15:1, ‘Closing Statement by H.E. Dato Haji Abu Hassan Bin Haji Omar’, 14 June 1989.

brunt of the burden. The political, social, economic and security costs are too high.”⁷⁵⁵ Thailand did not seek “to apportion blame. But we do seek to have the principle of international burden-sharing re-affirmed.”⁷⁵⁶ Hong Kong’s Governor, David Wilson, outlined that “our community... begrudge[s] the resources and the efforts which they have devoted to these uninvited guests at this very difficult time in Hong Kong’s history when so many other priorities are clamouring for our attention.”⁷⁵⁷ Singapore’s Foreign Minister spoke of the “unbearable” and “intolerable” burden that countries “confronted by the unending flow of refugees” faced.⁷⁵⁸ The Filipino Foreign Minister noted that the lack of resolution to the Indochinese crisis had in time only “worsened and degenerated into a most serious threat to peace and stability in Southeast Asia.”⁷⁵⁹

These themes were also picked up by the representatives of other countries. Geoffrey Howe, the British Foreign Secretary, noted of Hong Kong that “the continuing outflow of people from Vietnam has long imposed an enormous burden [that] has now become intolerable... [and] quite literally impossible to cope with.”⁷⁶⁰ Gareth Evans, Australia’s Foreign Minister made clear that he thought that the trade of resettlement offers was only reasonable “in relieving the pressure on the countries who have provided first asylum.”⁷⁶¹

By contrast, the American representative, Lawrence Eagleburger (the then Deputy Secretary of State) was more measured in his remarks, noting that the CPA would require “countries of first asylum to reaffirm the basic humanitarian practice of temporary refuge for all asylum

⁷⁵⁵ UNHCR:15:1, ‘Statement by H.E. ACM Siddhi Savetsila’, 13 June 1989.

⁷⁵⁶ Ibid.

⁷⁵⁷ UNHCR:15:1, ‘Statement by the Governor of Hong Kong’, 13 June 1989.

⁷⁵⁸ UNHCR:15:1, ‘Speech by Wong Kan Seng’, 13 June 1989.

⁷⁵⁹ UNHCR:15:1, ‘Speech by Raul Manglapus’, 13 June 1989.

⁷⁶⁰ UNHCR:15:1, ‘Speech of Sir Geoffrey Howe’, 13 June 1989.

⁷⁶¹ UNHCR:15:1, ‘Speech by Rt. Hon. Gareth Evans’, 13 June 1989.

seekers – a practice which has been upheld with great forbearance and sacrifice by those countries for more than a decade.”⁷⁶²

The right of Southeast Asian countries to respond to the influx of refugees in a particular way was also vigorously asserted. Indonesia’s Foreign Minister made clear that “the countries of temporary refuge and the ASEAN countries in particular” would contribute to a mutual solution but only in a fashion that was “in conformity with international humanitarian principles and in accordance with their socio-political and cultural traditions.”⁷⁶³

6.2. ASSESSING MISTREATMENT

6.2.1. SALIENCE

Gerald Walzer, then the UNHCR Representative in Thailand, suggests that the absence of a strong diplomatic response to the Thai pushbacks in early 1988 from the resettlement states was a strong indication that the willingness to resettle had almost totally disappeared:

I remember, suddenly, almost totally unannounced and certainly catching HCR totally off guard, they started to push off Vietnamese. Then the Americans, Australians, Canadians went quiet... We were often up until 2 o’clock in the morning waiting for the boats to come back. The Thais could be very threatening to our staff. That was a period of tension when we felt very much alone. I remember telling one ambassador, “Look, do you want me to bring the dead bodies to the gate of the embassy?”⁷⁶⁴

Walzer’s pessimism was not without some basis. As he cabled back to Geneva after discussions with William Brown, the U.S. Ambassador in Thailand:

Amb Brown expressed particular concern over apparent lack of support from other

⁷⁶² UNHCR:15:1, ‘Statement by Lawrence Eagleburger’ 13 June 1989.

⁷⁶³ UNHCR:15:1, ‘Speech of Ali Alatas’, 13 June 1989.

⁷⁶⁴ Interview, 23 February 2015.

usually concerned governments and felt that unfortunately HCR and US stood at this juncture very much alone on this very serious issue. He was afraid of effect on other countries in region if present push-off syndrome was not addressed.⁷⁶⁵

In Thailand, in particular, the arrival of the pushbacks, while unexpected, was the culmination of steady and concerted pressure from the Thais on the resettlement states to do more to bring the flow to an end. After the Thais announced they were closing Khao-I-Dang, an UNHCR-run camp for Cambodian refugees in Thailand, and would forcibly return its occupants in early 1987, Walzer cabled back to Geneva that it was largely an attempt 'to provoke a long-term commitment from the U.S. Government with respect to Hilltribe refugee resettlement.'⁷⁶⁶ Moreover, criticism should be avoided as 'demarches from other governments could be counterproductive if such were perceived to be a form of pressure and could easily deteriorate into the predictable exchange on linking asylum solely to resettlement performance.'⁷⁶⁷

It was not always clear what first asylum states were angling for by pointing out the conditionality of their hospitality. In mid-1988, for example, the ASEAN states and Hong Kong declared that if the flow of Indochinese refugees continued unabated than it would 'create unacceptable political, security, economic and social problems for the countries of first refuge.'⁷⁶⁸ The same press release noted that while 'third country resettlement cannot resolve this problem, and may in some instances compound the problem', the first proposed solution was for an expanded range of third countries for resettlement and the provision of more predictable and multi-year resettlement guarantees.⁷⁶⁹

⁷⁶⁵ UNHCR:11:3:100.THA.SRV, Cable, THA/HCR/0218, 9 February 1988.

⁷⁶⁶ UNHCR:46, Memorandum to the High Commissioner, 'The Situation in Thailand' 16 March 1987.

⁷⁶⁷ UNHCR:46, Memorandum to the High Commissioner, 'The Situation in Thailand' 16 March 1987.

⁷⁶⁸ UNHCR:15:1, International Conference on Indo-Chinese Refugees, 'Press Release - Seminar on First Asylum for Vietnamese Boat People', 8 June 1988.

⁷⁶⁹ UNHCR:15:1, International Conference on Indo-Chinese Refugees, 'Press Release - Seminar on First Asylum for Vietnamese Boat People', 8 June 1988.

But it was clear all the way through the negotiation and implementation of the CPA that the states of first asylum were prepared to use the threat of curtailing admissions to solicit assistance. The Malaysian Foreign Minister made this clear at a Preparatory Conference to the CPA in early 1989, averring that ‘Malaysia seeks the clear understanding of the international community that first refuge countries such as Malaysia should not be saddled with the problem of residues.’⁷⁷⁰ Malaysia, much as it did in 1979, found itself in a position where ‘torn between the duty of extending humanitarian assistance and the need to protect our national interests’ they had to decide ‘whether to continue opening its borders to the Vietnamese boat people or stop accepting them.’⁷⁷¹

An internal UNHCR briefing paper produced for the High Commissioner prior to the Preparatory Conference pointed out the ‘lack of consistency, if not lack of coherence’ in the Malaysian approach. The paper observed that the Malaysian approach was governed by an ironically ‘consistent posture that the Vietnamese boat people phenomenon is not a Malaysian responsibility but rather a problem to be solved by others. This is so despite the [Malaysian] hosting of the Preparatory Conference and the proposing of the International Conference.’⁷⁷² The Malaysian announcement that they would close the large refugee camp at Pulau Bidong was explained as a means of giving ‘notice that other solutions must be forthcoming and that it is the responsibility of others to find the solutions. It is an attempt to place the onus on others but to be absolved of any responsibility by giving advance notice of a change in policy.’⁷⁷³

6.2.2.PRIVATE ASSESSMENTS

⁷⁷⁰ UNHCR:15:1, ‘Note for the File’, March 13 1989’.

⁷⁷¹ Ibid.

⁷⁷² UNHCR:15:1 ‘Briefing – Preparatory Conference – March 11 1988’.

⁷⁷³ Ibid.

What impact did these threats have on the willingness of resettlement states to assist? That mistreatment did not have the same catalytic effect on the resettlement states as in 1979 is clear. At the IGC meeting in Ottawa in early 1988, Richard Smith, the Australian Ambassador to Thailand even took issue with the characterisation of Thai pushbacks as a crisis and was 'emphatic on the non-refugee character of the asylum movement in the region... [noting that] Australia would increasingly gear its intake of the Indochinese to the immigration mechanism rather than refugee processing.'⁷⁷⁴ The Americans and Canadians were less convinced. The American delegate noted that while there was 'sympathy for the reasons behind the shift in policy', that such sympathy 'did not necessitate acceptance of the consequences or the institutionalization of that policy.'⁷⁷⁵ Similarly, for UNHCR, the pushbacks plainly mattered in concentrating minds on the need to do something to assist. Franz Homann-Herimberg, the UNHCR representative at the talks, set out that UNHCR was even discussing leaving Thailand all together (a highly dramatic and unusual step)⁷⁷⁶

We were told by some key government officials that restoration of asylum is linked with the number of arrivals and once the influx subsided the push-off policy of granting temporary refuge has not changed... The Royal Thai Government did not however consider these Vietnamese as genuine asylum seekers but people in search of a better life... UNHCR had no option but to try and make the best of a highly unsatisfactory decision... Unless firm and categorical assurance for restoration of asylum is soon provided by the Thai authorities the High Commissioner may soon have to conclude that the exercise of the protection mandate conferred to him by the international community is no longer feasible in Thailand.

The challenge of the pushbacks was, as Gene Dewey, the Deputy High Commissioner, explained really a way of Thailand signalling the need for alternative solutions:

There are clear indications that the Thai authorities have come to the conclusion that simply attempting to have as many of the new arrivals resettled as possible will not

⁷⁷⁴ UNHCR:11:3:100.THA.ICH, 'Note for the File, Report on the Intergovernmental Consultative Group Meeting, Ottawa, 7-8 April 1988'

⁷⁷⁵ UNHCR:11:3:100.THA.ICH, 'Note for the File, Report on the Intergovernmental Consultative Group Meeting, Ottawa, 7-8 April 1988'.

⁷⁷⁶ UNHCR:11:3:100.THA.ICH, 'Opening Remarks by Mr. F. J. Homann-Herimberg, Head of the UNHCR Delegation to the ICG Meeting in Ottawa, April 7, 1988'.

serve their long term interests. In a sense the international community is being challenged to come up with new responses.⁷⁷⁷

In a note to the UNHCR representatives in the region, Sergio Vieira de Mello, the head of the Asian Bureau for UNHCR, noted that ‘the refugee scene in South East Asia is approaching a watershed.’⁷⁷⁸ Crucially, in Vieira de Mello’s eyes, ‘the point of departure is to maintain the structures that already exist...[the] erosion should not be allowed to spread and lead to a disintegration of structures which have performed over the years with a high measure of success.’

In one candid moment, the head of the Malaysian National Security Council admitted to the local UNHCR official that the issue about turning boats around ‘is not really local politics but rather Malaysia’s disappointment over the response of other parties, particularly resettlement governments.’⁷⁷⁹

Even if it was not quite the ‘loud’ emergency that the 1979 crisis had been, the deterioration in first asylum in the region in early 1988 played a vital role in catalysing attention and reinforcing the willingness of resettlement states to assist.

Most obviously, the preservation of first asylum played a central part in the impetus towards the CPA. As a U.S. discussion paper circulated after the Cha-am meeting detailed, ‘the decade-long consensus that sustained the practice of generous first asylum in Southeast Asia is in serious jeopardy. A new approach will be required if first asylum is to be maintained.’⁷⁸⁰

⁷⁷⁷ UNHCR:11:3:100.THA.ICH, ‘Statement of the Deputy High Commissioner at Intergovernmental Consultative Group Meeting, Ottawa, 7 April 1988’.

⁷⁷⁸ UNHCR:15:1, Memorandum, Vieira de Mello to UNCHR Representatives in Hong Kong, Jakarta, Kuala Lumpur and Manila, ‘Vietnamese Asylum Seekers: Current Perspectives for Solutions (Informal Note from UNHCR)’ 24 May 1988.

⁷⁷⁹ UNHCR:15:1, Series 7, ‘Cable –Meeting with Secretary of the National Security Council’ 12 April 1989.

⁷⁸⁰ UNHCR:11:3:010.USA, Cable, HCR/HKG/0317 13 June 1988, ‘The South East Asian Refugee Situation’.

Those directly involved in the CPA similarly recall that the pushbacks mattered. Pierre

Jambor, the head of UNHCR in Thailand at the time, recalled that:

Thailand, as usual, was at the forefront in taking the initiative to shake up the international community. It did that in the usual fashion by pushing out boats. The other countries like Malaysia and Indonesia were not happy customers either... Thailand started threatening and implementing a closing of the doors... It got to the point of being pretty tragic.⁷⁸¹

Allan Jury, the lead American negotiator on the CPA, recalls the background threat of Thai pushbacks vividly: “there were credible reports of a couple of incidents where Thai water patrols were accused of shooting people and throwing them into the sea. We had staff from the Bangkok refugee bureau that were maintaining a 24/7 physical presence on the border.”⁷⁸²

Moreover, Jury contends that the ASEAN countries refouling refugees played an enormously significant role in committing American attention and efforts towards a comprehensive agreement. If anything, it was interpreted as a sign that absent extensive U.S. involvement, things would get much worse: “it demonstrated they’d rather have a negotiated multilateral deal but ultimately they were prepared to deal with it on their own terms...their political style was pretty straightforward: “can we reach a deal before we go to the most brutal and repressive measures.”⁷⁸³ Eric Schwartz, then a Congressional staffer for Stephen Solarz, and later an overseer of humanitarian issues on the National Security Council in the late stages of the CPA, similarly remembers that the threat of pushbacks concentrated the attention of policy-makers: “Is the fact that pirates were killing Vietnamese refugees and Thailand was

⁷⁸¹ Interview, 5 March 2015.

⁷⁸² Interview, 12 February 2015.

⁷⁸³ Interview, 12 February 2015.

ambivalent at best important? Does that capture the attention of US officials? The answer's yes.”⁷⁸⁴

Gervais Appave, an Australian diplomat working closely with Jury on the drafting of the CPA, observes that “the pushbacks were like an alarm bell saying we the international community must do more to pay attention to this problem.”⁷⁸⁵ Crucially, the arrival of the pushbacks at a moment when nations were tiring of resettlement inspired the search for alternative solutions: “the pushbacks happened at a moment when these countries felt that they didn’t want that situation to continue on forever.”⁷⁸⁶ Sascha Casella, a senior UNHCR diplomat, suggests that the pushbacks had a particularly galvanising effect on the Americans: “The Americans got very excited by the pushbacks. And they certainly induced the advocates to become more vocal and push for resettlement.”⁷⁸⁷ This certainly squares with the recollections of the U.S. Ambassador in Thailand at the time, William Brown, who recalled near constant pressure from the “refugee constituencies back in the United States” who:

focused on the Thai administration of the camps, alleged cases of brutality, slowness in the bureaucratic process, and allegations of stalling in handling some cases. Occasionally, senior U.S. visitors, both from the Congressional and Executive Branches of our government, would come out to Thailand and demand to visit the refugee camps.⁷⁸⁸

6.2.3. PUBLIC JUSTIFICATIONS

In the absence of the same sustained public reaction to mistreatment witnessed in 1979 (a function largely of numbers), I do not pretend that the need for collective action flowed

⁷⁸⁴ Interview, 12 December 2014.

⁷⁸⁵ Interview, 18 March 2015.

⁷⁸⁶ Interview, 18 March 2015.

⁷⁸⁷ Interview, 27 February 2015.

⁷⁸⁸ William A. Brown, ‘Oral Interview’, 3 November 1998, ADST, p. 367. [Available at: <http://www.adst.org/OH%20TOCs/Brown,%20William%20Andreas.toc.pdf>].

from quite the same affective moral impulse as it had in 1979. But it was plain that the suffering of boat people still seemed to exert some level of public fascination. As one reporter wrote in *The Times*:

the suffering of the boat people consumes anyone who comes in contact with them... last week I met one mother who has virtually lost the will to live since a policeman pulled her by the hair from the hold of a boat where she was hiding and threw her baby son into the water to drown.⁷⁸⁹

More importantly, even if this fascination did not engage the general public as it once might have, it clearly engaged relevant policy-makers. A letter from a bipartisan group of over thirty U.S. Senators to George Shultz, the then- U.S. Secretary of State, regarding Thai pushbacks in April 1988 made this clear, noting that while:

first asylum for Indochinese refugees does not have the high profile of some of the international problems in the headlines... thousands of lives are at stake along with U.S. credibility with... the refugees whose safety remains a fundamental commitment of our government... For almost 13 years first asylum for Indochinese refugees has held together with U.S. support, but we are perilously close to having historians regard that first asylum needlessly and tragically collapsed in 1988.⁷⁹⁰

The prospect of first asylum collapsing seemed to account for the almost anomalous bipartisan support for continued admissions of Indochinese amongst representatives of Congress. Substantial resettlement had become no more popular with the public in the intervening years. Yet restrictionist sentiment in Congress towards the Indochinese had largely faded by this period. Californian congressmen were now less likely to complain about the strain on public services and more likely to worry about their Hmong constituents.

Nancy Bearg, the Director of International Programs and Public Diplomacy at the National Security Council, describes a ‘moral bloc’ of congressional representatives dedicated to

⁷⁸⁹ ‘The last voyage of the damned: Vietnamese boat people’ in *The Times*, 23 October 1988.

⁷⁹⁰ UNHCR:15:5:1, ‘Letter to George Shultz’ 12 April 1988.

admitting large numbers of Indochinese refugees enduring well into the early 1990s.⁷⁹¹

Rather than Congress advocating restriction, Bearg remembers the setting of the annual admissions quota as an exercise in ‘always making sure that you had it as high as you could go’ so as not to raise the ire of Congress for being too stingy.

We know that mistreatment mattered too because it formed part of the way the refugee problem was prognostically framed. The familiar explanation that Thailand’s response was a product of the difficulties of being a developing country seemed readily apparent. As one Thai press release issued by the Ministry of Foreign Affairs explained:

The countries in the region have never been, and in future will not be able to offer local resettlement or even refuge for an indefinite period, because of political, social and other considerations. It is thus not a clear-cut and purely refugee situation; the realities are far more complex and cannot be addressed merely by blanket application of traditional refugee norms and principles as developed in the post-World War II European context, however morally satisfying or desirable this may appear to be. We in Thailand shall continue to help as best we can, because humanitarianism is part of our culture and tradition as well. But at the same time, the needs of our own people, 10 million of whom live below the poverty line, increasingly require the attention of our government.⁷⁹²

Having been the understanding for almost the entirety of the crisis, the resettlement states accepted this proposition almost entirely without reservation, similarly framing Thai pushbacks as a question of developing country governance rather than choice. Richard Lugar, a senior Republican Senator, for example, directly attributed the Thai pushback policy and denial of first asylum to the fact that the government was ‘rankled by the corrupt involvement of its provincial and local officials over the increased flow of boat people.’⁷⁹³

Even though the ASEAN countries were imminently to become ‘Asian tigers’ their self-projected vulnerability to refugee flows was an enduring theme. The Malaysian Foreign

⁷⁹¹ Interview - March 2013.

⁷⁹² UNHCR:11:3:100.THA.SRV, Press Release, ‘Thai Perspectives on the Influx of Vietnamese Boat People’ 25 April 1988.

⁷⁹³ ‘Pushed Out to Sea’, *The Washington Post* 3 April 1988, p. B07.

Minister, Abu Hassan Omar, went as far as to draw a comparison between the ill fate befalling the boat people and Malaysia itself, wondering aloud: 'why should we drown in the flood?'⁷⁹⁴

For Mark Hatfield, the pushbacks revealed simply that the Thai 'want the world to know that [they] can not bear the refugee burden alone, and the United States must be the leader in the international effort to mitigate the suffering of Indochinese refugees and to assist the Thai government.'⁷⁹⁵ Claiborne Pell wrote to John Whitehead, the Deputy Secretary of State, that 'I am sure you have seen the recent news reports on Vietnamese boat refugees being turned away from Thailand, with some drowned and killed. This is the kind of situation that caused the Congress to put language in the State Department authorization and in the continuing resolution upholding a generous admissions level for Indochinese refugees.'⁷⁹⁶ For Jonathan Moore, the U.S. Coordinator for Refugees, the pushbacks had a certain logic because the Thais were 'frustrated and anguished.'⁷⁹⁷ The *Financial Times* saw Thailand as 'suffering from a sense of saturation.'⁷⁹⁸ The actions of Thai pirates in terrorising boat people were often framed more in terms of the inability of the Thai government to control them than in terms of the actual complicity of the Thai government in allowing them to informally deter boat people.⁷⁹⁹ Even if the circumstances had changed, and media attention had waned, those with power conceived the actions in precisely the same frames as they had events a decade earlier.

⁷⁹⁴ 'No Room, Little Sympathy for Boat People' in *The Boston Globe*, 23 July 1989, p. 1.

⁷⁹⁵ UNHCR:11:3:100.THA.SRV, Press Release, 'Hatfield Calls for U.S. Support of Thailand for Refugee Crisis' 23 February 1988,.

⁷⁹⁶ UNHCR:11:3:100.THA.SRV, Letter, Claiborne Pell to John Whitehead, Deputy Secretary of State 5 February 1988.

⁷⁹⁷ Quoted in 'What the World Owes 12 million Refugees' in *The New York Times*, 21 August 1988.

⁷⁹⁸ 'The Refugee Problem' in *Financial Times* 25 July 1989, p. 5.

⁷⁹⁹ Interview – Dennis McNamara, April 2013.

6.3. THE PUZZLE OF FORCED REPATRIATION

The experience of implementing the CPA revealed an important tension between the moral and strategic aspirations of refugee resettlement. While first asylum states were keen to leverage the concern of resettlement states for the welfare of refugees into concrete resettlement offers, emphasising that concern made it difficult to implement another important aspect to the agreement: forced repatriation. This section explores the dispute over involuntary return as a substantively important episode in the history of the Indochinese outflow for what it revealed about the nature of international cooperation. That repatriation (forced or otherwise) might prove to be one of the biggest sticking points in the resolution of the Indochinese flow is of no surprise. The question of whether refugees can be returned to where they came from has remained one of the most enduringly controversial questions facing international policy towards refugees. But particularly in this period (the late 1980s) as Michael Barnett notes, a transformation was under way within UNHCR where ‘repatriation was no longer a permanent solution but was now the durable solution.’⁸⁰⁰ Barry Stein observes, for example, that there were 14 million people repatriated between 1990 and 1996 alone, compared to just 4 million returns from 1975 through to 1989.⁸⁰¹ The growth of the ‘repatriation culture’ that came to be criticised in the late 1990s is sometimes thought to be directly connected to the Indochinese experience.⁸⁰² Yet what repatriation required or meant was never conclusively solved by the CPA.

