

Managing the “Boat People” Crisis: The Comprehensive Plan of Action for Indochinese Refugees

DESPERATE MIGRATION SERIES NO. 2

ALEXANDER CASELLA



Cover Photo: A thirty-five-foot fishing boat approaches a US navy ship 350 miles northeast of Cam Ranh Bay, Vietnam, after eight days at sea, May 15, 1984. US Department of the Navy.

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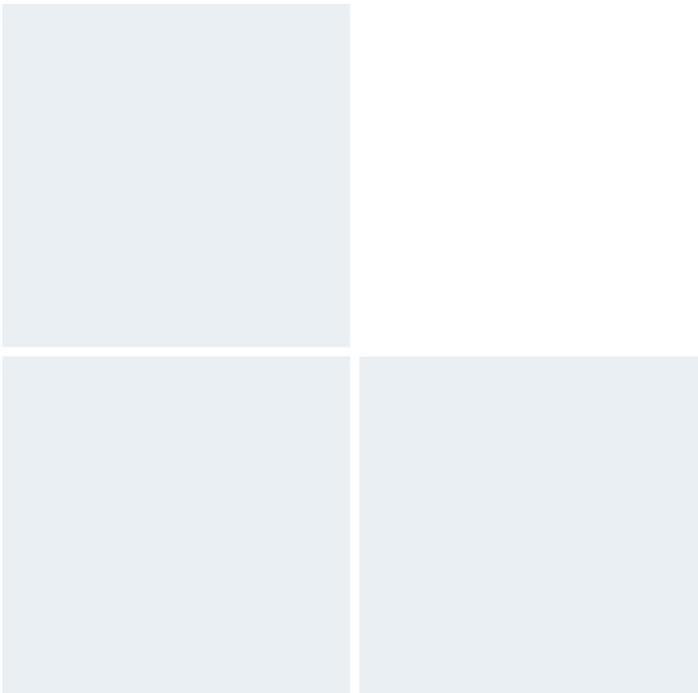
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Executive Summary

Spanning a period of twenty-one years, the Vietnamese “boat people” exodus was the last major refugee crisis of the Cold War. It started in the spring of 1975 after the fall of Saigon and resumed in 1978, as tens of thousands of Vietnamese took to sea, headed for Hong Kong or the countries of Southeast Asia. The international response agreed on in Geneva in 1979 was in line with Western Cold War values—all Vietnamese fleeing the communist regime were automatically recognized as refugees and resettled in the West—but by 1988 it had begun to unravel. The new international response took the form of the Comprehensive Plan of Action for Indochinese Refugees (CPA), which was in place from 1989 to 1996.

The CPA was revolutionary in two ways. First, it was comprehensive, made up of five mutually supporting components: (1) screening for refugee status, (2) resettlement of those granted refugee status, (3) repatriation of those denied refugee status, (4) streamlining of a program allowing people to apply for refugee status from Vietnam, and (5) a mass campaign to inform Vietnamese of the CPA’s provisions. Second, its individual components were predicated on two fundamental rights: the right of Vietnamese boat people to land and their right to be processed for refugee status. As a result, the CPA both saved lives and marked the transition from blanket recognition of refugee status to individual status determination—all in a region whose countries had not ratified the Refugee Convention.

While all refugee situations are different, the CPA provides lessons that could extend beyond the Indochinese refugee crisis:

1. Decisive action sometimes depends on initiatives undertaken by enterprising individuals in the field. Plans to address the refugee crisis in Indochina only progressed due to individual initiative.
2. New approaches to refugee crises are bound to be controversial. The NGO community was not attuned to the CPA’s wholesale rethinking of the refugee crisis and thus largely opposed it.
3. Comprehensive solutions require the commitment and involvement of the country of origin.

It was only once Vietnam became involved that a solution to the crisis became possible.

4. UN crisis response can be most effective when a single agency is in the lead. The CPA benefited from UNHCR being the only agency substantively involved in its implementation.
5. Countries’ involvement in responding to refugee crises does not necessarily translate into them adopting refugee law. Most of the countries of Southeast Asia continued to reject the Refugee Convention.
6. Refugees and migrants are easy victims of rumors and disinformation. One of the reasons the CPA was successful was that a mass information campaign let Vietnamese people know it existed.
7. Durable solutions must address both refugees and migrants. Probably the main achievement of the CPA was to bridge the asylum-migration conundrum and replace it, in fact if not in words, with a solution to population movement in general.

Introduction

While all asylum and migration crises have their own specific characteristics, they share one common principle: the preferred solution is for people to voluntarily return to their home countries, provided that the conditions leading to the exodus no longer prevail. In parallel, this requires establishing a system of asylum for refugees and of mandatory return for those not entitled to refugee status. Establishing such a system requires the involvement of the country of origin, where conditions must emerge to make such a solution possible.