⁸⁰⁰ Barnett, ‘Humanitarianism with a Sovereign Face’, p. 261.

⁸⁰¹ Barry N. Stein, ‘Repatriation, Return and Refoulement During Conflict’ (Working Paper: USAID Conference *Promoting Democracy, Human Rights, and Reintegration in Post-conflict Societies*, October 30-31, 1997).

⁸⁰² On the growth of the repatriation culture within UNHCR, see especially Barnett and Finnemore, *Rules for the World*, pp. 93-118; and B.S. Chimni, ‘From Resettlement to Involuntary Repatriation: Towards a Critical History of Durable Solutions to Refugee Problems’ in *Refugee Survey Quarterly* (2004) Vol. 23, No. 3, pp. 55-73.

The most troublesome aspect of the CPA was not necessarily the bargain struck between the various countries but how that bargain would be implemented and what it actually meant. As Allan Jury remembers, “In a sense the real tensions came in the implementation of [the CPA] more than the negotiation of it. It was the Steering Committee meetings that it all really came to a head...I found the engagement of broader people outside the refugee bureau really accelerated at the final conference and the immediate aftermath.”⁸⁰³

6.3.1. AN INITIAL STUMBLING BLOCK

The most singularly controversial aspect to the CPA was the agreement that repatriation of the ‘screened out’ was vital to any final resolution of the crisis. The CPA ultimately papered over the division between its signatories, framing the question of involuntary return with sufficiently ambiguous language so as to satisfy the demands of all parties. Section F on ‘Repatriation’ outlined that ‘persons determined not to be refugees should return to their country of origin in accordance with international practices reflecting the responsibilities of States towards their own citizens.’⁸⁰⁴ Further to this, it was agreed that ‘if, after the reasonable passage of time, it becomes clear that voluntary repatriation is not making sufficient progress... alternatives recognized as being acceptable under international practices would be examined.’⁸⁰⁵ Pierre Jambor recalls that the only change adopted in the text of the CPA from the initial draft circulated in the wake of the Cha-Am meeting in May 1988 was an alteration of Section F which watered down the agreement from suggesting that the screened out ‘must’ return to ‘should’ return.⁸⁰⁶

⁸⁰³ Interview, 12 February 2015.

⁸⁰⁴ CPA, Section F

⁸⁰⁵ CPA, Section F

⁸⁰⁶ Interview, 5 March 2015.

The aversion to spelling out the process for repatriation in any detail was deliberate: there was no agreement on what it meant. For the Americans, the commitment to repatriation was exclusively limited to voluntary repatriation. The only other country to oppose forcible repatriation was Vietnam, an alliance that, as Jonathan Moore recalls, “really shook the thing up... probably because it was so weird.”⁸⁰⁷

Despite American opposition, UNHCR support for forcible repatriation was strong because it recognised that it was the only feasible way of dealing with the inevitably large population of people whose claims to refugee status would be rejected. This required some diplomatic finesse from Sergio Vieira De Mello, the Director of the Asia Bureau for UNHCR and the official tasked with overseeing the effective functioning of the CPA.

In July 1989, not long after the Geneva Conference, American officials approached Vieira De Mello furious that the UK and Hong Kong had approached Vietnam bilaterally to arrange for the forcible repatriation of a group of ‘screened-out.’ Joseph Petrone, the American Permanent Representative in Geneva indicated that ‘the U.S. was firmly opposed to involuntary repatriation of screened-out and that his country knew UNHCR was equally against it.’⁸⁰⁸ The American hope was that ‘UNCHR would make a similar démarche with the U.K. since such policies were clearly not in conformity with the CPA.’ On leaving, the Ambassador ‘pointed out that seldom had he been instructed to make such urgent representations in person and that this was an indication of the importance Washington attached to this matter.’

In truth, UNHCR was reasonably well apprised of the negotiations, having been involved in them at arms-length. The UK representatives in Geneva had even shared several confidential

⁸⁰⁷ Interview, 8 March 2015.

⁸⁰⁸ UNHCR:15:1, ‘Note for the File - U.S. High Level Démarche on Alleged Agreement Between the U.K./Hong Kong and Vietnam on the Non-Voluntary Return of Screened-Out’ 11 July 1989.

diplomatic cables with UNHCR detailing the discussions with Vietnam. But this was not information for public consumption as Vieira De Mello made clear when writing to Jacques Terlin (the senior UNHCR official in Vietnam) about the repatriations, closing by noting that ‘well understanding that any paper record may not be of your interest to refer to, no copy of this letter will be kept in this office, neither shall I refer to it.’⁸⁰⁹ Vieira De Mello did think to ask one British diplomat, however, if he could think of any good responses to press queries about separate British-Vietnamese understandings and dealings. As he put it, ‘the answer to any queries about UNHCR knowledge is ‘obviously no’ but [I] need an answer to the obvious next question, ‘how could you be meeting and discussing repatriation and ignore bilaterals?’⁸¹⁰

In the immediate aftermath of the CPA being signed in June 1989, there was little need to resort to involuntary repatriation as screening efforts were only just beginning to get under way and the supply of voluntary repatriates was strong. Yet from within the NGO community and the U.S. Congress, the stirrings of resistance the prospect of those who were screened out being forced back were beginning to emerge. Nancy Pelosi, the then Representative of California’s 5th Congressional District, wrote to Robert Funseth, head of the State Department’s Bureau for Refugees, to indicate her concern that as ‘there can be no adequate guarantee that repatriated individuals would be protected from government reprisals... forcible repatriation would be extremely inadvisable in this situation.’⁸¹¹

As the British grew anxious about the build up of those screened out in camps in Hong Kong, it emerged as a real division between American and Britain. Edward Mortimer explained in the *Financial Times* that unless the question was resolved, Britain ‘may soon have to choose between an explosion in Hong Kong and a serious crisis in Anglo-American

⁸⁰⁹ UNHCR:15:1, ‘Letter – Sergio Vieira de Mello to Jacques Terlin – 26 June 1989’.

⁸¹⁰ UNHCR:15:1, ‘Meeting Notes’ (undated, probably December 1989).

⁸¹¹ UNHCR:15:1, Letter from Nancy Pelosi to Robert Funseth, 13 October 1989.

relations.⁸¹² In a private call with Margaret Thatcher in November, Bush observed that agreeing to return was a line that he was not prepared to cross, given that ‘the U.S. had historically received refugees as an important humanitarian commitment... [and] it was difficult to move away from the historic position.’⁸¹³ At a subsequent meeting at Camp David, Thatcher and Bush then reportedly clashed on whether repatriations should be forcible.⁸¹⁴ It was precisely because Anglo-American disagreements were so rare that the division over the fate of the boat people is remarkable. As the *Financial Times* declared in late 1989, ‘the view in Washington is that the issue has replaced Northern Ireland as the most controversial in US/British relations.’⁸¹⁵

6.3.2. THE DECEMBER REPATRIATIONS

Eventually, however, Britain and Hong Kong decided to initiate the first ‘involuntary return’ of screened-out asylum claimants in early December 1989. It resembled something close to an exercise in security theatre, involving 100 Hong Kong prison officers escorting just 51 screened out refugees in a dawn eviction. As David Colvin, head of the Southeast Asia Department in the UK Foreign Office recalls, the international outcry “brought down the wrath of God on our heads.”⁸¹⁶

The European Parliament declared that ‘it was appalled that the British government has begun the forcible repatriation of Vietnamese boat people.’⁸¹⁷ Pope John Paul II in admonishing the policy declared that ‘our heart cannot remain insensitive and indifferent in

⁸¹² Edward Mortimer, ‘History’s Bitter Cup for the Boat People: The Dispossessed Vietnamese’ in the *Financial Times*, 28 October 1989.

⁸¹³ Memorandum of Conversation with Prime Minister Margaret Thatcher’ in GBL, Presidential Telephone Calls – Memorandum of Conversations, 5/10/89-7/27/89, 6 November 1989, p. 3.

⁸¹⁴ ‘Thatcher Stands Firm on Boat People’ *The Times* 26 November 1989; ‘British Will Return Exiles to Vietnam Despite U.S. Plea’, *The New York Times* 27 November 1989 p. A14.

⁸¹⁵ ‘UK Suspends Forced Return of Boat People to Vietnam’ in the *Financial Times* 13 December 1989.

⁸¹⁶ Interview, 23 March 2015.

⁸¹⁷ ‘European Parliament Condemns Repatriation’ in *Financial Times* 15 December 1989

the face of such grave decisions.”⁸¹⁸ Claiborne Pell, Chair of the U.S. Senate Foreign Relations Committee, announced that “it’s a disgrace... it reminds me a bit of after World War II when we sent the Russian soldiers who fought on the German side back to the Soviet Union against their will.”⁸¹⁹ Chet Atkins, a Democratic congressman from Massachusetts, suggested that the ‘common thuggery’ authorised by the British Government ‘conjuges up every picture I have in my mind of World War II concentration camps.’⁸²⁰

Within Britain, the critics were equally incensed. Neil Kinnock, the Labour Opposition Leader, bemoaned the “tyrannical” order that led to the deportation, pointedly challenging Margaret Thatcher to answer a simple question: “What excuse has the Prime Minister for giving instructions that in the middle of the night, armed riot police should raid children, women and men, shove them in caged lorries and forcibly deport them to the country from which they have fled?”⁸²¹ These claims did not pass without a response. Thatcher pointedly declared Kinnock’s response to be “feeble and nonsense”, indicating that in her view “it is perfectly in order to return illegal immigrants to their country of origin” and, moreover, that “those countries protesting at the return would do far better if they offered to take some of them.”⁸²² In a Commons debate later that day, Andrew Welsh a Scottish Nationalist MP, asked Douglas Hurd, the Foreign Secretary: “What kind of people are we who are willing to sell individuals and families to the Vietnamese for \$30 Hong Kong a head? The price of this betrayal is not 30 pieces of silver but \$30 Hong Kong. Will the Secretary of State think again and act differently, in the name of humanity?”⁸²³

⁸¹⁸ ‘Pope Criticizes Hong Kong on Vietnamese’ in *The New York Times*, 18 December 1989.

⁸¹⁹ ‘Hong Kong Forcibly Returns 51 Boat People’ in *The New York Times* 12 December 1989

⁸²⁰ Quoted in ‘Britain Slams the Door’, *The Observer* 17 December 1989, p. 17.

⁸²¹ *Hansard Parliamentary Debates*, House of Commons, 12 December 1989, Column 841.

⁸²² *Hansard Parliamentary Debates*, House of Commons, 12 December 1989, Column 841.

⁸²³ *Hansard Parliamentary Debates*, House of Commons, 12 December 1989, Column 865.

The Times, a supporter of Thatcher's government, the next day reviewed the various justifications for the policy before editorialising that 'none of these can excuse the sordid action which took place, at dead of night, in Hong Kong on Monday, as 51 terrified boat people were herded onto a flight back to Vietnam. It must not be repeated.'⁸²⁴

In a debate a week later, Paddy Ashdown, the leader of the Liberal Democrats, spelled out that "there are some things that it is in a Government's power to do, but which they should decide not to do... simply because such actions are wrong... the government's actions a week ago last Monday were wrong."⁸²⁵ Yet against this, Francis Maude, the responsible junior Foreign Office Minister, pointed out that screening and forced repatriation were the price to pay for preserving first asylum: "The only alternative to a screening procedure is to abandon the policy of first asylum. Hong Kong does not want that; we do not want it."⁸²⁶

Vieira de Mello had been prescient about its impact, having several days before indicated that his greatest fear for the on-going commitment to the CPA was the threat of Britain acting unilaterally: '[the] main difficulty, I fear, is that UK/HKG may proceed with non-voluntary repatriation next week and complicate further search for compromise, i.e. by providing other parties pretexts for maintaining inflexible line on voluntariness of return.'⁸²⁷

The novelty of such a heated disagreement between two erstwhile allies surprised even the principals involved. As Bush explained to Douglas Hurd, "I hate to have any differences with the Prime Minister; I hope the boat people issue can be resolved."⁸²⁸ The issue became a recurrent thorn in Bush and Thatcher's interactions. Even as they were discussing the

⁸²⁴ Editorial, 'The Sordid Act of Forcible Repatriation' in *The Times* 13 December 1989.

⁸²⁵ *Hansard Parliamentary Debates*, House of Commons, 19 December 1989, Column 250.

⁸²⁶ *Hansard Parliamentary Debates*, House of Commons, 19 December 1989, Column 272.

⁸²⁷ UNHCR:15:1, Cable - Vieira de Mello to Jambor, THA/HCR/1802, 'Immediate and Personal for Jambor from Vieira de Mello', 8 December 1989.

⁸²⁸ 'Memorandum of Conversation with Douglas Hurd' in GBL, Presidential Memoranda of Conversations, 29 January 1990, p. 4.

potential unification of Germany and democratization in South Africa, Thatcher still felt obliged to bring it up, concerned about the implications of residual refugees complicating the handover of Hong Kong to the Chinese. As she pointed out to Bush, 'on the matter of Vietnamese refugees, the time is coming when they will start coming again. We have no room in the camps, where they are fighting anyway. I can't allow this issue to inflame the situation in Hong Kong.'⁸²⁹ John Sununu, Bush's White House Chief of Staff, recalls that Thatcher's insistence was met only with Bush's comparable desire to dodge the question.⁸³⁰

6.3.3. STEERING COMMITTEE DISAGREEMENT

The absence of any agreement on the return of the screened-out nearly caused the overall architecture of the CPA to fall apart. In the wake of the Hong Kong repatriations in December 1989, Malaysia demanded that a firm threshold be set for when forcible repatriation should occur, suggesting that the Third Steering Committee (scheduled for late January 1990) should agree that:

unless significant progress was achieved in the voluntary repatriation of screened-out by 31 December, 1989, i.e. 70 per cent of the definitely screened-out for at least two months, countries of first asylum could proceed to implement the necessary measures with a view to achieving the phased, orderly and monitored return.'⁸³¹

The British were similarly minded, although happy to settle for a threshold of 50 per cent (a relatively academic figure at that point given that voluntary repatriations had ground to a halt).

⁸²⁹ 'Memorandum of Conversation Between President Bush and PM Margaret Thatcher 13 April 1990', GBL, Presidential Memoranda of Conversations, p. 13.

⁸³⁰ "We had this issue, the Vietnamese boat people. I can think of that as one example. I think Margaret Thatcher would get to it and say, "You've got to understand our point of view." We never wanted to initiate a conversation on it, she wanted to raise the issue." [The Miller Center, 'Interview with John Sununu, 11/2000' available at: <http://millercenter.org/president/bush/oralhistory/john-sununu-2>].

⁸³¹ UNHCR:15:1, 'CPA Draft Steering Committee Note - Comments/Amendments', Document produced for Resumed Session of Third Steering Committee of the International Conference on Indo-Chinese Refugees (Geneva, 23-24 January 1990).

The British desire for a commitment to forced repatriation had a single-minded quality, animated almost exclusively by its interests in governing Hong Kong and ensuring that the planned handover to the Chinese in 1997 went as smoothly as possible. At a meeting in London (immediately prior to the resumed Third Steering Committee meeting) between the High Commissioner, Vieira de Mello, Francis Maude, the minister tasked with responsibility for the issue, and other senior British diplomats, Maude indicated that following his visit to Hong Kong in September 1989, it had become clear to him that for Hong Kong the “boat people was more important than [the] democracy movement or the 1997 passport issue. [There is a] grave anxiety that if [a] new influx happens, Hong Kong may become difficult to govern. Hence [the] difficult decision taken in December 89.”⁸³² Vieira de Mello’s meeting notes indicate that Maude hinted the British reaction could be quite severe:

Maude: If there isn’t a resolution at this meeting on the central issues that were avoided by last meeting, pressure will mount on HKG to resume bilateral arrangements with consequences this could have for less scrupulous countries. Asylum could be under threat although UK would want to preserve it.⁸³³

As Gavin Hewitt, a British diplomat working on the CPA recalls, “it was the Hong Kong issue that drove British concerns. The Chinese hate the Vietnamese. They had made clear they didn’t want to see a single Vietnamese boat person in Hong Kong when they took over.”⁸³⁴ David Colvin, head of the Southeast Asia Department in the Foreign Office at the

⁸³² UNHCR:15:1, Meeting Notes, ‘Meeting with HC/Maude/Robin McLaren/Colvin/Gavin’ 22 January 1990.

⁸³³ UNHCR:15:1, Meeting Notes, ‘Meeting with HC/Maude/Robin McLaren/Colvin/Gavin’ 22 January 1990.

⁸³⁴ Interview, 25 February 2015. It is clear too that this was a real concern at the time. Vieira de Mello notes a meeting with Hewitt on 19 January 1989 where Hewitt is recorded as informing Vieira de Mello that Britain was worried because of the ‘Chinese long-term interest: no VNBP’s in HKG by 97’, an aversion likely attributable to ‘the extreme ethnic tension and hatred between Chinese and VNs.’ [UNHCR:15:1, Meeting Notes, ‘Meeting with HC/Gavin [Hewitt]12:15’ 19 January 1990].

time and similarly intimately involved in the politics of the CPA, remembers that “British policy was “very largely driven by Hong Kong...That was driving our policy basically.”⁸³⁵

Once the Third Steering Committee meeting arrived, it was clear that the continued American refusal to support forced repatriation met little support from other states. The Americans demanded a one-year moratorium on forced departures, after which the question could be revisited.

For some, support for forcible repatriation was clearly driven by a concern over the frailty of first asylum should there be no involuntary returns. Bernard Kouchner, leader of the French delegation, suggested that the Committee “while being pragmatic, should not create new injustices and suffering.” Support for non-voluntary return had to be set against the likelihood of push-offs, an outcome that could hardly “correspond to the “values” of many governments present at the meeting.”⁸³⁶ For others, it was attributable to the old saw that other refugees deserved compassion more, as the Canadian spokesman made clear: ‘Do we serve best the interests of refugees, when we uncritically choose the path of least resistance? That is, when we make available resettlement opportunities for persons who we know are not refugees?’⁸³⁷

Even the official report of the meeting could not, however, gloss over the serious divisions that emerged between the parties over the course of the meeting as the following extract reveals:

The delegate of the United States stated that he had just received his latest instructions and that his government “continued to believe that the moratorium on involuntary return be for 12 months” and would not agree to any earlier date than 1

⁸³⁵ Interview, 23 March 2015.

⁸³⁶ UNCHR:15:1, ‘Report of the Resumed Third Meeting of the Steering Committee of the International Conference on Indo-Chinese Refugees (Geneva, 23 and 24 January 1990).

⁸³⁷ UNHCR:15:1, ‘Statement - Canada’ 23 January 1990.

January 1991... A large number of delegations took the floor to express their disappointment with these announcements, as they meant that consensus on all issues had once again eluded the Steering Committee. A few participants voiced their concern over the possible impact of this situation, especially on first asylum... Another delegate requested that the report/record of the Committee clearly show that “all but one or two governments were ready to reach agreement” and that those not able to do so be invited to join the consensus on an urgent basis.

Vieira de Mello’s contemporaneous meeting notes which record the reactions of the various states present reveal a much livelier dispute than the official record of the meeting suggests:

Canada: ‘Share French distress, worried about preservation of 1st asylum’

Austria: ‘Most unhappy, talking about human beings, insecurity’

Australia: ‘No progress, anything we’ve said in support would now be withdrawn’

China: ‘Shares disappointment, 3 months wasted. US domestic public opinion ok, but what about opinion of neighbours of VN? Non-refs must be dealt with.’

Thailand: ‘We agreed to come back only if US/VN ready to be flexible, wants to see it in writing. VN bilateral disturbing. Thai want multilateral but let’s get into business straight away and leave aside issues discussed and rediscussed many times.’⁸³⁸

That the process was near breakdown was obvious. *The Economist* observed that:

Britain, now against the ropes, grumpily said it would agree to a six month delay, and seemed to have support from a number of countries. But America and Vietnam refused to budge... After the meeting, the chief British delegate, Mr Robin McLaren, tried to put a brave face on his misfortune by claiming that at least the meeting had agreed in principle to mandatory repatriation.⁸³⁹

As Douglas Hurd indicated to the High Commissioner, his own discussions with President Bush and James Baker a few days after the Steering Committee breakdown ‘give me little hope that the United States will be willing to join in the consensus which was acceptable to all other participants in the Geneva meeting except Vietnam.’⁸⁴⁰

⁸³⁸ UNCHR:15:1, ‘Report of the Resumed Third Meeting of the Steering Committee of the International Conference on Indo-Chinese Refugees (Geneva, 23 and 24 January 1990).

⁸³⁹ ‘No Deal - Yet’ in *The Economist*, 27 January 1990, p. 62

⁸⁴⁰ UNHCR:11:3:010.GB, ‘Letter, Douglas Hurd to Thorvald Stoltenberg’ 2 February 1990.

In order to restore cooperation, an 'Informal' Steering Committee Meeting was held in Manila. As Vieira de Mello announced to the assembled delegates, absent their cooperation "the risk of a major tragedy on the high seas is very real and imminent indeed."⁸⁴¹ The need to act was clear: "First asylum - that is lives of human beings - is at risk... We are, therefore, under the disturbing obligation of calling your urgent attention to the fact that we are on the verge of what I would call a schizophrenia of our approach."⁸⁴²

6.3.4. THE JULY CRISIS

By July 1990, however, the impasse remained. High-level talks were held between a U.S. delegation of State Department and National Security Council officials and UNHCR staff to try and agree on amended wording to the CPA to accommodate collective concerns. Michel Moussalli, head of UNHCR's Protection Division, noted that without an effective resolution of the impasse, 'we could be in the invidious position of having to deal with the consequences of refoulement rather than preventing it.'⁸⁴³

The U.S. wanted to water down the text on repatriation to indicate only that it was willing to accept a new category of the screened out who 'do not object' but have 'not necessarily volunteered' for repatriation. Moreover, they were keen to insert a prohibition against the use of force in repatriation. UNHCR were clear though in informing them that 'qualifying language such as "with no force or coercion whatsoever"... would probably not be acceptable to first asylum countries.'⁸⁴⁴ That these demands were frustrating for the UNHCR

⁸⁴¹ UNHCR:11:3:391.89, 'Introductory Remarks by Sergio Vieira de Mello at Informal Steering Committee Meeting Manila 17 May 1990'.