The Comprehensive Plan of Action for Indochinese Refugees (CPA), which was in place from 1989 to 1996, was a practical implementation of this approach to address Vietnam’s “boat people” crisis. Twenty years after the end of this agreement, this report considers what lessons could be learned from the CPA, some of which could be relevant to today’s migration crises, including the movement of people from Africa and the Middle East to Europe. In Vietnam, conceiving the CPA required initiative, imagination, some daring, and, perhaps most importantly of all, involvement of the

country of origin. It also benefited from the shift in external conditions resulting from the end of the Cold War. All of these elements seem lacking from responses to today's migration crises.¹

Origins of the Crisis

Spanning a period of twenty-one years, the Vietnamese “boat people” exodus was the last major refugee crisis of the Cold War. It started in the spring of 1975, when some 140,000 Vietnamese were evacuated from Saigon by the United States in the weeks before the city fell to North Vietnam. After a hiatus of about two years, the exodus resumed in 1978, as tens of thousands of Vietnamese took to sea, headed for Hong Kong or the countries of Southeast Asia.

While in theory the international response to this exodus could have drawn upon lessons learned from previous Cold War refugee crises, the refugee crisis in Indochina presented new challenges that the international community had never previously encountered.

Refugee crises had traditionally been regional phenomena that were addressed through regional solutions. By and large, refugees did not overflow their own geographic areas. African refugees fled to neighboring African countries, Hungarian and Czech refugees were granted asylum by other Western countries, and Palestinians were housed in camps in the Middle East. In Asia, when the Communists came to power in China in 1949, many members of the Kuomintang found asylum in Taiwan. Likewise, when Vietnam was divided in 1954, almost 1 million North Vietnamese sought refuge in South Vietnam rather than live under a communist regime.

No such solution proved available to Vietnam's boat people. Indeed, with the exception of China, which provided asylum to some 260,000 Vietnamese of Chinese origin, all the countries of Southeast Asia adamantly refused to grant permanent asylum to any Vietnamese boat person. Moreover, none of the countries of the Association of Southeast Asian Nations (ASEAN) had signed

the 1951 Refugee Convention.² This, along with the absence of a territorial solution, deprived the Vietnamese boat people of the right to asylum, making resettlement in Western countries the only possible outcome.

While the 1951 Refugee Convention provides a clear definition of the term “refugee” and, as such, a legal basis for protection claims, individual refugee determination procedures were the exception rather than the rule. As most people were fleeing from the East to the West, and with communist countries imposing penalties for illegal departure so severe that they amounted to persecution, Western countries considered simply fleeing from a communist regime as sufficient grounds to warrant refugee status. And so, it was formally agreed that all Vietnamese boat people would be automatically recognized as refugees and resettled in the only countries that would accept them—Western countries.

This solution was formally adopted at the International Conference on Indochinese Refugees in July 1979. At the time, it was the only approach that was coherent both with reality and with the values that the West stood for in the Cold War. Ultimately, however, it proved to be a Western solution in an Asian context; after having initially served its purpose, it became part of the problem.

By 1988, the agreement reached in Geneva had begun to unravel. Considering that all of the countries of the region (with the exception of China) were adamant in their refusal to provide asylum to any Vietnamese arriving by boat, the system hinged on resettlement in Western countries. This was the nonnegotiable precondition for allowing the Vietnamese boat arrivals to land.

In parallel to the 1979 conference in Geneva, the UN Refugee Agency (UNHCR) had signed an agreement with the Vietnamese authorities setting up an Orderly Departure Program (ODP). The ODP was to enable qualifying Vietnamese to leave the country legally. It was expected to provide a credible alternative to illegal departure and thus to

1 Sources for this report include interviews with two of the four originators of the CPA conducted in June and July 2016, documents shared by these interviewees, and the author's personal notes. Figures cited are from internal UN documents.

2 Of the destination countries for the Vietnamese boat people, none except China had signed the Refugee Convention in 1979. Brunei, Indonesia, Malaysia, Singapore, and Thailand have still not ratified the Refugee Convention, while the Philippines ratified it in 1984. While the UK was a signatory to the Refugee Convention, the convention did not apply to the British territory of Hong Kong.

help reduce the number of people leaving by boat.

The ODP was predicated on the existence of three lists: List A, to be set up by the Vietnamese authorities, included people with exit permits. List B included Vietnamese for whom foreign countries were willing to provide visas. List C included people who figured on both Lists A and B and who could thus leave legally. As initially conceived, the ODP never worked. Indeed, Hanoi perceived it as no more than a means of getting rid of Saigon’s Chinese community. Of the 10,000 names initially submitted on List A, practically all were Chinese, and practically none were qualified to figure on List B, which excluded them from List C.³ As a result, by the mid-1980s, with ODP departures few and far between, Vietnamese who felt compelled to leave Vietnam had no alternative but to leave by boat.

At the same time, while the exodus endured, resettlement from Southeast Asia and Hong Kong had begun to erode. Little by little, a residual caseload of “long-stayers” who no Western government was willing to take built up in the camps. These included North Vietnamese whose departure had been in no way related to the situation prevailing in South Vietnam. Western governments also started cutting down on their resettlement quotas for Vietnamese boat people, arguing that, ten years after the end of the Vietnam War, the nature of the caseload had changed and they had other priorities.

With the residual caseload gradually building and resettlement quotas starting to shrink, Southeast Asian countries grew concerned, particularly as the ratio of arrivals to departures began to change. Between 1980 and 1986, the yearly number of resettled boat people exceeded the number of new arrivals. Then, in 1988, the number of new arrivals almost doubled in comparison to the previous year. Resettlement quotas, however, did not follow suit.

Confronted with the reality of a burgeoning caseload of non-settled boat people, in order to curb the inflow, countries resorted to the policy that was easiest to implement: pushbacks. There is no estimate of the number who drowned as a result of these policies. By mid-1988, Southeast Asia was

on the verge of a new humanitarian catastrophe.

International Response to the New Crisis

AN INDIVIDUAL-LED, FIELD-DRIVEN INITIATIVE

As the number of pushbacks grew, threatening to undermine the strategy agreed on in 1979, Western diplomats in Bangkok looked on with increasing anxiety. In an attempt to address the issue, the Ford Foundation, in the wake of a series of meetings of the Association of Southeast Asian Nations (ASEAN) in the Thai capital, decided to organize a seminar in the Thai district of Cha-Am on May 25, 1988, on the theme of the Vietnamese boat people. Labeling the meeting as “informal” and claiming that participation was solely on a personal basis, the Ford Foundation ensured that the exchange would be frank and to the point. It was. What emerged was a recognition that first asylum for Vietnamese was hanging in the balance. Without new solutions, such as the restructuring of the international arrangements for asylum, Southeast Asian countries were forced to unilaterally take drastic steps to prevent new boat arrivals.

The Cha-Am seminar provided the opportunity for the meeting of minds of four key participants in discussions on the Indochinese refugee situation: Allan Jury, deputy counselor at the US mission in Bangkok; Gervais Appave, his Australian counterpart; Pierre Jambor, the UNHCR representative in Bangkok; and Kasit Piromya, director of the Department of International Organizations at the Thai Foreign Ministry.⁴ Subsequent to the Cha-Am meeting, this quartet met regularly, albeit informally, and soon concluded that the only solution to the coming crisis was to put in place a comprehensive plan. This plan would include screening refugees, returning to Vietnam those who did not qualify for refugee status, and providing long-term resettlement for those who did, while also expanding the ODP. They saw such a plan as culminating in a new international conference on refugees from Indochina, following the model of the 1979 conference.

³ Oral source from the UN Refugee Agency.

⁴ Draft cable report from the US Embassy in Bangkok, May 18, 1988.

On June 2nd, Jury sent an official letter to Jambor suggesting that UNHCR take the lead in organizing a meeting in Bangkok with local representatives of major Western countries to decide on how to proceed with the proposal. Accompanying Jury's letter was an informal draft agenda containing a paragraph proposing "refugee screening"—a bold suggestion coming from a US diplomat. Up until this point, the presumption was that all Vietnamese boat people were refugees fleeing persecution. Questioning this presumption could have had major political repercussions for Vietnam in the way the country was perceived both regionally and internationally.

While the quartet, which had been expanded to include representatives of Australia, Canada, France, and the EU, started to work on a text based on Jury's proposals, it became evident that nothing would be achieved if Hanoi were not brought into the picture. However, given the prevailing political climate, no government was willing to extend an invitation to the Vietnamese. Instead, they expected UNHCR to do so. However, the high commissioner rejected the proposal, considering it too political. It was not until the director of the US Bureau for Refugee Programs, Ambassador Jonathan Moore, informed the commissioner that he fully supported the initiative that Jambor received approval to proceed at his own risk.

Jambor then requested the UNHCR representative in Hanoi to invite a Vietnamese delegation to come to Bangkok to take part in the next round of deliberations organized by the quartet. Simultaneously, and acting on their own initiative, Jury and Appave informed the Vietnamese ambassador in Bangkok that the purpose of the invitation was not to embarrass or censure the Vietnamese, but rather to involve them in a constructive process seeking to bring to an honorable end the boat people exodus. While Hanoi never replied to the invitation, several weeks later, the Vietnamese ambassador in Bangkok, accompanied by a vice minister, arrived unannounced at the New Imperial Hotel where the group was holding one of its regular meetings.