⁸⁴² Ibid.

⁸⁴³ UNHCR:11:3:391.89 'Memorandum - Pierre-Michel Moussali to Irene Khan re UNHCR's Role in the Return of Non-Refugees to Vietnam' 16 July 1990.

⁸⁴⁴ UNHCR:15:1, 'UNHCR's Reaction to the United States' Message of 8 July 1990 on the Comprehensive Plan of Action' 9 July 1990.

and other states is clear. In one exchange, Princeton Lyman, the State Department official responsible for refugee matters, outlined a list of procedural safeguards for the repatriation process, which culminated in a particularly drawn out final stage:

A last opportunity in a private and non-coercive environment, without host government representation, within 24 hours prior to their departure at which potential returnees must indicate to a UNHCR representative whether or not they agree to return to Vietnam.⁸⁴⁵

Vieira De Mello noted expressively in the margins of his copy: 'NO! this makes a mockery of the distinction.'⁸⁴⁶

At the meetings, two conflicting forces were at play. First, the Americans evinced a clear desire for specific language and commitments to prevent involuntary repatriation. As Princeton Lyman, head of the American delegation, indicated at a meeting with the High Commissioner, "fuzziness will lead to collapse."⁸⁴⁷ Equally, however, there was an increasing sense that the notion of a third category between volunteers and objectors of "those who do not oppose" might help resolve the disagreement. As Stoltenberg explained, this did not mean those screened out needed to be counselled as to whether they definitively objected: "there is a vast grey zone of those who do not object. But we can't then have safeguards that invite them to object. If question is: do you really agree, they are likely to say no, then no consensus."⁸⁴⁸

Vieira De Mello complained to the British that the Americans were being "impossible" in their demands and had 'no realistic grasp of the size of the problem facing first asylum

⁸⁴⁵ UNHCR:15:1, 'Cable - State Department to UNHCR' 8 July 1990.

⁸⁴⁶ Ibid.

⁸⁴⁷ UNHCR:15:1, Notes, 'Meeting with HC and US Delegation', 16 July 1990.

⁸⁴⁸ Ibid.

countries and the need to find a safety valve on the repatriation issue.⁸⁴⁹ The British, still frustrated by what they saw as the unrealistic American attitude and concerned about problems in Hong Kong refugee camps, could only agree. Robin McLaren, the Permanent Undersecretary of the British Foreign Office, openly commiserated with the frustrations of UNHCR officials, hoping for ‘the day [that the] US will realize balance of interests lies in favour of normalization with Vietnam, but when?’⁸⁵⁰ As the British Ambassador admitted to the High Commissioner, for them, forcible repatriation was a desire to ‘avoid a constitutional crisis over the Hong Kong Legco’s [the Hong Kong Legislative Council] resolution to end first asylum.’⁸⁵¹

At a series of meetings following the working meetings with the Americans, the British reaffirmed their view that ambiguity was the way forward. Douglas Hurd suggested in a meeting with the High Commissioner that the “spelling out of conditions/safeguards may defeat actual purpose” and that “we shall propose changes that would preserve greyness of grey area to give it a chance to work.”⁸⁵² As Hurd’s follow-up letter to Stoltenberg indicated, a studied ambiguity on the question of force was very much the preferred British approach.⁸⁵³

It proved only to enrage the first asylum states. Vieira de Mello, who had travelled to Jakarta for discussions with a working group of the ASEAN states and Hong Kong reported back

⁸⁴⁹ UNHCR:15:1, UK Diplomatic Cable, Undated, (Probably late July 1990).

⁸⁵⁰ UNHCR:15:1, Meeting Notes (Sergio Vieira de Mello), ‘High Commissioner’s Visit to FCO London’ 19 July 1990.

⁸⁵¹ UNHCR:15:1, Note for the File, ‘Ambassador Morland’s Meeting with the High Commissioner on 6.6.91’.

⁸⁵² UNHCR:15:1, Meeting Notes (Sergio Vieira de Mello), ‘Meeting with Douglas Hurd, London, 15:40’, 19 July 1990

⁸⁵³ Hurd wrote: ‘Our difficulty is within the text’s concentration on abjuring the use of force or coercion of any kind. This could make it impossible even to begin proceeding by the grey area. It seems to me that we should start the other way round: say nothing about the non-use of force but begin returning people whom we believe will not object to returning and demonstrate that force is not in practice necessary.’ [UNHCR:11:3:389.91, ‘Text of Message dated 23 July from Mr Douglas Hurd to Mr Stoltenberg, UNH High Commissioner for Refugees’].

that the proposed U.S. amendments were ‘totally unacceptable to them.’⁸⁵⁴ The Secretary-General of the Malaysian Ministry of Foreign Affairs aired his public frustration with the United States after one meeting, noting that “we’re not interested in finger-pointing but we can’t understand the choices the United States has made recently.”⁸⁵⁵ In their insistence that the Vietnamese asylum seekers not be forcibly repatriated, the Malaysian Foreign Minister suggested that America was “put[ting] the very principle of first asylum in peril.”⁸⁵⁶ The focus of their public criticism, however, remained on Vietnam. The Malaysian Foreign Minister outlined that:

Vietnam as the country of origin of the boat people is responsible for the current impasse on the application of the Comprehensive Plan of Action. It has not played its part in preventing illegal departures of its citizens. It has refused to accept involuntary repatriation of Vietnamese economic migrants who are not welcomed in third countries.⁸⁵⁷

Following the ASEAN ministers meeting in late July, the Foreign Ministers of the ASEAN countries issued a communiqué noting that ‘the severe socio-economic and political costs imposed on CTR [countries of temporary refuge] have become intolerable and cannot be continued.’⁸⁵⁸ The threat as ever was the same: that American resistance to involuntary return ‘risks establishing precedents that will lead inevitably to a breakdown of international understanding on the treatment of asylum seekers.’⁸⁵⁹ This would, the communiqué suggested, be met with a familiar response: “The Foreign Ministers reiterated the sovereign right of the CTR to take such actions as they deem necessary, in a more coordinated and concerted manner, to safeguard their national interests including the abandonment of

⁸⁵⁴ UNHCR:15:1, Cable, Vieira de Mello to various, HCR/SRV/0488, 30 July 1990.

⁸⁵⁵ Quoted in ‘Baker Hints at Direct Contact With Phnom Penh’ in *The New York Times*, 28 July 1990.

⁸⁵⁶ Quoted in ‘U.S. Policies Criticized by Allies in Asia’ in *The New York Times*, 25 July 1990.

⁸⁵⁷ UNHCR:11:3:391.89, ‘Statement by H.E. Dat’ Haji Abu Hassan Omar, Minister of Foreign Affairs of Malaysia at the Opening Session 23rd ASEAN Ministerial Meeting Jakarta, 24-25 July 1990’.

⁸⁵⁸ UNHCR:15:1, ‘Joint Statement by the ASEAN Foreign Ministers on the Problem of Vietnamese Boat People, Jakarta, 24 July 1990’.

⁸⁵⁹ Ibid.

temporary refuge.”⁸⁶⁰ James Baker, attending the Post-Ministerial conference with the ASEAN ministers in Indonesia reaffirmed American opposition to forced repatriation, noting too that terminating first asylum would should be resisted given it would cause “inhuman chaos and loss of life.”⁸⁶¹ What was crucial, however, was his admission that the U.S. was “willing to support UNHCR’s suggestion for a new category of refugees – those who do not object.”⁸⁶²

6.3.5. WHAT EXPLAINS AMERICAN OPPOSITION TO FORCED REPATRIATION?

The American resistance to forced repatriation was, I argue, a direct product of their affective regard for those fleeing Indochina and a belief that their return would be injurious and immoral. What evidence is there for this?

First, in the telling of those close to the decision-making process, the resistance to repatriation was a personal conviction of then-President George H.W. Bush. Princeton Lyman, the Assistant Secretary of the State and Director of Refugee Programs at the time, remembers that “President Bush was adamant that you could not send these people back to Vietnam. He just thought, ‘how could you force them back to Vietnam, a brutal communist regime?’”⁸⁶³ Karl Jackson, a member of the National Security Council with responsibility for Asian affairs, argues that Bush opposed those arguing for forcible repatriation for a simple reason: “he just didn’t think it was right that you chloroform these people and put ‘em on planes.”⁸⁶⁴ Despite the considered opinion of many in the State Department leaning in

⁸⁶⁰ Ibid.

⁸⁶¹ ‘U.S., Australia Warn Asia Not to End Asylum’, *Reuters*, 27 July 1990.

⁸⁶² ‘U.S. Eases Stand Slightly on Issue of Boat People’, *Reuters*, 27 July 1990.

⁸⁶³ Interview, 16 July 2014.

⁸⁶⁴ Interview, 10 April 2013. The transcript of a meeting between Thorvald Stoltenberg, the High Commissioner for Refugees, and Bush at the White House reveals this to be reasonably plausible too: ‘The President observed that looking to the end of 1992 opened up 2 ½ years to “figure this thing out” but wondered would Vietnam change its political and economic policies during this time.’ Despite the request of the High Commissioner that the Americans agree to more forcible repatriation, all that Bush

favour of forcible repatriation, Bush ultimately refused to agree to support any policy involving force due to a sense that “if they felt that strongly that they didn’t want to go back to Vietnam, then they shouldn’t have to.”⁸⁶⁵ Henry Catto, the then American Ambassador to the UK, recalled that it was the only issue on which he ever disagreed with Bush over a lifetime of friendship.⁸⁶⁶

Curiously, this resistance was almost entirely at odds with the message of reconciliation towards Vietnam featured in Bush’s inaugural address. Noting that the memory of Vietnam “cleaves us still”, he simply observed: “friends, that war began in earnest a quarter of a century ago, and surely the statute of limitations has been reached.”⁸⁶⁷ He then added, “This is a fact: The final lesson of Vietnam is that no great nation can long afford to be sundered by a memory.” Yet it was not too late to litigate the cause of the Indochinese refugees.

But the opposition to forcible repatriation ran deeper than a single man. Jonathan Moore, the central figure in American refugee policy in the negotiation and early implementation of the CPA, remembers that “there were people who objected to this, including me. Just the

would agree to do was to “consider the proposal.” [UNHCR:15:1, ‘High Commissioner’s Meeting in the White House’].

⁸⁶⁵ Interview, Karl Jackson, 10 April 2013.

⁸⁶⁶ See, for example, the following extract from Catto’s oral interview with The Miller Center:

Masoud: It seems particularly on the issue of the Vietnamese boat people and the repatriation, you had policy differences with the President.

Catto: I did.

Masoud: Could you elaborate on that? How open was the President to hearing your suggestions? Were there other issues on which you had policy differences?

Catto: No, there were no other issues that I recall. We were at Camp David one weekend with them, and I caught him in a moment alone. I said, “You really might want to think about letting up on the Brits on this because they have a real problem. They can’t control the numbers, and it’s just a tough situation.” He came back and said, “No sir, I don’t agree with that at all.” It was just clear that he wanted to keep American pressure on the British to accept them and to accept the fact that they didn’t want to be repatriated to a repressive, primitive, Communist country.

Masoud: But there were no other issues like that on which you —

Catto: No, there were not. [The Miller Center, ‘Interview with Henry Catto’ available at: <http://millercenter.org/president/bush/oralhistory/henry-catto>]

⁸⁶⁷ ‘Inaugural Address of George Bush’, 20 January 1989, available via the Avalon Project: http://avalon.law.yale.edu/20th_century/bush.asp.

idea of sending these people back forcibly. I was desperately looking for someone to be my ally at the UNCHR meetings and only found the Vietnamese.”⁸⁶⁸ This is not to suggest that all Americans felt an unalterable hostility towards Vietnam. As Moore contends, “there was a more abstruse constituency weighing in here that felt you shouldn’t send anybody back to communist-land. That was typical but not that powerful. The general Vietnam-US issues and the anti-communist element of it had receded and people were sick of the thing.” Some time after the controversial repatriation from Hong Kong in late 1989, Mary McGrory, a leading columnist for the *Washington Post*, wrote that the reluctance to accept forced repatriation stemmed from ‘the neurosis about Vietnam [that] is cemented into the psyche of the State Department and the National Security Council. In some cramped minds, Vietnam has not suffered enough for defeating us.’⁸⁶⁹

6.3.6. HOW WAS THIS RESOLVED?

Against the intensity of this opposition, what resolved it? Ultimately, the impasse was resolved in three ways. First, UNHCR lent its ‘good offices’ to volunteering to monitor the circumstances of those repatriated to ensure that Vietnam was not breaching their rights.⁸⁷⁰ As Sadako Ogata, the then High Commissioner for refugees, noted in 1993:

the novel feature of the CPA was the responsibility of UNHCR to monitor in Vietnam the situation of all those who went back, in order to assure their safety and create a climate of confidence. This was the first time that an international organisation created for refugees provided a form of protection to non-refugee nationals in their own country.⁸⁷¹

⁸⁶⁸ Interview, 8 March 2015.

⁸⁶⁹ Mary McGrory, ‘The Vietnam Neurosis’ in *The Washington Post* 4 January 1990.

⁸⁷⁰ Samantha Power has a good account of this in *Chasing the Flame* (New York: Allen Lane, 2008), pp. 65-74.

⁸⁷¹ ‘Refugees: Lessons from the Past’ Richard Storry Memorial Lecture, St Antony’s College Oxford, 5 May 1993, available at: <http://www.unhcr.org/3ae68fad10.html>.

This was a genuinely novel extension of UNHCR's role and deserves some comment. That these individuals were deemed to be within UNHCR's mandate was not necessarily obvious. The basis for extension was a practical assessment that doing so would enable UNHCR to better fulfil its more immediate protection functions of encouraging states to protect first asylum. A briefing paper circulated at senior levels within UNHCR by Gerald Walzer (the then Director of Programming) made this rationale for the support of 'return movements other than voluntary repatriation' clear:

In determining whether or not to get involved in such initiatives, a dominant consideration would be the extent to which such "good offices" activities contribute towards the maintenance and safeguarding of policies and practices of more immediate concern to UNHCR, eg. the maintenance of the practice of first asylum⁸⁷²

This was far from controversial. As Robert van Leeuwen indicated in a letter to Vieira de Mello shortly after the breakdown of Steering Committee III, regarding the possibility of UNHCR counselling and monitoring non-refugees on their return 'was simply not a UNHCR mission. While humanitarian considerations undoubtedly led us to take it on, we are, in my view, placing ourselves as an institution in an increasingly and perhaps unnecessarily vulnerable position.'⁸⁷³

One way in which concerns like van Leeuwen's were assuaged was that the legal authority for UNHCR involvement in monitoring came from the Secretary-General rather than from the UNHCR himself. Javier Pérez de Cuellar wrote to Stoltenberg observing that 'it is becoming increasingly evident that all interested parties wish UNHCR to play a lead role in tasks related to repatriation and reintegration which... go well beyond the good offices of UNHCR.' In turn, UNCHR was appointed, independently of its mandate, to serve as the

⁸⁷² UNHCR:15:1, 'Draft Policy Position Paper - Voluntary Repatriation and Other Return Movements - The Role of UNHCR in the Country of Origin' 6 August 1990

⁸⁷³ UNCHR:11:3:391.89, Letter from Robert van Leeuwen to Sergio Vieira de Mello, 6 February 1990.

Secretary-General's 'Special Representative to co-ordinate and monitor the returnees programme to Vietnam.'⁸⁷⁴

That the involvement of UNHCR in doing the monitoring mattered is clear. As Barnett and Finnemore note, the neutral claim to impartial, moral authority embodied in international organisations like UNHCR is one of its few sources of independent power.⁸⁷⁵ Chester Atkins, a U.S. Congressman, noted at one congressional hearing that his reluctant support for involuntary repatriation very much flowed from UNHCR involvement in Vietnam: 'I would suggest that the key is not so much Vietnam's willingness, but the U.N. High Commissioner for Refugees' capacity to do the monitoring of the program.'⁸⁷⁶

The second means of resolution was through the deliberate cultivation of ambiguity. Following the failure of the CPA parties to agree to a common text on repatriation, the focus of UNHCR efforts shifted towards engaging Vietnam and the states of first asylum to facilitate repatriation, separately from any direct U.S. involvement. Dennis McNamara, the Deputy Director for Protection, noted in a cable to Vieira de Mello that he agreed with the 'approach to move to trilateral discussions and avoid high profile and politicized steering committee discussions on essentially irreconcilable issue.'⁸⁷⁷ In his eyes, the USA 'should be briefed on approach at outset but naturally without right of veto in view of their intransigence being responsible for inability of steering committee to proceed.' Moreover, further texts spelling out precise procedures for repatriation were to be avoided and UNHCR should 'keep the discussions a little vague until it is clear that the approach in general has the support of all.'

⁸⁷⁴ UNHCR:15:1, Letter from Javier Pérez de Cuellar to Thorvald Stoltenberg, 14 September 1990.

⁸⁷⁵ Barnett and Finnemore, *Rules for the World*, p. 23.

⁸⁷⁶ 'Refugee Protection and Resettlement Issues Relating to Southeast Asian and Hong Kong' *Hearing and Markup before the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs, U.S. House of Representatives*, 21 June 1990, p. 18.

⁸⁷⁷ UNHCR:11:3:391.89, Cable, 'Re Your Msc/6213', 7 August 1990.

In September, UNHCR signed a trilateral agreement on new procedures for ‘non-volunteers’ between the UK, Hong Kong and Vietnam setting out a series of ‘modalities of return for those non-volunteers who are not opposed to repatriation’ (the so-called ‘grey area agreement’).⁸⁷⁸ On the advice of the British, the ‘grey areas’ were kept ‘genuinely grey’. As the British delegates suggested, ‘if the text specifically outlined support for forcible repatriation, the ‘NGOs will go around and encourage objection’ and the ‘breakdown of first asylum is last thing we want to happen.’⁸⁷⁹ The invention of this new category of ‘those who do not object’ was entirely novel and largely a reflection of the political exigencies of the situation. What constituted objection or voluntarism was never spelled out or put on paper. It meant in turn, that governments had the rhetorical and legal flexibility to never need to resort to force. As David Colvin remembers, much of the solution arose from not forcing the U.S. to publicly commit to the principle of forcible repatriation:

The whole thing was finessed in quite a clever and staged way, with the creation of transit centres and camps in Vietnam. The American sensitivities were fully catered for and in the end they did come round. But I don’t think they’d ever concede that they accepted forcible return as such.⁸⁸⁰

Indeed, this was what happened. Just several weeks later at an informal meeting of the CPA Steering Committee, the Americans agreed to support the ‘High Commissioner’s plan to return to Vietnam persons who have been determined not to be refugees and who do not object, under conditions without force or coercion.’⁸⁸¹

⁸⁷⁸ UNHCR:15:1 ‘Aide Memoire on Modalities of Return for those Non-Volunteers Who Are Not Opposed to Repatriation’, 21 September 1990.

⁸⁷⁹ UNHCR:15:1, ‘Meeting Notes – High Commissioner’s Visit to FCO London’ 19 July 1990.

⁸⁸⁰ Interview, 23 March 2015.

⁸⁸¹ UNHCR:15:1, ‘Report on the Information Meeting of the Steering Committee of the International Conference on Indo-Chinese Refugees (Geneva, 5 October 1990). Day 3 Scans 1, p. 230/

UNHCR found itself in a similarly arms-length position from the grubby work of forced repatriation. Despite some internal divisions, its support for forced return of those screened out was ultimately fairly unambiguous. As High Commissioner Ogata explained at the 4th Meeting of the Steering Committee in Geneva in mid 1991: 'UNHCR cannot be involved in the forcible return of Vietnamese from the countries of first asylum. Having said this, I believe it is vital to the continuing success of the CPA that concerned Governments become fully engaged in further consultations in order to chart a plan for the phased and orderly return of non-refugees.'⁸⁸²

Moreover, American acquiescence in forced repatriation was never a full positive agreement. In many ways, the American position on involuntary repatriation resembled the new invented category of 'those who do not object.' Following meetings between Hong Kong, the UK and U.S. officials in mid-1991, one State Department press release observed:

The British and Hong Kong sides informed the United States that they intend as a matter of urgency to seek bilateral discussions with Vietnam. Within the context of the CPA and the U.S. position on involuntary repatriation, the United States does not object to these discussions.⁸⁸³

The U.S. ultimately did not agree to even the principle of mandatory repatriation until early February 1994, at the Fifth Steering Committee meeting of the CPA held in Vietnam. And even then it was still a sensitive question. Claiborne Pell, head of the Senate's Foreign Relations Committee, wrote to Warren Christopher, the Secretary of State, in advance of the Fifth Steering Committee meeting that 'I am concerned that there may be a decision to have the United States approve forced repatriations to Vietnam. If this occurs, it would break with nearly 20 years of U.S. policy about Indochinese refugees...this is a policy that the United

⁸⁸² UNHCR:11:3:389.91, 'Statement by the High Commissioner at Steering Committee of International Conference on Indochinese Refugees' 29 April 1991, p. 5.

⁸⁸³ UNHCR:15:1, U.S. Department of State, 'Vietnamese Asylum Seekers' 4 June 1991.

States should not support.⁸⁸⁴ Even then, however, the U.S. commitment was half-hearted.

Phyllis Oakley, the Assistant Secretary of State responsible for refugees reported to one House subcommittee meeting that: 'While the United States announced at the Steering Committee meeting that we do not oppose in principle the mandatory return of those determined not to be refugees, we noted that, for the time being, such return should not be extended beyond its current application in Hong Kong.'⁸⁸⁵

Finally, the third factor in explaining the dissipation of American resistance is that key Congressional figures came to doubt the prohibition on involuntary return themselves. And their change of mind was attributable directly to concerns over the preservation of first asylum. At one Congressional hearing in the midst of the 'July Crisis' over forcible return, Hamilton Fish (a long-serving Republican Congressman and ranking member on the House Subcommittee on Immigration) explained that "two years ago or even one year ago [I] think that I would have opposed involuntary repatriation. But... whatever the dangers were of being repatriated for a few is going to be far worse for tens of thousands in the future if the United States is not a player. They will be involuntarily repatriated, without safeguards, or they will be pushed off."⁸⁸⁶ Stephen Solarz made plain to Princeton Lyman that the refusal to budge on this question meant that "countries may very well abandon the principle of first asylum, and then, we know for sure that some will die. We do not know whether it is a dozen, a hundred or a thousand, but some will die. And if we stick by this position, to some extent, their deaths will be on our conscience."⁸⁸⁷

⁸⁸⁴ UNHCR:11:3:389.91, Letter – Pell to Christopher, 10 February 1994.

⁸⁸⁵ 'Indochinese Refugees', *Hearing before the Subcommittee on Asia and the Pacific of the Committee on Foreign Affairs, U.S. House of Representatives*, 26 April 1994, H381-95, p. 90.

⁸⁸⁶ 'Refugee Protection and Resettlement Issues Relating to Southeast Asian and Hong Kong' *Hearing and Markup before the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs, U.S. House of Representatives*, 21 June 1990, p. 18.

⁸⁸⁷ *Ibid*, p. 54.

The evolution towards an agreement to forcibly repatriate those screened out is less remarkable than that it took so long. Even as normalisation proceeded apace and the larger cooperative architecture of the CPA seemed to compel it, resistance to forced repatriation revealed the depth of the emotive commitment towards the Indochinese refugees.

6.4. HOW SHOULD WE UNDERSTAND THE CPA?

For all of its prominence as a relatively singular instance of North-South cooperation on refugee issues, the CPA is remarkably under-examined. This may be because of its very singularity. The understandings reached (particularly about what would happen to any residual refugees in the states of first asylum) flowed directly from the informal understandings reached ten years prior at the height of the Boat People crisis. And second, as Courtland Robinson contends, it was perhaps really an agreement that was essentially ‘about controlling migration’ more than it was necessarily about refugees.⁸⁸⁸

Attempting to provide alternative explanations would be something of an exercise in creating straw men to knock down. Given the almost febrile pattern of opposition to American positions during the CPA (which are especially curious given the unipolar moment that it corresponded to) it scarcely makes sense to think of either the commitments of resettlement states or the states of first asylum to cooperative burden-sharing as the product of hegemonic coercion. And notwithstanding that some Northern actors such as the British were animated entirely by self-interested motives related to the fate of Hong Kong, their legalised commitment to refugee protection did constrain their behaviours in important ways that suggests we should take the commitment to refugee protection seriously.

⁸⁸⁸ Robinson, *Terms of Refuge*, p. 193.

In this section, though, rather than canvassing a broad range of accounts I instead seek to evaluate the only rigorous, public account of the CPA – Alexander Betts’ theory of ‘cross-issue’ persuasion.⁸⁸⁹ In Betts’ account of how the Comprehensive Plan of Action achieved compromise there is a straightforward logic: the UNHCR helped convince the countries of first asylum (the ASEAN countries plus Hong Kong), the countries of resettlement (the U.S., Canada, Australia and other Northern countries) and the principal exporter of refugees (Vietnam) that they all shared an interest in striking a bargain to cooperatively deal with refugee flows. For each actor, the flow of refugees engaged a different issue of concern: migration (the first asylum states), security (the resettlement states) and development (Vietnam). The agreement stuck because UNHCR played a catalytic role in facilitating cross-issue persuasion, persuading each of the three types of states involved that their ‘wider foreign policy interests could be met through upholding their specific commitments to the CPA.’⁸⁹⁰ The form of the agreement (interlocking commitments), the structural shared interests of the various parties and the role of the UNHCR as a persuasive agent are all identified as the key reasons for the agreement succeeding.

Betts contends that in focusing on the tactical linkages that actors make when negotiating, we readily forget the substantive linkages that exist across issues. As he notes, there is a danger in assuming ‘that two issues need to be part of the same formal negotiations and to be explicitly made conditional on one another for interests in one issue to shape action relation to the other issue.’⁸⁹¹ By making actors aware of the substantive linkages between issues, the UNHCR can play a productive role in facilitating cross-issue persuasion ‘simply

⁸⁸⁹ Two honourable exceptions are: W. Courtland Robinson, ‘The Comprehensive Plan of Action for Indochinese Refugees, 1989-1997: Sharing the Burden and Passing the Buck’ in *Journal of Refugee Studies*, (2004) Vol. 17, No. 4, pp. 319-333; and Sara Davies, ‘Realistic Yet Humanitarian? The Comprehensive Plan of Action and Refugee Policy in Southeast Asia’ in *International Relations of the Asia-Pacific* (2008), Vol. 8, pp. 191-217. Although neither is really seeking to explain the pattern of international commitment except in very general descriptive terms.

⁸⁹⁰ Betts, *Protection By Persuasion*, p. 114.

⁸⁹¹ Betts, *Protection by Persuasion*, p. 40.

by recognizing and communicating the existence of substantive linkages.’⁸⁹² In the case of the CPA, Betts contends that the ‘UNHCR was able to persuade the states that their wider interests could be met through refugee protection, that is, that refugee protection was structurally interconnected with these wider issue areas through the ideas substantively held by the relevant actors... draw[ing] on the structural relationships between the issue areas.’⁸⁹³

The account is distinctly valuable when compared to other instances of UNHCR-sponsored negotiations (which is Betts’ analytical framework) yet as a stand-alone account of the development of the CPA, it is perhaps somewhat over-determined. The American interest in sharing the burden, for example, is variously attributed to the Americans seeing resettlement as a way of salving lingering guilt over the Vietnam War,⁸⁹⁴ a means of influencing the prospects for peace in Cambodia,⁸⁹⁵ a vehicle through which to enhance relationships with the ASEAN states,⁸⁹⁶ and an avenue for normalizing relations with Vietnam.⁸⁹⁷ These may all have been important background conditions in explaining American action but in some respects such a variegated account of state motivation tells us less than it seems to about the substantive interests pushing towards participation. And, in many respects, the interests pushed in different directions. Guilt over the Vietnam War was as much a factor in preventing a negotiated compromise as a desire to bring peace to Cambodia was a background force in compelling it.

Cross-issue persuasion’ has a powerful intuitive logic that does much to parsimoniously account for larger patterns of cooperation across time and place. But why cooperation worked in the case of the CPA might be more readily attributed to other causal forces for a

⁸⁹² Ibid., p. 46.

⁸⁹³ Ibid., p. 50.

⁸⁹⁴ Ibid, p. 126.

⁸⁹⁵ Ibid, p. 133.

⁸⁹⁶ Ibid. p. 132.

⁸⁹⁷ Ibid.

few reasons: (1) the active attempts to decouple the refugee issue from larger controversies; (2) the observed resistance to tactical issue linkage; and (3) the overstated role of UNHCR as a persuasive agent. These all share what I see as a common root: a perception of commitment to refugee issues that is entirely interest-driven and that fails to incorporate humanitarian impulses as both an enabler and a constraint for cooperation.

6.4.1. CONSCIOUS DECOUPLING

Pierre Jambor argues that the CPA revealed a central truth about the relationship between humanitarianism and politics: “when a nation wants to make an opening to the world there’s no better way than to use a humanitarian issue.”⁸⁹⁸ In thinking about the CPA it is tempting to see it as a mere product of the political forces unleashed by the unravelling of the Cold War in Southeast Asia at the time. This, however, puts the cart before the horse. The CPA succeeded because it was able to decouple itself from those larger questions and was much more of a precondition to normalisation than a consequence of it. This is not to suggest that resettlement states saw no advantages in other areas to curtailing the flow of Indochinese refugees. John Blount, an Australian diplomat who worked on the CPA, remembers that:

the government generally were very supportive of it because it all meshed in with normalizing with Indochina and its relations with the rest of Southeast Asia... Particularly under the Hawke government there was a view that there was nothing to be gained by isolating and embargoing Indochina.⁸⁹⁹

The development of the CPA certainly ran in parallel to the thawing of relations with Vietnam. The sudden shift in Thai policies directed towards turning “battlefields into marketplaces” arising from the new civilian administration of Chatichai Choonhavan in August 1988 was the immediate trigger, given that Thailand had traditionally been the

⁸⁹⁸ Interview, 10 March 2015.

⁸⁹⁹ Interview, 2 March 2015.

handbrake on ASEAN overtures to Vietnam.⁹⁰⁰ Indeed, by December 1989, the CIA was reporting that the ASEAN embargo on trade with Vietnam had crumbled to the point where it was 'more fiction than fact' given that ASEAN members were now competing with Japan and South Korea for 'a slice of the Indochina market.'⁹⁰¹ But the CPA as much enabled these processes as it was caused by them.

From the very earliest days of the CPA, both within UNHCR and the resettlement states, there was a sense that central to any resolution of the outflow would be a deeper engagement with the Vietnamese but in terms that decoupled it from larger political controversies. This was a product of the unwillingness of the resettlement states and the states of first asylum to engage Vietnam too directly or comprehensively. After the High Commissioner visited Vietnam in 1987 and circulated a paper amongst the IGC countries suggesting new approaches, the IGC countries noted in a collective response that while they 'support UNHCR efforts to encourage the SVRN to develop a more positive attitude on humanitarian issues... the IGC countries are not in a position to consider bilateral aid for the SVRN... [and] do not believe that actions on humanitarian principles, in particular voluntary repatriation, should be dependent upon or linked to financial incentives or broader political relationships.'⁹⁰² The Thai Foreign Minister informed the High Commissioner after he met with the Vietnamese that while it was clear that 'the refugees are being used as a bargaining tool by the Vietnamese Government', from his perspective, he 'could see no light at the end of the tunnel' as he was 'not optimistic about repatriation.'⁹⁰³

⁹⁰⁰ Alice Ba notes that within eighteen months, Thai leaders had gone from announcing that "Vietnam was the greatest threat to [Thai] national security" (Foreign Minister Siddhi Savetsila at the ASEAN Ministerial Meeting in June 1987) to seeking "rapprochement with Vietnam" as one of its "top priorities" (PM Chatichai Choonhavan in December 1988): Ba, *[Re]Negotiating East and Southeast Asia*, pp. 107-108. Amitav Acharaya also offers a useful summary of the process diplomatic reconciliation in *The Making of Southeast Asia* (Ithaca: Cornell University Press, 2012, 2nd ed.), pp. 180-201.

⁹⁰¹ CIA Assessment, 'In the Wake of Vietnam's Withdrawal: ASEAN Views on Cambodia', 15 December 1989, CCIAC, NARA II.

⁹⁰² UNHCR 11:3:100.THA.ICH, 'Response of the Intergovernmental Consultative Group to the High Commissioner's Informal Paper', 6 October 1987.

⁹⁰³ UNCHR:11:3:001.HC.THA, 'Note for the File, Meeting with the Minister of Foreign Affairs', 1 October 1987.

At the first major planning meeting for the CPA in Bangkok in October 1988, Vietnamese suggestions that Cambodian refugees be more obviously integrated into the CPA framework were rebuffed. The report of the meeting records that Vieira de Mello indicated that ‘while HCR certainly had their fate very much at heart...the question of Kampuchean refugees was largely being addressed in the context of the JIM⁹⁰⁴ process.’⁹⁰⁵ Pierre Jambor recalls that “it was important that the CPA preceded the Cambodian peace process.... [as] it was a crucial part of unpicking the Cambodian conflict.”⁹⁰⁶

In pointing out the significance of delimiting strategies of negotiation, I do not mean to suggest that larger considerations did not play any role in shaping the willingness to cooperate. Rather, in the larger question of “how do we treat Vietnam” that faced both the states of first asylum and the resettlement states, this was just one small component. Moreover, it was by decoupling the individual controversies and divisions to embrace an issue-specific mode of negotiation that the parties were able to come together. It was hoped in time that this would have ‘spillover’ effects but these were far from decisive considerations in explaining why the relevant parties cooperated.

This is revealed in the early planning of the CPA from within UNHCR. Following on from the visit of the High Commissioner to Vietnam in late 1987, Vieira de Mello was of the mind that particularly on the question of repatriation, however, Vietnamese attitudes ‘may not be inextricably rigid.’⁹⁰⁷ Crucially, in his eyes, Vietnam ‘see this concession as a step in a process

⁹⁰⁴ Jakarta Informal Meeting: this was the process of consultation with Vietnam and Cambodia lead by the Indonesian Foreign Minister, Dr. Mochtar Kusumaatmadj.

⁹⁰⁵ UNHCR:11:3:391.89, Memorandum, Vieira de Mello to various, ‘UNHCR Informal Consultations on Indo-Chinese Asylum-Seekers in South-East Asia – Bangkok, 27-28 October 1988’, 10 November 1988.

⁹⁰⁶ Interview, 10 March 2015.

⁹⁰⁷ UNHCR:15:1, Memorandum, Vieira de Mello to UNCHR Representatives in Hong Kong, Jakarta, Kuala Lumpur and Manila, ‘Vietnamese Asylum Seekers: Current Perspectives for Solutions (Informal Note from UNHCR)’ 24 May 1988.

of confidence building in the region... as a gesture made primarily towards the ASEAN and, as such, an investment for the future.’ The implication of this was that ‘humanitarian issues should be detached from political controversies and become the subject of a constructive dialogue.’ In framing the issue this way, Vieira de Mello was following Vietnam’s own attempts to defuse relations with its neighbours. Against Thai criticisms that Vietnam was deliberately destabilising the region by permitting the outflow, the Vietnamese had noted just a week earlier in a public letter to Javier Pérez de Cuellar, the UN Secretary-General, that ‘Vietnam considers it a humanitarian issue which must be dealt with in the spirit of humanity and through humanitarian means without abusing it to serve other political manoeuvres.’ Further to this, they suggested that ‘the erroneous activities of Thailand such as pushing back the refugees out to sea, taking advantage of the question of refugees to gain profits, or linking the question to other political matters... run counter to the principles of humanity... [and] further aggravate the impasse.’⁹⁰⁸

Vu Khoan, the Vietnamese Assistant Minister for Foreign Affairs, similarly warned the UNHCR representative in Hanoi in July of 1988 (just as the movement towards the CPA was gearing up) that “it is not wise to raise or use the issue of illegal departures from Vietnam against the Vietnamese Government during the period of solving the Kampuchean problem... If done so it will harm planned bilateral negotiations on illegal departures.”⁹⁰⁹

The Vietnamese suspicion that refugee outflows were a bat used by their neighbours to beat them with was not without some basis in reality either. At a meeting with Yusuf Hitam, the new Secretary of the Malaysian Foreign Affairs department, in June 1988, the UNHCR Representative cabled back to Geneva that Malaysia ‘wants to proceed carefully to maintain

⁹⁰⁸ UNHCR:15:1, Letter to Javier Perez de Cuellar for Nguyen Binh Thanh, ‘On the Question of Vietnamese Refugees’, 19 May 1988.

⁹⁰⁹ UNHCR:11:3:010.SRV, Cable, Hanoi to Geneva, HAN/HCR/EH/134, ‘Illegal Departures from Vietnam – Meeting with Mr. Khoan, Assistant Minister for Foreign Affairs on 5 July 1988’, 5 July 1988.

its position as quote the aggrieved party unquote' and that they also 'want to establish whether [Vietnamese] culpability extends beyond failure to stem the flow to connivance and abetment.'⁹¹⁰

The delimiting of questions for negotiation was nowhere clearer than in the question of how the CPA connected with the other principal thorn in the side of Vietnamese normalisation, the question of Cambodia. Much as the refugee issue was solved on its own terms, so too was the Cambodian question largely resolved distinctly from the refugee question. Gareth Evans, the Australian Foreign Minister for much of this period and a leader in the Cambodian peace process, remembers that 'the unhappy situation of the refugees on the Thai border was of course one among a number of very compelling motivations for getting the peace process moving, and the return of those refugees was a major outcome of our success' but that it ultimately 'didn't feature largely'.⁹¹¹ Perhaps to the extent that the Cambodian question did impose itself on the refugee question, it was that a feeling of movement on both questions only served to reinforce an overarching faith in the trajectory of normalisation.⁹¹² Tellingly, the Vietnamese withdrawal from Cambodia in September 1989, the singular event that did change ASEAN and other minds, came after the CPA had been signed off in June the same year. There is no doubt that relevant parties saw this as reinforcing a positive trend and that 'that their continued cooperation could bring other less

⁹¹⁰ Furthermore, it noted that 'intra-ASEAN rivalries would influence any engagement with Vietnam on the issue as the 'crux of issue is Thailand's resistance to Malaysia emerging as a dialogue partner on refugees equivalent to role of Indonesia on Kampuchea. UNHCR:15:1, Cable, KL to Geneva, MLS/HCR/0287, 17 June 1988.

⁹¹¹ Email, 18 February 2015.

⁹¹² This excerpt from the IGC negotiations in March 1989 prior to the signing of the CPA where Vieira de Mello is recounting a meeting he had with a Vietnamese official makes this point neatly: 'He said that Foreign Minister Co Thach had asked that the refugee situation be assessed in the context of the post-Kampuchean settlement era. The inference to be drawn here, Mr Vieira de Mello suggested, was a Vietnamese distinction between the short and medium terms, on the one hand, and the long term, on the other, with the possibility that one should not be preoccupied with the long term elements of the CPA as normalisation of the situation was on its way.' [UNHCR:11:3:391.89, 'Note for the File, Informal Caucus of the ICG in Kuala Lumpur 5 March 1989'].

tangible benefits beyond the refugee context.⁹¹³ But there seems little evidence to suggest that those less tangible benefits were really decisive.

It was not just UNHCR that saw the value in delimiting concerns. The relevant parties also sought to actively delimit the larger questions at stake. The bilateral dispute over POW/MIAs between America and Vietnam was also deliberately excluded from intruding on the CPA. As Jonathan Moore reflected, the ‘issue was kept parallel, not in combat.’⁹¹⁴

This also partly explains the resistance of the Americans to connect other issues to their concerns over Indochinese refugees in dealing either with Britain or the states of first asylum. This exchange between George Bush and the Thai Prime Minister at the height of the disagreement over involuntary return makes it clear that refugee cooperation was easily delimited as a bilateral question:

Foreign Minister Sitthi: Mr. President, we know your security assistance has been diminishing but believe your interests in supporting Thailand remain the same. You are a real good friend.

The President: We will continue to be good friends.

Prime Minister Chatichai: Do you want more on the Vietnamese boat people?

The President: Let me begin by saying we appreciate what Thailand has done by providing first asylum to 300,000 displaced Khmer. We are concerned that ASEAN might condition its provision of first asylum on our acceptance of forced repatriation. We will continue to oppose involuntary repatriation but will continue to work with you and take as many refugees as possible. We continue to believe that voluntary repatriation will work. We ask for patience and that you not take actions that will remove the focus from Vietnam, the real cause of the refugee problem.

Foreign Minister Sitthi: We will maintain the first asylum principle and provide humane assistance as long as we can... There is the problem of the screened-out and the screened-in. Regarding the screened-out, we are asking for involuntary repatriation, beginning July 1. We need your sympathy. If the screened-out remain in

⁹¹³ Richard Towle, ‘Processes and Critiques of the Indo-Chinese Comprehensive Plan of Action: An Instrument of International Burden-Sharing?’ in *International Journal of Refugee Law* (2006) Vol. 18, No 3-4, pp. 537-570, p. 564.

⁹¹⁴ Interview, 8 March 2015.

Thailand, this will be something for us to deal with in the future. Perhaps a holding center⁹¹⁵ should be set up elsewhere for the screened-out.

The President: I am trying to be understanding. I don't want to get cross-wise. You should talk in more detail with Secretary Baker. We want to try to be part of the answer here.⁹¹⁶

To be clear: I am not suggesting that larger questions about the political implications of refugee cooperation did not intrude on individual state's motivations. As this thesis has sought to argue: it is next to impossible to separate the two. But what is obvious from the CPA is that delimiting political questions from humanitarian purposes played a positive impact in sustaining trust between the parties.

6.4.2. LINKAGES

Second, we should be cautious in embracing the idea that the CPA was the product either of substantive or tactical linkages. Substantive linkages are inevitably the dogs that don't bark. By distinguishing them from tactical linkages (the connections that bargaining parties themselves introduce into negotiations), it is not clear how to empirically assess their causal force. Presumably, insofar as UNHCR is identified as a persuasive agent in helping states realise how issues are interlinked, we should expect to find some moments of cognition or cleavages where states renewed their cooperative efforts on the basis of some hitherto unknown realisation. Yet no such moments are provided to us in Betts' account and there are few empirical indications of any Damascene moments.

⁹¹⁵ For much of the first half of 1990, Britain and the ASEAN countries had been attempting to cajole the U.S. into building a holding center on Guam where they would house those screened-out. [See: 'U.S. Pressed to Pay for Boat People in Hong Kong' in *The New York Times* 11 March 1990; 'Appeal for Help with Vietnamese boat people is rejected' in *The Times* 18 May 1990; 'Asians to Press U.S. On Boat People' in *The New York Times* 1 June 1990; 'Britain Accuses U.S. of Obstructing Solution to Boat People Issue' in *The Washington Post* 15 June 1990].

⁹¹⁶ Memorandum of Conversation, 'Meeting with Chatichai Chunhawan of Thailand' 14 June 1990, GBL. [available at: <http://bush41library.tamu.edu/files/memcons-telcons/1990-06-14--Chunhawan%20%5B2%5D.pdf>].

The danger of seeing the CPA as the product of linkages is that it largely conflates effects for causes. One of the effects of the CPA was to build trust between the various parties, aiding the process of Vietnamese normalisation. There were potentially feedback effects across the different issue areas but a more discrete and issue-specific logic applied to most actors' involvement.

The best case for Betts' account is in thinking about Vietnamese motivations. The Vietnamese were certainly prepared to suggest to other states that they should assist in the process of normalisation but it is not obvious that these demands really drove their cooperation.⁹¹⁷ The important Vietnamese agreement to curb the outflow, accept repatriates and to allow for involuntary return was not obviously motivated by a recognition that this was the price to pay for development. Henry Kamm noted in *The New York Times* at the time of the Geneva Conference on the CPA that:

Many officials here said they believed that in return for an international aid package, Hanoi would accept the return of its fugitive citizens. But in an interview, the Foreign Minister,⁹¹⁸ who is also a Communist Party Politburo member and Deputy Prime Minister, said that while Vietnam desired aid, it was not prepared to tie this to the refugee issue. "We are poor, but we are not beggars," he said. "They are separate questions." Using an English word that he learned in Vietnam's negotiations with former Secretary of State Henry A. Kissinger, he added, "No linkage."⁹¹⁹

Contra Kamm, Gavin Hewitt suggests, however, that the resistance of the Vietnamese to involuntary repatriation was because "the Vietnamese authorities were hanging out for being

⁹¹⁷ For example, before signing a new trilateral agreement with the UK and UNHCR in August 1990, Vu Khoan, the Vice Foreign Affairs Minister, wrote to the British: 'We are confident that the British Government will also render support to Vietnam to remove obstacles in its relations with the international financial and monetary institutions such as IMF, World Bank, ADB, and not prevent Viet Nam from establishing diplomatic relations with the EEC. At the same time we welcome any possible gestures of goodwill from the British Government furthering the relationship between Viet Nam and the United Kingdom, for example, the resumption of technical and development assistance, development of cultural relations and further strengthening of trade links.' [UNHCR:11:3:010.GBR, 'Unofficial Translation of Vu Khoan's Letter of 27 August to the British Ambassador at Hanoi'].

⁹¹⁸ Nguyen Co Thach.

⁹¹⁹ 'Britain and Vietnam Still at Odds Over Refugees' in *The New York Times* 15 June 1989

paid to take them back.”⁹²⁰ This is not baseless, as there were occasional attempts by the Vietnamese to connect questions on refugees to aid. But typically this was just in the context of paying for the reintegration of returnees themselves. And it wasn’t often met with particular generosity. The Vietnamese had raised the prospect of development aid during bilateral discussions that had led to an agreement between Vietnam and the UK in June 1989. An FCO cable detailed that:

Thach’s only other request was that we consider financial help to problem areas in Vietnam where many boat people left. He cited in particular the coal-mining areas, north of Hanoi towards the Chinese border... We made clear that assistance of this nature could not be considered until after Vietnamese troop withdrawal from Cambodia. Progress on both Cambodia and boat people would colour our attitude to future aid to Vietnam. Thach hoped for discussions before 30 September of future aid. We were noncommittal.

Similar demands were made of British representatives in Vietnam but these seemed primarily directed towards staunching the flow of refugees from particular areas.⁹²¹ At a meeting with a senior Vietnamese official, the High Commissioner, for example, was informed that the Vietnamese anxiety about repatriation was closely connected to a concern for the economic pressure that they might impose:

concerning repatriation, the First Vice Minister stated again that economic conditions are still very difficult and that the majority of escapees leave for economic reasons. If they returned, the Vietnamese authorities must make sure that their families will be in a position to support them.⁹²²

⁹²⁰ Interview, 25 February 2015.

⁹²¹ See, for example, the following remarks: ‘The Vietnamese side reiterated the need for development aid to the areas in Vietnam where many clandestine departures take place. The British took note of this point and will report back to the British Government for consideration.’ (Telno. 319); ‘They mentioned the need for development assistance to areas of high outflow. They said they realised this was not linked directly to the proposed return programme but asked that we pass their view on in time for their foreign minister’s visit to London.’ (323) [UNHCR:15:1, UK Diplomatic Cables, Hanoi to FCO, Telnos. 319 & 323 - ‘Vietnamese Boat People: Talks in Hanoi’, June 1989].

⁹²² UNHCR:11:3:010.SRV, ‘Meeting with the First Vice Minister of Foreign Affairs, H.E. Mr. Dinh Nho Liem, September 7, 1989 at the Guest House of the Socialist Republic of Vietnam’.

The sums offered in aid to Vietnam were relatively miniscule too. The European Community's donation of \$US12 million in 1991 was the first and largest single donation Vietnam received.⁹²³ The U.S. aid commitment to 'Quick Impact Projects' (QIPS) only commenced in 1992 (two years before the lifting of the American trade embargo but well after the flows into and out of Vietnam had largely terminated) and only amounted to around \$US4 million in annual funding. Direct UNCHR funding in Vietnam was also \$US4 million, a tiny amount compared to its budget in Cambodia (where admittedly more refugees were being repatriated).⁹²⁴ Similarly, Sascha Casella, a senior UNHCR diplomat at the time (and a sort of roving plenipotentiary tasked with assisting Vieira De Mello) remembers that Vietnamese attempts to use refugees as leverage were quixotic "They didn't really try. They had no choice. They wanted to turn over a new leaf. It was not a quid pro quo."⁹²⁵ Moreover, UNCHR's program for Vietnam was "just, just funded because the U.S. wouldn't really give us anything. In Vietnam it was basically the Dutch and the Scandinavians who funded it."⁹²⁶

There was certainly a perception in some parts of UNHCR that Vietnamese attitudes towards boat people were governed by instrumental bargaining strategies. One memo from UNCHR's representative in Malaysia in early 1990 noted that now Vietnam was 'losing vital financial and political support from what used to be known as the Eastern bloc, one has to assume that the boat people will remain one of the SRV's few points of leverage in attempting to deal with its desperate situation.'⁹²⁷ As the Malaysian Foreign Minister noted at the ASEAN Ministerial meeting some months later, however, the refugee question was less

⁹²³ UNHCR:11:3:391.89, Press Release, 'The EC Initiative for Repatriation/Reintegration of Vietnamese Asylum Seekers', 24 April 1991.

⁹²⁴ Joshua B. Nickerson, 'Micro-Enterprise Development Schemes as Effective Reintegration Assistance Programs for Voluntarily-Repatriated Vietnamese Asylum Seekers' in *Asian and Pacific Migration Journal* (1995) Vol. 4, No. 4, pp. 493 – 515, p. 500.

⁹²⁵ Interview, 27 February 2015.

⁹²⁶ Interview, 27 February 2015.

⁹²⁷ UNHCR15:1, Cable - MLS/HCR/020, 'Eric Morris Thoughts' 2 March 1990.

an issue of strategic leverage so much as an ongoing sore that needed to be healed for relationships to mend:

Vietnam should realise that its future progress and prosperity hinge upon a relationship of friendship with its neighbours. Vietnam must do its part for Cambodia and at the same time discuss other problems it now has with its neighbours. I refer in particular to the problem of the Vietnamese boat people.⁹²⁸

The absence of obvious practices or moments of linkage makes arguments about the ‘interlocking’ nature of the interests set out in the CPA somewhat harder to sustain too. For example, Peter Schuck, in noting the role that Malaysian and Thai threats to first asylum played in shaping international assistance, suggests that the success of the CPA came from the very mutuality of the commitments: ‘one country’s defection triggered exclusionary reactions in others; interlocking interests contributed not only to the implementation of burden-sharing programs, but also to their effective maintenance.’⁹²⁹ But the Malaysians, in particular, never really fulfilled their end of the bargain by committing to uphold first asylum. As one UNHCR document produced prior to an informal Steering Committee meeting in late 1990, ‘Vietnamese asylum seekers were generally granted first asylum in Southeast Asia...[but] UNHCR continued to be informed regularly of denial of asylum in part of the region. In the period from May 1989 to September 1990, 9673 persons had been “redirected” or “pushed off” somewhere else.’⁹³⁰ This is an important point. It is easy to look back at something like the CPA in celebratory terms. Richard Towle argues that the interlocking obligations lie at the heart of the CPA’s success: ‘it was only through a set of multilateral, interdependent and interlocking commitments that the ‘problem’ could be solved once and

⁹²⁸ UNHCR:11:3:391.89, ‘Statement by H.E. Dat’ Haji Abu Hassan Omar, Minister of Foreign Affairs of Malaysia at the Opening Session 23rd ASEAN Ministerial Meeting Jakarta, 24-25 July 1990’, 24 July 1990.

⁹²⁹ Peter Schuck, ‘Refugee Burden Sharing: A Modest Proposal Fifteen Years Later’ in Anita Shapira et al., (eds.) *Contemporary Challenges to the Nation State: Global and Israeli Perspectives*, Vol. III: *The Nation State and Immigration: The Age of Multiculturalism* (Eastbourne: Sussex Academic Press, 2014), pp. 67-116, p. 76.

⁹³⁰ UNHCR:15:1, ‘Note on Reception and Refugee Status Determination under the Comprehensive Plan of Action (CPA)’, undated (probably September 1990).

for all.⁹³¹ The conditional quality of asylum in Southeast Asia had long characterized the Indochinese outflow. Perhaps it is this more than the institutional features of the CPA that explained the continuing willingness of Northern countries to assist.

6.4.3. THE ROLE OF UNHCR

Finally, Betts overstates the role of the UNHCR as a persuasive agent. Crucially, in arguing for the merits of ‘cross-issue persuasion’ against other theories, Betts suggests that alternative theories fail to account for why ‘the U.S. commitment to the CPA wavered but then reengaged through the role played by UNHCR.’⁹³² It is not immediately apparent what if any actions the UNHCR took that generated a process of state cognition whereby the U.S. (or other states) realised how refugee protection connected to their existing foreign policy interests except by omission in letting time run its course. There is little in UNHCR archival records of the time to suggest that UNHCR did play this role of novel persuasion. And very little to suggest that anything which UNHCR said changed American minds. The premise of Betts’ comment that the U.S. ‘wavered’ seems to suggest that they might have pulled up the drawbridge and done nothing absent UNHCR action. Yet the domestic politics of the Indochinese refugees issue within the United States, particularly the cross-cutting political coalition of supporters pushing for a more generous response and opposing involuntary return, makes this highly unlikely.

Much of the inability of UNHCR to act as a persuasive agent stems from the internal and external constraints it faces as a humanitarian actor. As Pierre Jambor recalls, the formal

⁹³¹ Richard Towle, ‘Processes and Critiques of the Indo-Chinese Comprehensive Plan of Action: An Instrument of International Burden-Sharing?’ in *International Journal of Refugee Law* (2006) Vol. 18, No 3-4, pp. 537-570, p. 540.

⁹³² Betts, *Protection By Persuasion*, p. 125.

commitment within the CPA to link the right to asylum to the provision of resettlement was already one linkage too many:

For UNHCR, linking a human rights principle like the right of asylum to the right of resettlement was extremely dangerous. You made something that was transcendental – the right of asylum – into something that was totally subject to the vagaries of politics.⁹³³

Perhaps what looks like creative persuasion connecting interests across areas is just the more conventional diplomatic role that UNHCR played as an honest broker for the various interests and concerns of the states involved. This was undoubtedly important. The particular role of Vieira de Mello in maintaining the respect, trust and affection of all parties certainly made cooperation easier. The American officials involved either directly or indirectly with the CPA remember his role as fundamental, so too the British officials.⁹³⁴ Even when he personally disagreed greatly with certain countries actions or positions (the pushbacks of the first asylum states or U.S. intransigence), Vieira de Mello retained the respect and confidence of all parties. After he left his role as Director of the Asia Bureau in mid-1990, the U.K. Permanent Representative in Geneva wrote to the High Commissioner seeking Vieira de Mello on loan for the trilateral talks with the Vietnamese.⁹³⁵

⁹³³ Interview, 10 March 2015.

⁹³⁴ "Sergio was key" (Gene Dewey, Interview, 22 August 2014); "It was Sergio who really brought it across the line (Jonathan Moore, Interview, 8 March 2015); "He had a very big role in getting all the parties to converge on this vague language. He could sell iceboxes to eskimoes." (Judith Kumin, Interview, 20 February 2015); "Sergio was extremely good... [he] was extremely understanding of all the problems of Hong Kong. He was a supreme realist." (David Colvin, Interview, 23 March 2015); 'He was absolutely critical. At the same time, he was being attacked by UNHCR. He was wanting to move the whole agenda. He was one hundred per cent understanding of the UK position. But he couldn't just side with us. He had to side with the countries of the region too.' (Gavin Hewitt, Interview, 25 February 2015); "You trusted him even though he was totally smooth and handsome" (Nancy Bearg, Interview, 27 March 2013).

⁹³⁵ 'The tricky point is whether you could possibly spare Sergio Vieira de Mello for the talks in Hanoi next week. I am told that (certainly like the Burmese) Vietnamese reactions depend crucially on whether they know someone they are dealing with or have to start from scratch, and we believe that Sergio's presence at the talks would make all the difference at what we hope will be a real turning point after many months of joint effort.' [UNHCR:11:3:010.GBR, 'Letter to the High Commissioner from M R Morland' 11 September 1990].

Much is made in Betts' account of Vieira de Mello's role in stitching together a compromise after the impasse of the Third Steering Committee meeting and its subsequent breakdown in Manila in February 1990. Following this meeting, Vieira de Mello produced a 'Near Consensus Note' that Betts contends 'formed the basis for a compromise on the issue of nonrefugees, which put the CPA back on track.'⁹³⁶ Yet as has been detailed, no formal compromise was ever really forthcoming other than a sense that the issue should be resolved under the table, which was a strategy Vieira de Mello came to promote.

UNHCR's role is better understood less as a persuasive agent than as an honest broker, a forum for interaction and, crucially, an institution that enabled humanitarian compromise. Without the agreement of UNHCR to supervise screening in first asylum countries or undertake monitoring of returnees, it is highly unlikely that the CPA could have succeeded.

⁹³⁶ Betts, *Protection by Persuasion*, p. 140.

7. WHAT CAME AFTER: THE INDOCHINESE CRISIS AND ITS MEMORY

IN 1995, RECALLING THE FIRST INTERNATIONAL CONFERENCE on Indochinese refugees in 1979, Sadako Ogata, the then High Commissioner for Refugees set out that it was a model for how not to cooperate on refugee issues. It 'ignored the responsibilities of countries of origin towards their own citizens. It failed to recognize the right of people to return, far less the right of people to remain in their own homes in safety and security.'⁹³⁷ The CPA by contrast, was a model cooperative moment:

I am convinced that our experience in Asia has been invaluable. Here we learned, during the Cold War, to find practical solutions and to fashion new concepts. Most importantly of all, we learned to work with a wide range of governmental and non-governmental partners. In Asia too, the end of the Cold War has transformed humanitarian action, and is prompting new strategies and possibilities for the prevention and resolution of problems of forced displacement.

'Comprehensive' mechanisms have become widely lauded as a replicable model of UNHCR-led multilateral burden-sharing. In its formal Conclusion in 2004 on 'International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations', the UNHCR Executive Committee recommended that 'consultations should seek to develop, as early on in a crisis as possible, a comprehensive plan of action... that includes arrangements on a

⁹³⁷ 'Refugees in Asia: From Exodus to Solutions', *The Charles Rostov Annual Lecture in Asian Affairs*, Johns Hopkins University, SAIS, Washington, D.C., 27 November 1995, available at: <http://www.refworld.org/docid/3ae68f420.html>.

bilateral or multilateral basis to apportion burdens and responsibilities in response to specific mass influx situations⁹³⁸

In its breadth, the CPA was, as Erika Feller, a former Assistant U.N. High Commissioner for Refugees, contends, ‘the first attempt to implicate all concerned parties – countries of asylum, of origin and of resettlement – as well as the donor community in a coordinated, solutions-oriented set of arrangements for the sharing of responsibilities for the refugee population.’⁹³⁹

It is easy to mistake form for substance, however. The CPA wasn’t even the first Indochinese agreement to feature all concerned parties (the Indochinese countries were represented at the 1979 Conference on Indochinese refugees). And the international refugee community does not lack for stillborn ‘comprehensive’ agreements designed to resolve thorny questions of refugee policy in their totality. Notwithstanding the failure of the Comprehensive Plan of Action for Somali refugees, the very phrase ‘Comprehensive Plan of Action’ has a currency all of its own in the universe of solutions to refugee crises.⁹⁴⁰

Astri Suhrke noted in 1998 that the Indochinese outflow is unique principally because ‘for the first, and so far last, time in modern history a large refugee population was systematically resettled from a developing country to industrialized states.’⁹⁴¹ The intervening years have only served to highlight just how distinct that response was. Perhaps conscious of the long-term impact of ‘compassion fatigue’, Judith Kumin suggests that it is an experience that won’t be repeated:

⁹³⁸ Conclusion No. 100 (LV), ‘International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations’, 8 October 2004, available at: <http://www.unhcr.org/41751fd82.html>.

⁹³⁹ Erika Feller, ‘The UN and the Protection of Human Rights: The Evolution of the International Refugee Protection Regime’ in *Washington University Journal of Law and Policy*, Vol. 5, No. 29, pp. 129-139, p. 133.

⁹⁴⁰ See, for example, Cynthia Orchard and Andrew Miller, *Protection in Europe from Refugees from Syria* (Forced Migration Policy Briefing 10, Refugee Studies Centre Oxford, 2 September 2014).

⁹⁴¹ Suhrke, ‘Burden-Sharing during Refugee Emergencies: the Logic of Collective versus National Action’, p. 404.

Even if we hold up the CPA, as UNCHR does, as a wonderful example of how to solve refugee crises, it was a pretty singular set of circumstances that led to it and I doubt it can ever be repeated... We were not accustomed to having such a plethora of major dramatic refugee situations as we have today. Maybe now we're just inured to it.⁹⁴²

Forty years after the fall of Saigon and the first flow of Indochinese refugees into the West, why should we try and better understand the particular international response to the Indochinese outflow? Most obviously, regardless of its many contingent and particular features, we should better understand it because the experience has had important consequences for refugee protection globally and in the region.

This section sets out what I see as the three principal legacies of the Indochinese crisis. First, it ensured that resettlement, particularly in mass influx situations, fell into disuse as a durable solution to refugee crises. Second, it reinforced the reticence of the Southeast Asian states towards institutionalising refugee protection and joining the Convention regime. After the Philippines acceded to the Refugee Convention in 1981, the only country in the region to join was Cambodia in 1992. Southeast Asia remains a region where refugee protection is discretionary more than obligatory. Third, despite the long, seemingly fruitful experience with multilateral cooperation, it helped inscribe a logic of sovereign unilateralism rather than of cooperative multilateralism on the collective management of refugee issues. Thailand, for example, routinely redirects boatloads of Rohingya refugees onwards to Malaysia, often with violent and tragic effect.⁹⁴³ And Indonesia even threatens to release a 'tsunami' of asylum seekers upon Australian shores should Australia interdict boats in international waters.⁹⁴⁴

⁹⁴² Interview, 20 February 2015.

⁹⁴³ One episode of Thai forced repatriation of Rohingya in February 2014, for example, penetrated most major Western news outlets: 'Thai police target human traffickers but rescued Rohingya may face more abuse' in *Reuters* 13 February 2014, 'Thailand deports 1,300 Rohingya Boat People', *Agence France Presse* 13 February 2014, 'Thailand Sends 1,300 Rohingya Back to Hell' in *Time* 14 February 2014 <http://time.com/7335/thailand-sends-1300-rohingya-back-to-hell/>; 'Thailand Sends Rohingya Muslims Back to Burma', *BBC News* <http://www.bbc.co.uk/news/world-asia-26167676>.

⁹⁴⁴ "If Canberra keeps doing things that displease Indonesia, Jakarta will surely let the illegal immigrants go to Australia... There are more than 10,000 [asylum seekers] in Indonesia today. If they

That the experience of the Indochinese outflow might exert important effects on contemporary policy is uncontroversial. First, at the individual level, many senior international policy-makers (both within UNHCR and national governments) cut their teeth working on the Indochinese outflow. Their personal experiences no doubt readily shaped the subsequent decisions they made and shade the contemporary decisions they still make. Gervais Appave, a former Australian diplomat involved in the CPA's drafting, recalls that many of those who worked on the CPA, for example, returned to Geneva in later years: "That group of people, a large number of people who were in Bangkok, found themselves ten years later in Geneva. Working on exactly the same issues, just with a larger scale."⁹⁴⁵ Second, institutionally, many of the organisations that shape and make refugee policy were profoundly influenced by the experience of dealing with the Indochinese. UNHCR's budget expanded from \$12 million in 1972 to more than \$500 million by 1980 and well north of \$5 billion today.⁹⁴⁶ Many of the NGOs that play a significant role amidst the 'regime complexity' of the contemporary refugee regime were catalysed into action by the Indochinese fleeing. Finally, and more subjectively, the collective memories of the Indochinese crisis colour policy in variegated ways. Metaphors and analogies structure, shape and reflect international political life and action in all sorts of ways, whether as cognitive tools of diagnosis and prescription or social tools of persuasion and political mobilisation.⁹⁴⁷ In Australia, for example, it is frequently invoked in political debate as a compassionate counterpoint to

are let go to Australia, it will be like a human tsunami" - Tedjo Edhy Purdijatno, Coordinating Minister for Political, Legal and Security affairs: <http://www.theguardian.com/australia-news/2015/mar/11/indonesia-could-release-human-tsunami-of-10000-asylum-seekers-on-australia>.

⁹⁴⁵ Interview, 18 March 2015.

⁹⁴⁶ Figures from: UNHCR, Financial Figures, available at: <http://www.unhcr.org/pages/49c3646c1a.html>; and Loescher, *Beyond Charity*, p. 88.

⁹⁴⁷ As Ernest May notes, 'the framers of foreign policy are often influenced by beliefs about what history teaches or portends' but they 'ordinarily use history badly' [Ernest May, *"Lessons" of the Past: The Use and Misuse of History in American Foreign Policy* (New York: Oxford University Press, 1973). See also Yuen Foong Khong, *Analogies at War* (Princeton: Princeton University Press, 1992).

contemporary brutality.⁹⁴⁸ Paying attention to what the Indochinese crisis did matters nearly as much as what was done to solve it.

7.1. RESETTLEMENT: THE NOT-SO DURABLE SOLUTION?

Courtland Robinson notes that in 1979, third-country resettlement was available to roughly 1 in every 20 of the world's refugees but by 1994 that ratio had dropped to 1 in every 418.⁹⁴⁹ It has roughly hovered around the same ratio since. Since the outbreak of the Syrian Civil War, for example, an estimated near 4 million refugees have sought safety in neighbouring states.⁹⁵⁰ Just under 14,000 of these have been resettled in countries outside of the original place that they claimed refuge.⁹⁵¹ Total confirmed pledged resettlement spaces as of April 2015 are at 85,552, well short of the announced goal of 130,000.⁹⁵² At the peak of the Indochinese crisis, the United States alone agreed it would absorb 14,000 refugees per month for permanent settlement. By the end of 2015, it expects to have taken only a few thousand Syrians.⁹⁵³ In 2013, by contrast, 15,142 refugees were resettled from Malaysia.⁹⁵⁴

⁹⁴⁸ See, for example, this pointed exchange from Question Time in the Australian Parliament:

Mr BANDT (Melbourne) (14:23): My question is to the Prime Minister. In the decade after the Vietnam War, Australia took in around 90,000 Vietnamese refugees and their families, many of them boat people. We did not tow them back out to sea and we did not send them to other countries. We took them in here and it was a resounding success. Prime Minister, if the government and the opposition do not reach agreement, will plan B be a policy of processing refugee claims onshore?

Ms GILLARD (Lalor, Prime Minister) (14:23): ...The member has specifically asked me about the question of Vietnamese asylum seekers. Overwhelmingly, they were brought to Australia from offshore under the Comprehensive Plan of Action. That is, it was a regional solution that our region worked on to create a circumstance where people would be able to have their claims processed offshore from Australia but developed nations, including Australia, would step forward and take a fair share of the caseload of those refugees. [*Hansard Parliamentary Debates*, Australian House of Representatives, 20 September 2011, p. 10806.]

⁹⁴⁹ Robinson, *Terms of Refuge*, p. 273.

⁹⁵⁰ Figures come from UNHCR, Syria Regional Refugee Response. Total persons of concern as of 14 April 2015: 3,988,857. Figures available at: <http://data.unhcr.org/syrianrefugees/regional.php>.

⁹⁵¹ UNHCR, 'Resettlement and Other Forms of Admission for Syrian Refugees', 14 April 2015. [available at: <http://www.unhcr.org/52b2febafc5.html>].

⁹⁵² Ibid.

⁹⁵³ 'U.N. Calls on Western Nations to Shelter Syrian Refugees' in *The New York Times*, 17 April 2015. [available at: <http://www.nytimes.com/2015/04/18/world/middleeast/un-calls-on-western-nations-to-shelter-syrian-refugees.html>].

The fact that the neighbouring states have welcomed them in a largely peaceful manner has greatly shaped the international response. One of the few intrusions of foreign policy in the British ‘Leaders Debate’ in April 2015 was to note that the amenable conditions of first asylum directly explained why Britain hadn’t resettled more refugees. As David Cameron suggested:

We have taken some people from Syria... But the most important thing we can do in Syria is maintain the fact that we are one of the biggest... bilateral aid donor[s] helping people in those refugee camps to be fed, to be housed, to be clothed and try to find a solution so they can go home. There are about 6 million people [who are] refugees or in danger of becoming refugees. We cannot take all those people in, so it makes sense to use our aid budget to try and help them in the region and then to help them to get home.⁹⁵⁵

Peter Hughes argues that the absence of resettlement offers for Syrians really reflects the fact that ‘it’s not the bargain that had to be struck that allowed people to get any asylum.’⁹⁵⁶ But separate from whether a hostile welcome in a mass influx situations makes resettlement more likely, it is also probably true that some ‘durable’ solutions to refugee issues are less durable than others.

Was the international agreement to respond to the Indochinese outflow in fact the “last great agreement in which resettlement was an option”?⁹⁵⁷ When the CPA was winding down, the UNHCR publication, *The State of the World’s Refugees*, set out that the Indochinese experience had left an indelible mark upon resettlement states, leaving them ‘wary about making an open-ended commitment to the resettlement of an entire refugee population in the

⁹⁵⁴ UNHCR, ‘Projected Global Resettlement Needs 2015’ 24-26 June 2014, p. 8. [available at: <http://www.unhcr.org/543408c4fda.html>].

⁹⁵⁵ Leaders Debate, *Sky News*, 2 April 2015. [Available at: https://www.youtube.com/watch?v=7Sv2AOQBd_s]

⁹⁵⁶ Interview, 10 March 2015.

⁹⁵⁷ Allan Jury, Interview, 12 February 2015.

foreseeable future.⁹⁵⁸ Certainly at the time of the CPA, resettlement as practiced in the Indochinese outflow had come to be seen by many within UNHCR as simply ‘mechanised immigration-oriented resettlement’ rather than an important protective measure.⁹⁵⁹ The High Commissioner’s Subcommittee on Protection noted of the Indochinese experience that while ‘resettlement from South-East Asia was geared to protect the right of first asylum in the region’, ultimately the scale of the exercise and its ‘automatic’ granting of resettlement spaces meant that the programme ‘took on many characteristics of immigration rather than refugee resettlement.’⁹⁶⁰ Its outcome was to ensure that countries would basically never again agree to ‘an open-ended commitment to resettlement of virtually all those who escape a designated nation.’⁹⁶¹

Erika Feller argues that rather than seeing the Indochinese crisis as the last great instance of mass resettlement, it makes more sense to see it as essentially the first *and* the last. As she contends, “resettlement prior to the Indochinese outflow had substantially fallen into disuse. It had become a protection response only really in the individual case. The resettlement section of UNHCR was just a couple of people inside the International Protection division.”⁹⁶² Now, however, Feller argues that “resettlement is pursued as a durable solution rather than a protection response.” In the Indochinese case, the “problem was that it was more successful than it was envisaged at the time. We had to pull it back from being *the* solution to *a* solution” [emphasis added]. Janet Lim, who served alongside Feller as an Assistant High Commissioner, thinks it similarly unlikely that mass resettlement would ever be resorted to: “Under the present climate it’s unlikely that we would have that generosity of

⁹⁵⁸ UNHCR, *The State of the World’s Refugees*, 1995, p. 92.

⁹⁵⁹ Gary Troeller, ‘UNHCR Resettlement: Evolution and Future Direction’ in *International Journal of Refugee Law* (2002) Vol. 14, No. 1, pp. 85-95, p. 86.

⁹⁶⁰ UNCHR Sub-committee of the Whole on International Protection, ‘Resettlement as an Instrument of Protections: Traditional Problems in Achieving the Durable Solution and New Directions in the 1990s’, 9 July 1991.

⁹⁶¹ David A. Martin, ‘A New Era for U.S. Refugee Resettlement’ in *Columbia Human Rights Law Review* (2004) Vol. 36, pp. 299-321, p. 320

⁹⁶² Interview, 27 October 2014.

response. But it's also a little bit out of date. The world has changed. I don't think that we can replicate that again because the world has changed.”⁹⁶³ For Allan Jury, the lead American negotiator during the CPA, the message is the same: “with the exception of World War Two we have never had a crisis where third country resettlement has been so central to the solution... I think it is completely out of the question that it could happen today.”⁹⁶⁴

There are two forces at play: first, a resounding scepticism about the instrumental value of resettlement as a protection tool; and, second, a sense that attitudes to asylum and migration have changed as to make a generous multilateral response impossible.

Judith Kumin, a former senior UNHCR staffer who worked in several capacities on Indochinese refugee issues, contends that the experience of the crisis left a fundamentally ambiguous attitude to resettlement within UNHCR in particular:

I think that it certainly divided UNHCR into pro-resettlement and anti-resettlement camps. Many people in UNHCR for many years thought that resettlement should only be used as a tool of protection as last resort.... There's a sense that resettlement benefits too few people, it's too arbitrary and there's too much fraud inevitably involved in the program. There's a real discomfort with resettlement. The CPA is always held up as an example of an agreement that can be solved if there's cooperation between receiving countries, sending countries and the international community writ large. But we've never achieved the same results. The legacy of the Indochinese is very much in attitudes towards resettlement. And that is that we shouldn't try and do too much of it.⁹⁶⁵

On the first, Jean-Noel Wetterwald, a senior UNCHR staffer in different capacities in the Southeast Asian region over time, argues that “the term pull factor is ingrained now. Many people still use or see resettlement as a very effective protection tool. But they will always be concerned about how these tools can create a pull factor. The pull factor notion is a child of

⁹⁶³ Interview, 16 March 2015.

⁹⁶⁴ Interview, 12 February 2015.

⁹⁶⁵ Interview, 20 February 2015.

the Indochinese crisis.”⁹⁶⁶

Gerald Walzer, a former Deputy High Commissioner of Refugees, is similarly pessimistic, noting that the Indochinese response is probably “the last major commitment on the part of governments to accept such numbers for resettlement...there won’t be another one.”⁹⁶⁷

Walzer suggests that offshore interdiction would inevitably colour a contemporary response, “today you probably would have a more determined response to stop the outflow before it happens. Essentially [states would implement] whatever intervention that you might need to prevent them getting the boats.”⁹⁶⁸ In pondering the absence of resettlement as a response to the Syrian refugee outflow, Richard Childress, a senior National Security Council staffer in the Reagan White House, contends that the whole public conversation around immigration has changed to a point where it might well be impossible: “even if we tried to start a resettlement program from Middle East you’d have people immediately going on TV and saying they’re terrorists, that they’re a fifth column.”⁹⁶⁹ Indeed, for the American refugee resettlement program, the ‘material support’ bar on any refugees associated with proscribed armed groups entering the country has proved a troublesome issue for existing resettlement programmes. Gene Dewey, the Assistant Secretary of State for Refugees between 2002 and 2005, recalls that it proved particularly problematic for Iraqi refugees: “These people would qualify for refugee admissions but because of the risk that one might be a terrorist they weren’t allowed in.”⁹⁷⁰ Changed attitudes towards the Middle East and heightened fears over security risks might well explain the anaemic American resettlement of Syrian refugees.

⁹⁶⁶ Interview, 24 February 2015.

⁹⁶⁷ Interview, 27 February 2015.

⁹⁶⁸ Interview, 27 February 2015.

⁹⁶⁹ Interview, 6 March 2015.

⁹⁷⁰ Interview, 22 August 2014.

UNHCR estimates that there are roughly 950,000 refugees in the world today in need of resettlement, a demand that is only met with the supply of approximately 80,000 resettlement spaces.⁹⁷¹ The allocation of those spaces to the lucky few is troubled by the striking tension that lies at the heart of the value of resettlement within the international refugee regime: is it a durable solution or a means of ensuring protection? This needs some unpicking. Plainly, from within UNHCR, perhaps coloured by a sense of the dangers of resettlement as a pull factor, resettlement has come to be seen as a durable solution largely exclusively for protracted refugee situations. The basis for resettlement is largely either an assessment of need based on immediate risk or the lack of alternative options.⁹⁷²

As Erika Feller expressed, in a contemporary setting, resettlement is “a solution not a protection response.”⁹⁷³ Yet no bright line excludes one from being the other. Janet Lim notes that when it comes to contemporary resettlement, UNHCR’s preference is for “these very limited places to be given to those in vulnerable and in need. It has to be given according to urgency of need.” The line between the two is fuzzy, however, and urgency of need readily shades into characterisations of protracted instances of displacement. For the Bhutanese who were resettled from Nepal, for example, UNHCR’s efforts to facilitate their resettlement were a product of a logic conceived in the tragedy of long-term displacement: “I think you sometimes just see with a particular group of refugees that there’s a collective understanding it would be tragic to see another generation growing up without any opportunities... If you think of another generation in the camp growing up without opportunities then it concentrates minds.”⁹⁷⁴

⁹⁷¹ UNHCR, ‘Progress Report on Resettlement’, 6 June 2014, EC/65/SC/CRP.11, available at: <http://www.unhcr.org/53aa90bf9.html>.

⁹⁷² See UNHCR Resettlement Handbook, ‘Chapter 6: UNHCR Resettlement Submission Categories’ available at: <http://www.unhcr.org/3d464e842.html>.

⁹⁷³ Interview, 27 October 2014.

⁹⁷⁴ Interview, 16 March 2015.

Yet there is a subtle tension at play between the conception of resettlement as a solution for the long-term displaced and as an instrument to guarantee short-term protection. Certainly resettlement states themselves often struggle to make the distinction, even though there is substantial deference to UNHCR determinations of which groups most need resettlement.⁹⁷⁵ And many plainly still use resettlement as a means of purchasing first asylum in countries where it is fraying. Terry Rusch, the long-serving Director of Refugee Admissions for the State Department's Population, Refugees and Migration section, acknowledges that the maintenance of first asylum is often a very important justification for resettlement. In accounting for the decision of the United States to resettle thousands of Somalis from Kenya in 2011, she suggests that "we wanted to encourage Kenya to keep the door open. By taking some people off their hands, we maintained first asylum."⁹⁷⁶ This is mirrored in the attitude of NGO leaders like Lionel Rosenblatt (a central figure in and outside the American Government on the Indochinese refugee question), who avers that if there is a central legacy of the Indochinese crisis for the region, it is that "if you don't have a substantial resettlement policy, you won't be able to keep the doors open."⁹⁷⁷

Chimni contends that the very 'ideology of humanitarianism has used the vocabulary of human rights to legitimize the language of security in refugee discourse... and promote a neo-liberal agenda in post-conflict societies leading to the systematic erosion of the principles of protection.'⁹⁷⁸ His wry scepticism may not be misplaced. But when it comes to refugee resettlement, its schizophrenic deployment may have more to do with the exigencies of particular refugee-producing situations than any grand designs.

⁹⁷⁵ The U.S., for example, aspires to resettle roughly half of all those named by UNHCR as in need of resettlement each year.

⁹⁷⁶ Interview, 24 October 2014.

⁹⁷⁷ Interview, 13 August 2014.

⁹⁷⁸ B.S. Chimni, 'Globalization, Humanitarianism and Refugee Protection' in *Journal of Refugee Studies* (2000) Vol. 13, No. 3, pp. 243-263, p. 251.

7.2. LIFE OUTSIDE THE CONVENTION

“That’s the nature of the business here in this region. If we’re looking for Westernised models of treaties then we’re not going to get very far.”⁹⁷⁹
– Rick Towle

Southeast Asia is a tough place to be a refugee. What protection (if any) varies hugely from country to country and from race to race.⁹⁸⁰ Though perhaps not, as this dissertation has contended, from time to time. The architecture of refugee protection in the region has evolved only very slightly in the intervening years since the Indochinese crisis. The legal basis for UNHCR operations in Thailand, for example, remains the same five-page, double-spaced document it signed with the Thai Government in 1977. What limited authority it has stems from the agreed phrase: “The UNHCR Regional Office will exercise functions assigned to it by the High Commissioner in relation to his activities in the Kingdom of Thailand in the region.” Although Thai officials have sometimes insisted that this applies only to the original Indochinese refugees, giving them no grounds to become involved with non-Indochinese asylum seekers.⁹⁸¹ In this section, I speculate both on how the experience of the Indochinese crisis mattered for attitudes amongst first asylum states towards the Refugee Convention and legalised refugee protection more generally.

7.2.1. EXPLAINING AVERSION

There is, undoubtedly, a serendipitous logic to why some states have ended up inside the Convention protection regime and others have remained outside. Terry Rusch remembers

⁹⁷⁹ Interview, 17 February 2015.*

⁹⁸⁰ Sam Blay provides a useful overview of the differences in formal and legal protection between the non-signatory and signatory states in Asia in ‘Regional Developments: Asia’ in Andreas Zimmerman et al. (eds.) *The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol: A Commentary* (Oxford: Oxford University Press, 2011), pp. 145-184.

⁹⁸¹ See, for example, UNHCR:11:3:600.THA, ‘Note for the File – Meeting with Ambassador Kasit Piromya’ 14 November 1989.

from her lengthy time overseeing refugee resettlement from within the State Department that more than one Russian diplomat confided to her that they regretted signing on to the Convention in the wake of the Soviet Union's fall. As Rusch recounts, "they really didn't think they were going to have to do anything with Africans who were transiting Moscow."⁹⁸²

Erika Feller contends that "some of the Southeast Asian states have tentatively toyed with becoming a party" and there have "been eras since the CPA that the Indonesians have looked closely."⁹⁸³ At the time of the CPA, for example, Vietnamese officials hinted to Sadako Ogata, the-then High Commissioner, that they 'were studying the possibility' of signing the Convention.⁹⁸⁴

Yet few people really think that the Southeast Asian states will ever join the Refugee Convention. Jean-Noel Wetterwald contends that the Southeast Asian states will "have absolutely no intention of signing the convention, even now."⁹⁸⁵ In his eyes:

When the CPA was coming to an end, of course we all hoped at the UNHCR office in the region that countries in the region would sign the 1951 Convention. And we could get together and solve these problems collectively... I think that somehow those countries have been traumatised by the Indochinese experience. It's very hard to convince them of the humanitarian nature of the Convention. They see it as very political. They have given asylum but they prefer not to be bound by instruments that might put them into problematic relations with their neighbours like China. In my last position [as UNHCR Coordinator for Southeast Asia] I tried and tried and pleaded with ASEAN. We tried to bring Filipino delegations in Thailand to show that this is a good practice. But there is no way, like with the Middle East, that they're ever going to sign it... I failed miserably. My predecessor did. And my successor has. We have tried working through ASEAN but it leads us nowhere.

⁹⁸² Interview, 24 October 2015.

⁹⁸³ Interview, 24 October 2015.

⁹⁸⁴ 'Note for the File, Meeting with Mr. Nguyen Dy Niem, Vice-Minister of Foreign Affairs' 25 April 1994 UNHCR:11:3:001.HC.SRV.

⁹⁸⁵ Interview, 24 February 2015.

There is little if any suggestion that the Southeast Asian states are readying themselves to join the Convention regime. This should come as no surprise. Given the high sovereignty costs involved, only particular regime types tend to participate in human rights institutions. Emerging democracies see particular advantages in using international law to lock in certain domestic commitments.⁹⁸⁶ But they can also use participation in institutions as a signalling device to audiences at home and abroad to convey the credibility of new democratic reforms or in response to external inducements.⁹⁸⁷

None of these logics really apply in Southeast Asia. Although there are some important differences between regime types, the dominant model is authoritarian democracy. There is little sense that external inducements would make any difference even if they were offered. And, as this thesis has detailed, being outside the Convention regime has a signalling value all of its own. Kirsten McConnachie suggest that Asian nations would more likely join it if it more readily viewed as ‘a truly global system that pursues parity of responsibility through genuine cooperation and burden sharing.’⁹⁸⁸ This seems altogether too optimistic. As McConnachie herself notes, the principal impediment to accession is that there is a more fundamental perception amongst the Asian states that ‘forced migrants are always and inevitably a threat to security.’⁹⁸⁹

Sara Davies contends that the CPA left two distinct legacies in the region. First, that host states never came to see screening and status determination as having intrinsic value in themselves: ‘Southeast Asian states never embraced screening-in the name of refugee

⁹⁸⁶ Moravcsik, ‘The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe’ (2000).

⁹⁸⁷ Emilie Hafner-Burton, Edward Mansfield and Jon Pevehouse, ‘Human Rights Institutions, Sovereignty Costs and Democratization’ in *British Journal of Political Science* (2013) Vol. 45, pp. 1-27, pp. 3-4.

⁹⁸⁸ Kirsten McConnachie, in Elena Fiddian-Qasmiyeh, Gil Loescher, Katy Long and Nando Sigona, (eds.) *The Oxford Handbook of Refugee and Forced Migration Studies* (Oxford: Oxford University Press, 2014), pp. 626-639, p. 636.

⁹⁸⁹ Ibid.

protection but only as a deterrent measure to the Indo-Chinese refugees.⁹⁹⁰ And second, that 'the CPA endorsed the Southeast Asian position that asylum seekers were illegal migrants until proven otherwise.'⁹⁹¹ It is hard to argue with either position. Davies' larger contention that Southeast Asian states have never felt obliged to sign the 1951 Convention and 1967 protocol due to the international community's willingness to absorb the costs of dealing with the Indochinese refugee crisis has an intuitive plausibility.⁹⁹² And she is right to criticize existing explanations of non-compliance that centre on 'good neighbourliness', 'economic cost' or 'threats to social cohesion' as insufficient. But she is wrong to account for non-compliance simply through the absence of an inchoate sense of legal obligation. Given the unwillingness of Southeast Asian states to participate in a range of human rights instruments, it seems implausible that they were ever likely to sign on to the Refugee Convention.

Immediately prior to the fall of South Vietnam in 1975, for example, Thailand was wondering what consequences its disinclination to sign on to the Refugee Convention would have for any assistance. One U.S. diplomat cabled back to Washington that:

The RTG does not wish at this time to sign the Convention on Refugees and believes seeking help of the UNHCR on this Cambodian refugee problem would be inconsistent with this policy. The RTG policy is based on concerns that by signing the Convention on Refugees it would be assuming obligations which it might not want nor be able to fulfill... Because of this, the RTG is considering seeking the assistance of the International Red Cross in resettling and caring for Cambodian refugees.⁹⁹³

That assistance arrived from UNHCR without many if any preconditions sealed the deal. If states could receive the benefits of burden-sharing without the costs of affording asylum,

⁹⁹⁰ Davies, 'Realistic Yet Humanitarian', p. 213.

⁹⁹¹ Ibid, p. 214.

⁹⁹² Sara Davies, *Legitimising Rejection* (Leiden: Martinus Nijhoff Publishers, 2008).

⁹⁹³ Cable, Bangkok to Various, 'RTG/UNHCR Relations', 18 April 1975 PLUS ID: 1975BANGKOK06798_b.

then participation offered only constraints. As Irene Khan suggests, “now that Asian countries have worked out ways of dealing with refugee issues bilaterally and multilaterally, I don’t really see it happening that they would accede.”⁹⁹⁴

7.2.2. NON-LEGAL PROTECTION?

Peter Hughes, a senior figure in the Australian Immigration department for many years, observes that the absence of the Convention “means very different starting points about how you manage the conversations with these countries” on refugee protection:

They would say to me: “you signed that, we didn’t. We don’t have to look at it the way that you look at it.” The whole management of these things happens in a different climate... In Europe, the conversation starts with the Refugee Convention. In Australia’s part of the world, it doesn’t start with that. They’re based in countries that don’t accept the Convention and can kick the UNCHR out... The dialogue that Australia has to have with its neighbours about the movement of people just means you can’t keep harping on those Convention values with people who aren’t members.”⁹⁹⁵

Cavan Hogue, a senior Australian diplomat in the region who also worked on Indochinese resettlement, recalls that the Convention’s absence complicated Australian interactions with the states of first asylum: “it made it a lot easier for them to do things that we couldn’t. We were pressuring Malaysia to treat these people according to the terms of the convention and they simply said “we’re not signatories.” Arguments based on the Convention don’t cut any muster.”⁹⁹⁶

Yet in the heady days after the CPA had started running, many began to think that a process of acculturation was under way. Pierre Jambor wrote in his extended reflection on the CPA that:

⁹⁹⁴ Interview, 24 July 2014.

⁹⁹⁵ Interview, 10 March 2015.

⁹⁹⁶ Interview, 17 March 2015.

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.⁹⁹⁷

The results have been much more modest than that. Although a modicum of UNCHR-led status determination exists in both Thailand and Malaysia, the processing backlogs are formidable and the protection they afford remains highly variable. At a UNHCR-sponsored conference held in Tokyo in October 1995 to evaluate the international response to the Indochinese outflow, Alan Simmance, a senior UNHCR official, set out that the legacy could go either way, contending that the two concepts at the heart of the response to the Indochinese – temporary asylum and international burden sharing perhaps left ‘a mixed legacy, both capable of being applied either to great humanitarian advantage or as an easy excuse to shift the responsibility and avoid the blame.’⁹⁹⁸ It is hard to resist the conclusion two decades after the termination of the CPA that perhaps it was the easy path that was the path taken.

The absence of the Convention, however, plainly doesn’t mean a region devoid of any protection for refugees whatsoever. As Wetterwald notes: “you have protection, you just don’t have Convention protection”. “I think it just comes down to gentle persuasion and respect for the image of the country. There are some ways in which you can cajole them. It doesn’t mean that you should not be firm privately or publicly.” In one instance in Thailand, Wetterwald remembers that the threatened forced repatriation of a group of Karen refugees

⁹⁹⁷ Pierre Jambor, ‘Indochinese Refugees in Southeast Asia: Mass Exodus and the Politics of Aid’ (1992) (Ford Foundation Working Paper, Bangkok), p. 28.

⁹⁹⁸ Alan Simmance, ‘The International Response to the Indo- Chinese Refugee Crisis’, paper presented at international seminar on the Indochinese Exodus and the International Response, Tokyo, Japan, 27–28 October 1995. [Quoted in UNHCR, *The State of the World’s Refugees* (Oxford: Oxford University Press 2000), p. 102].

was circumvented by his public announcement that “return is a long term goal but it’s in everyone’s interests to have stable long-term repatriation.” Conceding that repatriation was the preferred ‘long term’ solution was “a way to take the wind out of the sails of forced repatriation”. Given protection is so discretionary, the work of agencies like UNHCR tasked with protection is similarly fluid: “When I worked in Germany you work with the parliamentarians and the legislators and you are using all the political democratic forces. But they do not exist within the region...It’s another way of working for sure.”

Plainly, the praxis of refugee protection is different in the region because it is viewed very differently by the countries of the region. Susan Timberlake, who worked as a regional protection officer for UNHCR during the CPA, remembers well the hurdle that instinctive attitudes to refugees posed for the protection agenda:

We were desperately trying to find a way to have useful and productive conversations with the Thai at all levels. And the biggest hurdle was that they literally did not understand why we cared. I was asked that question 100 times while I was there: “why do you care about these people? We don’t care about these people, why do you?”⁹⁹⁹

Barbara Crossette, *The New York Times* correspondent in the region for most of the 1980s, similarly recalls that refugee protection was barely driven by any innate humanitarian impulse:

There was just this extreme introversion that was covered over with their silky behaviour. The Army could be absolutely brutal. And incredibly corrupt. This lovely veneer: Buddhist temples and flowers. They hid a mean streak and certainly a xenophobic one.”¹⁰⁰⁰

At first glance, it would seem as if the spectre of the pushbacks continues to exert an imaginative pull. Perhaps that is too pessimistic, however. This thesis has not sought to

⁹⁹⁹ Interview, 25 March 2015.*

¹⁰⁰⁰ Interview, 18 March 2015.

necessarily condemn or judge the mistreatment of refugees by Southeast Asian states, merely to show that it had a strategic logic and a particular outcome. One thing above all remains the same in Southeast Asian states when it comes to refugees: the absence of form does not mean the absence of any protection whatsoever. As Rick Towle, the serving head of UNCHR in Malaysia, sets out:

One of the things that I've discovered is that if you look at the black and white letter of their attitude here to asylum seekers they're basically illegals. They're worried that they're going to set a precedent that they're de facto signing the convention. They don't want a crack in the door to suggest they're doing so. Below that there is a whole degree of flexibility and ambiguity. We have 150,000 people registered with us.¹⁰⁰¹

The aversion to any imposition upon sovereignty is a familiar trope dating back to the Indochinese days. A qualified welcome, however, is still a welcome

7.3. WHY DID REFUGEE PROTECTION NOT REMAIN ON A FIRMER FOOTING IN SOUTHEAST ASIA?

Immediately prior to the First Geneva Conference in 1979, an Australian Cabinet memorandum setting out the reasons for a generous Australian response observed that:

Not only is the stability of the region at stake but if the refugee problem were to get out of control it would impose very serious strains on the unity and character of Australian society... This new situation has all the ingredients for one of the most controversial and divisive issues in Australia's history... Combined with evidence of the 'porousness' of Australia, in terms of its ability to prevent an inflow of boat people, it is no exaggeration to say that the refugee question could well become dominant, both in domestic politics and in foreign policy during the remainder of the century. It should certainly not be seen as a "one-off" problem. As a large, underpopulated, "white" country Australia would be especially vulnerable to international criticism if we failed to respond in a humane manner to the arrival of boat refugees from Asia on Australian territory.¹⁰⁰²

¹⁰⁰¹ Interview, 17 February 2015.*

¹⁰⁰² NAA: A12930, 'Cabinet Memorandum No. 380 - Indo-Chinese Refugees' 11 July 1979.

The memorandum represents a sort of prescient naivety. On the one hand, it anticipated that debates over refugees and boat people might become the most heated and febrile political question in Australian politics in thirty years time. On the other hand, it discounted the salience and possibility of unilateral Australian action. In many ways, this speaks to the jarring disconnect which characterizes collective and institutional memories of the response to the Indochinese outflow. The institutional response to the Indochinese outflow is rightly praised as an episode of genuine international cooperation. Yet multilateralism seemingly bred unilateralism. As Judith Kumin, a former UNHCR diplomat, observes of the CPA: “although all of the countries in the region were involved in one way or another with the individual status determination, it didn’t really change their long term policy.”¹⁰⁰³

Its legacy has not been the deepening or strengthening of inter-governmental cooperation on forced migration issues. This is at least superficially puzzling. A sense of solidary reciprocity in many ways defines successful cooperative institutions and regimes. Keohane draws a useful distinction between two types of reciprocity that often underlie cooperative arrangements: specific and diffuse.¹⁰⁰⁴ Specific reciprocity usually encompasses contingent and roughly equivalent bargains but diffuse reciprocity emerges in cooperative regimes where obligations are important, where reciprocity is a function of conforming to generally-accepted standards of behaviour and where cooperative partners are viewed as a group rather than as particular actors.¹⁰⁰⁵ Diffuse reciprocity, while less solidary than family or kin relationships, nevertheless describes a very real phenomenon in world politics that some nations cooperate because they feel they should or because they feel they owe a larger group. Typically, diffuse reciprocity is a function of time, emerging from sequential interactions.¹⁰⁰⁶ Brian Rathbun takes this further by arguing that the necessary condition for multilateralism is

¹⁰⁰³ Interview, 20 February 2015.

¹⁰⁰⁴ Robert Keohane, ‘Reciprocity in International Relations’ in *International Organization* (1986) Vol. 40, No. 4, pp. 1-27.

¹⁰⁰⁵ Ibid, p. 4.

¹⁰⁰⁶ Ibid, p. 22.

‘generalised trust’ which creates expectations of reciprocity, reduces fears of opportunism and allows actors to make more binding commitments.¹⁰⁰⁷ As he sees it, ‘in the context of strategic interaction, generalized trust is the belief that others will generally feel morally bound to reciprocate cooperation.’¹⁰⁰⁸

Without relitigating the slightly-stale debates over the functionalist origins of international institutions, there is still something striking about the distinct absence of reciprocity that characterises the relationships between the ASEAN states on refugee issues and their own relationships with international institutions and donor states. There are several good reasons why we might have expected a level of diffuse reciprocity to have emerged from the cooperative arrangements designed to respond to the Indochinese outflow.

First, the pattern of sequential interaction and cooperation between resettlement states and states of first asylum lasted nearly fifteen years. Refugees were bargained over and argued about between resettlement states, UNCHR and the states of first asylum extensively. And the bargain largely held. Given the scale of the movements, there is an understandable sense of humanitarian achievement amongst those directly involved with the outflow.

Second, these were cooperative arrangements pregnant with the language of obligation and collective affinity. Many of the arguments set out by Southeast Asian states for increased support from UNHCR and the resettlement states were premised on the argument that those same actors had originally agreed to deal with the problem in a particular way and they should come good on fulfilling that bargain.

¹⁰⁰⁷ Brian C. Rathbun, ‘Before Hegemony: Generalized Trust and the Creation and Design of International Security Organizations’ in *International Organization* (2011) Vol. 65, No. 2, pp. 243-273, p. 245.

¹⁰⁰⁸ *Ibid*, p. 250.

Third, the states of first asylum conceived of the burden that faced them in very collective terms. And part of the reason for it being seen as a burden was, as some contend, that it posed a threat to intra-ASEAN relations.¹⁰⁰⁹ Yet this collectivity remained stubbornly individualistic on most matters of human movement.

This thesis began by noting that Asia in many ways confounds the ordinary predictions of scholars of international relations. ASEAN, for example, exhibits publically a high level of diffuse reciprocity and a sense of solidarism between its members that is far greater than what we might expect when we examine what it actually cooperates on.¹⁰¹⁰ Perhaps too, when it came to refugees, the enormous international assistance delivered to the states of first asylum was viewed as a nuisance more than anything. Possibly too, it asked less of the countries of first asylum in practice than it did on paper, rendering any feelings of reciprocity somewhat more muted. As Janet Lim suggests, “the spirit of burden-sharing was very much there. But it was very much burden-sharing in a false sense of the word as it was mainly western countries that agreed to take refugees.”¹⁰¹¹

Rick Towle, currently head of UNCHR in Malaysia, agrees that the absence of enduring cooperation is still puzzling: “the interesting thing for us was that this grand cooperative plan didn’t lead to any sustainable approaches after that. Support for refugees in the region died in 1995. We thought the legacy of the CPA would be really positive.”¹⁰¹² He attributes the reticence of countries to engage in multilateral solutions to a sense amongst the countries of

¹⁰⁰⁹ See, for example, Rodolfo Severino, the former Secretary-General of ASEAN in Rodolfo Severino, *Southeast Asia In Search of an ASEAN Community* (Singapore: ISEAS Publishing, 2006), pp. 175-176.

¹⁰¹⁰ Alice Ba notes how the ‘ritual of ASEAN solidarity’ belies the often deeply fragmented divisions within the ASEAN bloc in [Re]Negotiating East and Southeast Asia (Stanford: Stanford University Press, 2009). For a dissenting note on the implications of this, Lee Jones argues that the ‘norm’ of non-interference and deference to national sovereignty exhibited between ASEAN members is a largely rhetorical phenomenon, belied by extensive mutual interference. See: Lee Jones, ‘ASEAN’s unchanged melody? The theory and practice of ‘non-interference’ in Southeast Asia’ in *The Pacific Review* (2010) Vol. 23, No. 4, pp. 479-502.

¹⁰¹¹ Interview, 18 March 2015.*

¹⁰¹² Interview, 17 February 2015.*

first asylum that in the final days of the outflow they were let down. Indonesia and Malaysia, for example, have a particular attitude that “it took too long and they felt they were left handling the bag.” Janet Lim recalls when visiting her native Singapore that officials who had dealt with a negligibly small number of Indochinese refugees “never failed to remind me that it wasn’t more than ten years since the last refugees left Singapore. There was a fear that once they get stuck with refugees they would be stuck with them forever.”¹⁰¹³ Peter Hughes, formerly a senior figure with the Australian Department of Immigration, suggests that if you talk to “people now in Southeast Asian governments, they don’t have the rosy memory that Western Governments and UNHCR would have.”¹⁰¹⁴ In his eyes:

they’re more likely to say it didn’t work out for us because you didn’t fulfill the deal you struck with us. Even though they were left with very few when the music stopped, they were left with a small number of people that no country wanted to take. I think they were pretty low in terms of the total outflow and people it was hard to get back to Vietnam... They would say that the deal with us was not entirely fulfilled. We said we’d give first asylum if you resettled and we got left with the remains.

The relative absence of formal refugee protection within the region is a story of UNHCR neglect too, as Towle tells it:

I don’t think the CPA was a warmly embraced instrument. The pragmatics of the day required them to sign on to it. They’ve condemned it to a necessary time. We probably dropped the ball from 1995 through to the next 6 years. We didn’t continue building institutions. We were never proactive about what comes next with the governments.¹⁰¹⁵

Perhaps the aversion is a product of a larger regional distaste for multilateralism. Janet Lim suspects that this might underlie much of the aversion to institutionalized commitments to refugee protection or burden-sharing:

¹⁰¹³ Interview, 16 March 2015.*

¹⁰¹⁴ Interview, 10 March 2015.

¹⁰¹⁵ Interview, 17 February 2015.*

This is very much an Asian mentality: mind your own business, don't irritate your neighbours. I find the countries in Southeast Asia, and maybe I'm coloured by being from Singapore, they prefer to do business in a bilateral way. But anytime there's an issue that has to be solved from a multilateral way they become very wary.¹⁰¹⁶

Rick Towle suggests that this very much explains the absence of any meaningful cooperation on dealing with the outflow of Rohingya boat refugees from Burma:

I don't see the makings of any strong regional cooperation. All the levers are there but none of the commitments are there. Now the biggest problem is Rohingya Muslims coming out of Rakhine state. The treatment of this group is basically full of criminality and exploitation. You might well have a generation of tens of thousands of people that are stateless. I don't think we've started to begin to comprehend what it involves... This issue cries out for cooperation at a national level and bilateral level. It's absolutely screaming out for action. But all the Asian states – they're all terrified to be seen to interfere in each other's affairs.¹⁰¹⁷

The expressive quality that asylum adjudication embodies may be a bridge too far for most Southeast Asian states, especially coupled with a pre-existing aversion to the legal contractualism that defines many Western and international institutions, almost certainly will keep Southeast Asian states from formalising commitments to refugee protection.¹⁰¹⁸

Crucially, while somewhat agnostic on the legacy of the crisis for refugee protection in the region herself, Erika Feller acknowledges that there is a real argument by some in the region that the central lesson of the crisis was that “resettlement is a way of removing people from their territory. It's a bad lesson to learn as it means people being tacitly accepted as refugees and then becoming someone else's responsibility to resettle.”¹⁰¹⁹ Refugees almost by definition are other people's problems. The act of claiming refuge is a social one. The legacy

¹⁰¹⁶ Interview, 16 March 2015.*

¹⁰¹⁷ Interview, 17 February 2015.*

¹⁰¹⁸ Alice Ba, 'Institutional Divergence and Convergence in the Asia-Pacific' in *Cambridge Review of International Affairs* (2014), Vol. 27, No.2, pp. 295-318, p. 301.

¹⁰¹⁹ Interview, 27 October 2014.*

of the Indochinese crisis in Southeast Asia may well be that refugee remain other people's problems. Burden-shifting may well be here to stay.

8. POSTSCRIPT

"Guterres¹⁰²⁰ said it to me best when I was in Geneva. He loved working with PRM¹⁰²¹ because it was "the only government institution he'd worked with in his life where the officials were prepared to take action against their government's interest."¹⁰²²

– Eric Schwartz

IMMEDIATELY FOLLOWING THE FIRST GULF WAR, Turkey closed its border with Iraq. Hundreds of thousands of Kurds were trapped, seemingly vulnerable to the depredations of an advancing Iraqi army. The international response was not to condemn Turkey but to create a 'safe haven' in Northern Iraq where the displaced could seek refuge. That these decisions have consequence for international politics is beyond dispute. In the words of Princeton Lyman, a senior State Department official at the time, "we didn't know it but we were basically creating Kurdistan."¹⁰²³ For Lyman, the decision to act had little to do with correcting for the omissions of the Paris Peace Conference. It was a more instinctive

¹⁰²⁰ Antonio Guterres, UN High Commissioner for Refugees (2005 - present).

¹⁰²¹ The U.S. State Department Bureau of Population, Refugees and Migration

¹⁰²² Interview, Eric Schwartz, 12 December 2014.*

¹⁰²³ Interview, 16 July 2014.

reaction: "I took a flight with Jim Baker over northern Iraq, we saw the masses at the border, Baker took one look at the situation and said: "we've really gotta do something."¹⁰²⁴

Affect and compassion are powerful forces in international politics. And there are few more readily obvious or worthy repositories for such compassion than refugees – by definition people fleeing persecution brought about by forces beyond their control.

Gene Dewey, who served both as Assistant Secretary of State for Refugees and as United Nations Deputy High Commissioner for Refugees, remembers Ronald Reagan personally intervening on refugee issues on a relatively frequent basis:

The thing with Reagan is that he had a reputation for watching TV a lot. I remember one morning in September 1982, during the Israeli invasion in Lebanon, Reagan saw this desperate refugee woman on the TV. He got on the phone to the Assistant Secretary of State for the Middle East straight away and said to tell whoever was responsible "the President wants this fixed"... When he heard about human suffering... usually it meant he was going to call the State Department and tell them to get it fixed.¹⁰²⁵

Dick Childress, Director for Asia on the National Security Council for most of the Reagan years, similarly recalls, "I would get notes from Reagan about some refugee...He felt

¹⁰²⁴ Ibid. This is synchronous with Baker's own account describing how visiting the border profoundly moved him: "For several minutes after takeoff, we could see dirt roads and paths filled with refugees streaming out of Iraq. I then telephoned the President from the plane and told him there was no way for me to overstate the scope of the humanitarian tragedy I had just witnessed. "You have no idea of the human nightmare here," I told him. "There's a true disaster in the making if we don't move fast. People are dying every day. We've got to do something and we've got to do it now. If we don't, literally thousands of people are going to die."... What we've done so far is a pittance," I said. "We have to mobilise the world. We've got to think big. Otherwise this could be the systematic destruction of a people." The President grasped the urgency in my voice and said he would order urgent action right away... When I arrived at the King David Hotel in Jerusalem a few hours later, I wanted to follow my call to the President with a personal appeal to action to Dick Cheney... I learned later that, after receiving my message, Cheney had told colleagues that in sixteen years he had never known me to be an "alarmist", and so the tone of my message got his attention." [James A. Baker with Thomas De Frank, *The Politics of Diplomacy* (New York: G.P. Putnam's Sons, 1995), pp. 433-434.] Morton Abramowitz, the U.S. Ambassador to Turkey at the time, similarly recalls: "I remember when James Baker talked to the Kurds on the mountainside. He went down to South Turkey and spoke with the Kurds for three minutes with a big foghorn. And that totally changed the Washington mode of dealing with this problem. He saw it and he did something. It changed the urgency of our response. Ultimately we created a state there just from that moment." [Interview, 26 March 2015].

¹⁰²⁵ Interview, 22 August 2014.

deeply... Anything critical on this he would personally want a briefing. He'd put little note cards on articles. He was devoted to this.”¹⁰²⁶

...

‘Having traced the impact that actual and threatened mistreatment had on the willingness of resettlement states to provide assistance in the Indochinese refugee crisis, it is worth pausing and asking ourselves what (if anything) this signal experience could reveal about the larger international refugee regime? In one respect, the experience might be instructive in that it reveals a potential recurrent thread to what happens when states decide that rather than accept refugees with open arms, they instead close a border, push their boat back or force them onwards?’

Frequently, it can serve to elicit greater international assistance. As Kelly Greenhill has noted, there are few more successful means of international coercion than when states manipulate inward flows of refugees to extract international concessions.¹⁰²⁷ Austria successfully threatened to close its border to Hungarian refugees in 1956 unless more states agreed to resettle those fleeing as the Soviet Tanks rolled into Hungary. Zaire in the dying days of the Mobutu regime forcibly repatriated Rwandan refugees in the wake of the Rwandan genocide in order to extract a range of economic and political concessions from the United States and France. Macedonia closed its border during the NATO intervention in Kosovo only reopening it when other countries agreed to take up its burden. We know that dramatic acts like border closures are often followed by increased international attention and assistance,

¹⁰²⁶ Interview, 6 March 2015.

¹⁰²⁷ In *Weapons of Mass Migration*, Kelly Greenhill lists 24 cases of 'passive exploitation' whereby 'opportunistic' recipient states attempted to manipulate refugee crises. 22 of these involved concessions from the target of the coercion. Of these cases, 12 might be considered as *primarily* motivated by a desire to elicit assistance for burden sharing purposes. All of these cases resulted in substantial international concessions. [Kelly Greenhill, *Weapons of Mass Migration*, (Ithaca: Cornell University Press, 2010)].

usually from Northern countries.¹⁰²⁸ Yet paradoxically, conduct that falls short of the minimum expectation of international law can often (but not always) be rewarded with assistance beyond the customary minimum afforded by international politics.’

It is possible that the dynamic that was at play in the Indochinese crisis may be less contingent and limited than we think. All governments prefer not to resettle refugees. As Mariano Florentino-Cuéllar argues, Northern government support for warehousing refugees in Southern climes allows ‘governments of advanced industrialized countries to assuage domestic political pressures for humanitarian action, thereby avoiding risky political, economic, or military ventures on behalf of marginalized populations.’¹⁰²⁹ There may be a humanitarian moral hazard at play when it comes to dealing with refugees that changes that arrangement somewhat: cruelty in turn begets assistance. Janet Lim, recently retired as Assistant High Commissioner for Refugees, reflects: “If the governments insist on pushing away boats, what can we do? Who are we harming? We’re harming the refugees. You think that the Malaysian government cares if refugees don’t get any assistance? All we can say is we will do as much as we can to assist in alleviating your burden.”¹⁰³⁰

This is reason for both pessimism and optimism. Pessimism because opportunistic amoralists in the community of states have a positive incentive to treat refugees badly. And optimism because we are reminded that compassion in response to mistreatment can serve to galvanise collective action towards the needy.

This dissertation, however, has only traced the relationship of putative mistreatment and the generosity of resettlement assistance in a single case and accordingly it makes no claim to any

¹⁰²⁸ Katy Long, ‘In Search of Sanctuary: Border Closures, ‘Safe’ Zones and Refugee Protection’ in *Journal of Refugee Studies* (2012) Vol. 26, No. 3, pp. 458-476.

¹⁰²⁹ Mariano-Florentino Cuéllar, ‘The Limits of Idealism: Rethinking American Refugee Policy in an Insecure World’ in *Harvard Law and Policy Review* (2007), Vol. 1, pp. 401-432, p. 413.

¹⁰³⁰ Interview, 16 March 2015.

larger theoretical proposition beyond canvassing the mere possibility that one might exist. It makes no pretence to have conclusively uncovered some larger logic that governs all international responses to refugee crises. Rather, it has just sketched the possibility of such a logic through exploring a series of events not short of their own idiosyncrasies and particularities.

Generalising about the propensity for assistance from the Indochinese experience is difficult for many reasons, primarily because it is only considered in isolation. Exploring this episode stemmed from a desire to discover whether or not mistreatment was a necessary condition for burden-sharing with Southeast Asian countries during a particular period. This is not unimportant. Even for more conventionally politically-scientific projects, there can often be a value in digging around on the dependent variable to generate new heuristic approaches.¹⁰³¹

A fuller test of the proposition that threatening the preservation of first asylum can trigger international assistance would require four things.

First, we would need a broader range of cases covering a fuller range of refugee situations. The self-evident regime complexity that characterises international governance of refugee issues reflects the incredible number of thorny specificities and important contextual factors that make many refugee situations very different. Proper testing of any such proposition would need to take account of more of these.

Second, attitudes to refugees changed during the Indochinese outflow and they have probably hardened since. The world of the ‘asylum-migration’ nexus may have been midwifed by the Indochinese outflow but it was certainly not the world it arrived into. As

¹⁰³¹ George and Bennett, *Case Studies and Theory Development in the Social Sciences*, p. 23.

has been canvassed, the experience of resettling so many Indochinese probably played some role in the diminished respect for resettlement as a durable solution to refugee crises. Would the world react the same way today? Possibly not. It may be, as Barnett and Finnemore argue, that the precedent of Southeast Asian countries turning back refugees has triggered other governments to render their protection conditional on the help of others too.¹⁰³²

Third, there is surely no linear relationship between assistance and treatment either. States that provide a warmer reception than others might well garner more direct and indirect assistance. It is probably only when states really put refugee lives in peril that consciences are pricked and mistreatment gets rewarded. Beth Whitaker, for example, suggests that Tanzanian attempts to link the quality of protection with the volume of international assistance during the Great Lakes Crisis only proved detrimental to refugee protection.¹⁰³³ Yet the particularities of that case (where assistance was cut prior to mistreatment, where the international community had made a huge investment in the feasibility of repatriation and where the push-backs were of a less dramatic or dangerous nature) possibly limit its applicability.¹⁰³⁴

Finally, while an ideal case study for working out the scope conditions of compassion would find some faraway country full of inhospitable actions but with little strategic import, no such country exists and even if it did, a study of its policies towards refugees might not tell us much. Our collective humanitarian impulses are shaped by both self-interest and altruism. They travel together. This study has shown how they feed back into each other.

¹⁰³² Barnett and Finnemore, *Rules for the World*, pp. 94-95.

¹⁰³³ Beth Whitaker, 'Funding the International Refugee Regime: Implications for Protection' in *Global Governance* (2008) Vol. 14, pp. 241-258.

¹⁰³⁴ Whitaker's own work on the economic impact of refugees in Tanzania suggests that the threats were probably less believable too given the extensive local integration. See Beth Whitaker, 'Refugees in Western Tanzania: The Distribution of Burdens and Benefits Among Local Hosts' in *Journal of Refugee Studies* (2002) Vol.15, No.4, pp. 339-358.

AREAS FOR FURTHER RESEARCH

There are questions indirectly raised or shaded by this thesis that compel further research too. Constraints of time, resources and scope prevented a fuller consideration. These are mostly the trade-offs that are necessary when one's account focuses on the 'high politics' and international bargaining more than the domestic context of states' international policies.

First, it is clear that where institutional power for refugee policy is sited within government makes an important difference in explaining variation in policies towards refugees. Much as Thai policy towards refugees vacillated according to the bureaucratic fortunes of the Ministry of Interior (a restrictionist force) or the Ministry of Foreign Affairs (a humanitarian force), the location of most refugee policy-making in the U.S. State Department rather than the INS made a difference in driving greater resettlement. This is typically understood to mean that U.S. refugee policy is just a simulacrum of its foreign policy priorities. But what is less understood is that genuine humanitarian impulses sometimes surface as foreign policy priorities. In Australia, the shift in bureaucratic power towards the Department of Immigration away from the Department of Foreign Affairs has almost certainly amplified restrictionist tendencies. There have been embryonic attempts to explain American refugee policy on this basis.¹⁰³⁵ And it has similarly been identified as an important force explaining variation in Sub-Saharan African policy towards refugees.¹⁰³⁶ Yet the precise scope conditions and political-bureaucratic dynamics of such explanations are still unexplained.

Second, the domestic determinants of refugee policy remain underspecified. Whilst the Indochinese case shows the importance of protective concerns in explaining assistance, other

¹⁰³⁵ Arthur Helton sketched the contours of a 'bureaucratic politics'-style explanation of inter-agency rivalries shaping American refugee policy but there has been no study of how the voluntary agencies feed up into setting international priorities: Arthur Helton, *The Price of Indifference* (Oxford: OUP, 2002), esp. Ch. 9: 'Reaction and Inattention within the US Government.'

¹⁰³⁶ See, for example, Alexander Betts, *Survival Migration* (Ithaca: Cornell University Press, 2013).

forces have come to matter greatly too. The public choice theory vision of American refugee policy being driven by the power of the voluntary agencies finds little purchase in explaining the Indochinese crisis but may well have explanatory leverage in explaining the group resettlement of Burmese or Bhutanese in the mid-2000s. Their mechanisms of influence, particular preferences and political entanglements all require further research. Considerations of affinity and the role of particular ethnic lobby groups are also largely unspecified domestic variables that need accounting for.

Finally, this project has demonstrated the promise of research that looks to the dynamic intersection of domestic and international inputs in refugee policy-making. The impulse to bracket one half of the policy-making equation is obvious but dangerous. This is truly an arena of international politics beset by complex interdependencies between the domestic and the international, and rigorous explanations of responses to forced migration should account for that.

...

VALUE OF THIS STUDY

The primary contribution of this work is to our collective understanding of the diverse constellation of interests that explain the international response to the Indochinese refugees over a period of roughly two decades. In so doing, I have sought to probe larger questions relating to our understandings of international burden-sharing on refugees. But beyond this, it makes other small but important claims that have a larger significance for our understandings of international politics.

First, it shows that compassion and humanitarianism are and can be motive forces in world politics. Interest-based explanations are a powerful but limited methodological tool for

scholars of international relations. If our aim is to accurately capture the dynamics that explain international politics then we ought to think about how to better incorporate the less tangible but no less real causes of political outcomes.

Second, it adds to our appreciation of the international politics of Southeast Asia in the late Cold War. The role that refugee issues played in fomenting conflict between the ASEAN states is underappreciated. The resolution of refugee flows was an important factor in reconciling Vietnam to its neighbours and bears larger attention in the remarkable story of rapid ASEAN reconciliation with the Indochinese states in the late 20th Century.

Finally, it adds to our understanding of the dynamics of Cold War conflict. Particularly insofar as I demonstrate that propagandistic notions of Cold War anti-communists “voting with their feet” played a less significant role in resettlement states’ decision-making we are reminded of how conflict dynamics ebbed and flowed frequently during the Cold War. There is an obvious need to resist clunky periodisation that uses the simple explanatory binary of the ‘Cold War’ to explain all international politics between the capture of Berlin and the fall of the Berlin Wall.

...

POLICY IMPLICATIONS

Since the early 1980s, barriers to the movement of capital and goods have been steadily disappearing. New, liberalised international markets have clearly diminished the economic

importance of state boundaries. Yet at the very same time barriers to the movements of people have been increasing in number and degree.¹⁰³⁷

In a world where there are over 50 million forcibly displaced people and over 10 million refugees who face an average stay of more than 12 years in UNHCR refugee camps, it is hard to suggest that anything more than benign indifference characterises global attitudes towards refugees. If we cared more, we would do more. Developed liberal democracies are amongst the most consistently innovative in constructing new ways to avoid fulfilling the spirit of previously agreed-upon obligations towards refugees.¹⁰³⁸ European politicians proudly speak of 'Fortress Europe' and the European Commission makes much of its aid conditional on countries preventing unauthorised arrivals (read: asylum seekers) ever reaching its shores. Italy even went as far as once offering Muammar Gaddafi \$5 billion to set up radar detection facilities to prevent unauthorised departures from Libya finding their way to Italy.¹⁰³⁹ Yet despite these trends, people still beg, borrow and steal to claim refugee status. As Adam Roberts notes, we are living in a curious world of both more refugees and less asylum.¹⁰⁴⁰

Northern states often take extreme, sometimes illegal measures to deter inflows of asylum seekers. But this is not to say that they have no interest in refugee protection. As Hathaway

¹⁰³⁷ 'Scholarly interest on this question has often not been as broad or as keenly-focused as it has in other areas.. Keohane and Milner note that while scholars have paid great attention to the internationalization of goods and capital, little attention has been paid to the internationalisation of labour and migration: Robert Keohane and Helen Milner 'Internationalization and Domestic Politics: a conclusion.' in Keohane and Milner (eds.), *Internationalization and Domestic Politics* (New York: Cambridge University Press, 1996).

¹⁰³⁸ Curiously, while much about government policies towards forced migration has changed since the 1980s, public opinion towards immigration in developed countries has barely shifted despite the contentions of many that migration has become 'securitized' in the wake of September 11: Anthony M. Messina, 'Securitizing Immigration in the Age of Terror' in *World Politics* (2014) Vol. 66, No. 3, pp. 530-559.

¹⁰³⁹ Human Rights Watch, 'Pushed Back, Pushed Around: Italy's Forced Return of Boat Migrants and Asylum Seekers, Libya's Mistreatment of Migrants and Asylum Seekers' (New York, September 2009), p. 24. [Available at: http://www.hrw.org/sites/default/files/reports/italy0909webwcover_0.pdf].

¹⁰⁴⁰ Adam Roberts, 'More Refugees, Less Asylum: A Regime in Transformation' in *Journal of Refugee Studies* (1998) Vol. 11, No. 4, pp. 375-395.

and Gammeltoft-Hansen explain, despite the fact that 'wealthier states have a near-obsession with migration control', there is still at the very least a 'domestic political value' for a state 'being engaged in a system that systematizes humanitarian benevolence and an understandable reluctance to unpack a complex system of international law that supports broader political and economic agendas of value to the industrialized world.'¹⁰⁴¹ The humanitarian impulse to assist is often in tension with the self-interested aversion to avoid the costs of doing so. Even as Margaret Thatcher was imploring world leaders to do more to assist with the Indochinese outflow in the late 1970s she was exploring whether or not Britain should withdraw from the Refugee Convention to avoid British ships having to pick up too many refugees in the waters of Southeast Asia.¹⁰⁴² Despite increased restrictionism, liberal states, as Matthew Gibney notes, evince a sort of 'principled hypocrisy' where they 'continue to embrace asylum but spurn the asylum seeker.'¹⁰⁴³

Against these trends, does understanding the Indochinese crisis offer us anything of comfort? There are a few modest but real implications.

First, in some ways, observing in the Indochinese case how an interest in refugee protection and a humanitarian impulse to assist was a more powerful force than is ordinarily thought might, if substantiated more broadly, complicate our vision of international cooperation on refugee issues. Our existing accounts of why states contribute to refugee assistance are perhaps too narrowly conceived and economistic. An enhanced appreciation of how affective humanitarian commitments towards refugees might factor into the willingness of countries to assist in burden-sharing could open the way to new and better descriptive accounts of the dynamics of international cooperation on refugee issues.

¹⁰⁴¹ James C. Hathaway and Thomas Gammeltoft-Hansen, 'Non-Refoulement in a World of Cooperative Deterrence' *Law and Economics Research Paper Series*, Paper No. 14-016 (August 2014), p. 4.

¹⁰⁴² TNA PREM 19/129, unknown author, 'PM Briefing Paper', 30 May 1979.

¹⁰⁴³ Matthew Gibney, 'Asylum: Principled Hypocrisy' in COMPAS available at <http://compasanthology.co.uk/asylum-principled-hypocrisy/>.

Second, the virtue of an historically-informed project like this one lies in the imaginative capacities of history to remind us of how contingent our apparently firm convictions about the world in the present are. The past may be a foreign country, as L.P. Hartley memorably put it, but it is one that we can at least travel to and come back enlightened about how we can do things differently. In an era of almost rampant restrictionism towards refugees, it reminds us that large-scale generosity is not beyond the realm of possibility for liberal societies.

Third, regional differences in attitudes to refugees have profound consequences for the international refugee regime. The frailty of protective institutions for refugees in Southeast Asia is striking when compared to other regions of the world. I have largely dodged the counterfactual of whether or not refugee protection today would be on more solid foundations if donor states and institutions had not effectively legitimised the strategies of burden shifting resorted to by Southeast Asian states. I am not sure that it would. But we should be aware of the long-term effects that selective burden-sharing might create when we ponder the absence of commitment between states to assist each other on refugee issues.

Finally, as the resolution of the Indochinese crisis in the CPA reveals, multilateral solutions to refugee crises require a felicitous balance of bilateralism, honest-brokerage and creativity. Successful UNHCR action may frequently occur because negotiators are able to delimit and separate thorny questions of international politics from questions of refugee protection and assistance rather than merge them. While the willingness of UNHCR to leverage its moral authority to facilitate repatriation played an important role in binding parties to the CPA, its real success was in removing questions of refugee flows from larger questions of politics that had obstructed and obscured a solution to the Indochinese outflow for nearly a generation.

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As the familiar sight of boats packed with asylum seekers crossed the Mediterranean in the summer of 2014, Jane Moore, a celebrity gossip columnist-cum-opinion writer for the British tabloid, *The Sun*, couldn't help but ponder the dilemma posed by the 'migrant boats that head for Europe on an almost daily basis.' They 'present a huge burden to our already stretched resources and public services.' Yet on the other hand, Moore wrote, 'What's the solution? Turn them away and risk the boat capsizing, as many have done in the past? What supposedly 'civilised' country can do that?... No one gets in a rickety overcrowded boat in rough waters on a whim. These are desperate people... It's a dilemma of epic proportions and one for which there is no obvious humane solution.'¹⁰⁴⁴

As this dissertation has suggested, it is often all together too easy to elide the significance of the humanitarian impulse when it comes to explaining costly humanitarian action like international assistance towards refugees. Jonathan Moore, a long-serving American diplomat and government official, notes that when comparing refugee issues to other issues of domestic or foreign policy:

Everybody responds to refugees. The most basic working class person feels for them. It's beyond its actual nature but builds from its nature. There are all sorts of nasty bits of political infighting going on with refugees, as with everything. But that core of compassion is there... There was an emotional content to it that you could always depend upon. You could get on the wrong side of it and get burned... [But] there was compassion built into the issue. There was in that issue, almost in its expanse, a residual compassion. A residual humanitarian interest. And boy, we used it. Almost without them understanding it.¹⁰⁴⁵

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¹⁰⁴⁴ Jane Moore, 'Britain is full but we can't ignore tragedy' in *The Sun*, 2 July 2014, p. 11.

¹⁰⁴⁵ Interview, 8 March 2015.

In reviewing one of Henry Kissinger's many memoirs, Stanley Hoffman once suggested that the central problem with Kissinger's world view is that his concept of the 'national interest' suffered unduly from a failure to recognise the importance of considerations of 'order, justice and humanity' as intrinsic components of American national and international interests.¹⁰⁴⁶ He was right. Not only should we question the desirability of pared-down dog-eat-dog statecraft but we should also be sceptical that the world conforms to that logic. As Hoffman puts it, 'the alphabet of realism is too short.' Ignoring the importance of compassion and order as shaping principles of political life will only blind us to its real character.

¹⁰⁴⁶ Stanley Hoffman, 'Yesterday's Realism' in *The American Prospect* 30 July 2001.

9. INTERVIEWS CONDUCTED

1. Nancy Bearg – Staff Member, International Programs, U.S. National Security Council (1990-1993)	28 March 2013
2. Dennis McNamara – Senior UNHCR staffer (1975-2003)	5 April 2013
3. Karl Jackson – Director, Asian Affairs, on U.S. National Security Council (1989-1991)	10 April 2013
4. Princeton Lyman – Assistant Secretary of State and Director of Bureau of Refugee Programs (1989-1992)	16 July 2014
5. Dick Clark – U.S. Coordinator for Refugee Affairs (1979)	17 July 2014
6. Robert van Leeuwen – UNHCR (1976-95); UNHCR Head of Mission in Hong Kong (1989-93)	22 July 2014
7. Irene Khan – UNHCR staffer (1980-91); Senior Adviser to UN High Commissioner for Refugees (1991-1995)	24 July 2014
8. Elizabeth Holtzman – Congresswoman for 16 th District of New York (1973-1981); Chair of U.S. House Subcommittee on Immigration (1979-1981)	25 July 2014
9. Lionel Rosenblatt – FSO Member of Interagency Taskforce on Indochinese refugees (1975-1976); Coordinator of American resettlement efforts in Thailand (1978-81)	13 August 2014
10. James Purcell – Former U.S. Assistant Secretary of State, Director of Bureau of Refugee Programs (1983-1986); Assistant Director (1979-83); Director-General of International Organisation for Migration (IOM) (1988-1998)	14 August 2014

11. Jim Schill – U.S. Coordinator for refugee resettlement in Indonesia/Singapore (1979-1981)	15 August 2014
12. Gene Dewey – Former U.S. Assistant Secretary of State for Population, Refugees and Migration (2002-2005); Deputy High Commissioner at UNHCR (1986-1991); Assistant Director, State Department Bureau of Refugee Programs (1981-86)	22 August 2014
13. David Lambertson – Deputy Assistant Secretary of State, East Asia Asia (1987-1990); U.S. Ambassador to Thailand (1991-1995)	24 August 2014
14. Leslie Denend – Staffer, U.S. National Security Council (1977-1979)	25 August 2014
15. Victor Palmieri – U.S. Coordinator for Refugee Affairs (1979-1981)	1 September 2014
16. Terry Rusch – Director, Refugee Admissions in U.S. State Department Bureau of Population, Refugees and Migration (1983-2010)	24 October 2014
17. Erika Feller – Australian Diplomatic Service (1972-1986); Various UNHCR roles (1986-2006); Assistant High Commissioner for Refugees (2006-2013).	27 October 2014
18. Michael Mackellar – Australian Minister for Immigration and Ethnic Affairs (1975-1979)	31 October 2014
19. Eric Schwartz – Former U.S. Assistant Secretary of State for Population, Refugees and Migration (2009-2012)	12 December 2014
20. Lacy A. Wright – U.S. Foreign Service Officer (1968-1997); Refugee Resettlement Taskforce (1975); Director, Kampuchea Working Group (1980.	1 February 2015
21. Allan Jury – U.S. Foreign Service Officer (1975-2001);	12 February 2015

Bureau of Populations, Refugees and Migration (1987-2001)	
22. Rick Towle – UNHCR regional staff during CPA (1989-1994); UNHCR Representative in Australia (2007- 2013); UNHCR Representative in Malaysia (2013-present)	17 February 2015
23. Sir Hugh Cortazzi – Deputy Under- Secretary of State, Foreign and Commonwealth Office (1975-1980)	18 February 2015
24. Judith Kumin – UNHCR staffer in Vietnam (1979-1983); UNHCR staffer in Thailand (1983-1987)	20 February 2015
25. Gerald Walzer – UNHCR Representative in Thailand (1984- 1988); Deputy High Commissioner, UNHCR (1993-1999)	23 February 2015
26. Dawn Calabria – Staffer, House Foreign Affairs Committee (1979-1988)	23 February 2015
27. Jean-Noel Wetterwald – UNHCR Program Officer in Thailand (1979); UNHCR Representative in Indonesia (1992- 1995); UNHCR Representative in Hong Kong (1996-1998); UNHCR Regional Coordinator for Southeast Asia (2010-2012)	24 February 2015
28. John Menadue – Secretary, Australian Department of Immigration and Ethnic Affairs (1980-1983)	25 February 2015
29. Gavin Hewitt – Deputy Permanent Representative in Geneva, Foreign and Commonwealth Office (1989- 1991); Head of South East Asia Department (1991-1994)	25 February 2015
30. Alexander Casella – Senior UNHCR Staffer in Southeast Asia during	27 February 2015

Indochinese crisis	
31. John Blount – Director, Asylum, Refugees & Immigration (ARIA) section of Australian Department of Foreign Affairs (1990-1993)	2 March 2015
32. Pierre Jambor – UNHCR Deputy Representative in Bangkok (1977-1980); UNHCR Representative in Bangkok (1988-1991)	5 March 2015 & 10 March 2015
33. Richard Childress Director (Asian Affairs), National Security Council (1981-1988)	6 March 2015
34. Chris Nelson – Staff Member, U.S. House Foreign Affairs Subcommittee on Asia (1977-1980)	6 March 2015
35. Jonathan Moore – U.S. Coordinator for Refugees (1986-1989); Assistant Secretary of State for Population, Refugees and Migration (1987-1989)	8 March 2015
36. Peter Hughes – Australian Immigration Department (1979-1983); Regional Director in charge of Australian Indochinese resettlement program (1983-1985); Australian Immigration Department (1985-2011)	10 March 2015
37. Janet Lim – Assistant High Commissioner (Operations) (2009-2014); Director of Asia Bureau (2004-2009); UNHCR staffer during Indochinese outflow	16 March 2015
38. Cavan Hogue – Assistant Secretary, Australian Department of Foreign Affairs (1978-1981); Assistant Secretary of Australian Department of Immigration and Ethnic Affairs (1981-1983); Australian High Commissioner to Malaysia (1987-1990); Australian Ambassador to Thailand (1994-1996)	17 March 2015
39. Barbara Crossette – Southeast Asia Correspondent, <i>The New York Times</i> (1983-1988)	18 March 2015

40. Gervais Appave – Regional Director and Counsellor, Australian Department of Immigration and Ethnic Affairs Bangkok (1987-1989), Geneva (1991-1994); Director, Refugees, Immigration and Asylum Section, Australian Department of Foreign Affairs (1995-1996)	18 March 2015
41. David Colvin – Head of Southeast Asia Department, Foreign and Commonwealth Office (1988 – 1991)	23 March 2015
42. Susan Timberlake – Protection Officer, UNHCR Thailand (1984-1988); UNHCR Washington D.C. (1988-1990); Legal Advisor for Asia, UNHCR Geneva (1990-1996)	25 March 2015
43. Morton Abramowitz – U.S. Ambassador to Thailand (1978-1981); Deputy Assistant Secretary for East Asian Affairs, U.S. Department of Defense (1974-1978)	26 March 2015
44. Mike Molloy – Director of Refugee Policy, Canadian Department of Manpower and Immigration (1976-1978); Senior Coordinator, Indochinese Refugee Task Force, Canadian Employment and Immigration Commission (1979-1981); Counsellor- Humanitarian Affairs, Canadian Permanent Mission (Geneva) (1981-1984); Director General of Refugee Affairs, Immigration Canada (1989-1992)	2 April 2015

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