What followed over the next several months was an unofficial drafting process from which emerged the Comprehensive Plan of Action for Indochinese Refugees (CPA).

ADOPTING THE COMPREHENSIVE PLAN OF ACTION

The CPA was revolutionary in two ways. First, it was comprehensive, made up of mutually supporting components that all culminated in a solution. Second, its individual components were predicated on two fundamental rights: the right of Vietnamese boat people to land and their right to be processed for refugee status. As a result, the CPA both saved lives and marked the transition from blanket recognition of refugee status to individual status determination. Moreover, it did this in an environment where refugee law was nonexistent, given that almost none of the countries of the region had ratified the Refugee Convention.

In practical terms, this meant that boat people who landed after a given cutoff date would no longer be automatically recognized as refugees but would be classified as asylum seekers. They would then be subject to an individual refugee status determination procedure, and those recognized as refugees would be resettled. Those not qualifying for refugee status would be repatriated, voluntarily or forcibly, under an amnesty program monitored by UNHCR that provided that they would not be prosecuted for illegal departure. In parallel, the ODP would be widely expanded to provide a realistic alternative to departure by boat for those who qualified.

By October, the drafting process, which was still informal, had produced a basic document that reflected a general consensus and provided a framework from which a more official plan could emerge. Toward this end, in October, the government of Malaysia called for a "pre-meeting" in Kuala Lumpur, inviting all concerned governments to attend in an official capacity.

Thus, while the original text had been conceived by representatives in Bangkok, the "pre-conference" sought to involve the capitals. UNHCR headquarters also developed its own draft CPA, which Ambassador Kasit publicly tore up at the opening of the meeting, declaring that the text produced in Bangkok was the only one to work on. Ultimately, the Bangkok-produced text was adopted with a single modification requested by the Vietnamese: on the issue of returning those who were denied refugee status, the word "must" was replaced by "should." Having been endorsed (albeit

informally) by the Kuala Lumpur “pre-conference,” the draft penned in Bangkok was now confirmed as the founding document of the CPA. Polishing and promoting it fell to UNHCR’s Asia bureau, and in March 1989 the CPA was finalized in Kuala Lumpur.

FOUNDATIONS OF THE CPA

While the CPA essentially served as a regional document, the fact that it provided for extra-regional resettlement gave it an international dimension—with a corresponding international responsibility—that the countries of ASEAN wished to emphasize. The UN Secretariat, however, was lukewarm about getting involved in the process. To circumvent this reluctance, ASEAN prevailed on the UN General Assembly to adopt a resolution formally requesting UN Secretary-General Javier Pérez de Cuéllar to convene an International Conference on Indo-Chinese Refugees to adopt the CPA.⁵ The conference, attended by seventy-five states, was duly convened in Geneva from June 13 to 14, 1989. It adopted the CPA and created a steering committee, based in Southeast Asia, which would regularly meet to review implementation.⁶

The CPA included five mutually supportive components:

1. It provided that all new arrivals would be screened for refugee status. This would be undertaken by officers from the countries of first asylum, trained and supervised by UNHCR. While the cases of those “screened in” as refugees were generally accepted, all “screened out” cases would be reviewed by UNHCR, which retained the authority to grant refugee status to any boat person independently of the decision of the screening officers.
2. All those granted refugee status would be automatically entitled to resettlement on the basis of the procedures currently in place.
3. All those denied refugee status would have to return to Vietnam. Return would preferably be voluntary, but forcible return was not excluded,

on the understanding that it would not entail bodily harm. In addition, Hanoi and UNHCR had signed a memorandum of understanding in December 1988, which specified that the returnees would not be subject to the penalties imposed by Vietnamese law for illegal departure. This guarantee was to be monitored by UNHCR, which would also provide the returnees with a reintegration allowance.

4. The ODP was to be streamlined to bolster intergovernmental collaboration afforded under the CPA. Initially it had been managed by UNHCR and was subject to continued obstruction by Vietnamese authorities. Under the CPA, rather than remaining a bone of contention between Hanoi and Washington, it became the first cooperative venture between the two governments. Its operation was ultimately taken over by the International Organization for Migration (IOM).
5. There would be a “mass information” campaign in Vietnam to ensure that potential boat people would be aware of the CPA’s provisions.

The rationale for the creation and delivery of an information campaign was that Vietnamese people should be informed that the situation had changed and that resettlement from countries of first asylum was no longer automatic; it was now subject to the granting of refugee status, for which many would not qualify. Those who did not qualify would be returned to Vietnam, while those who did qualify could leave through the ODP rather than on boats. Ultimately, the information campaign sought to enable potential boat people to make an educated decision about leaving, thereby encouraging them not to leave in the first place. It was, in other words, deterrence through information.

The concept had never been tried before, and there was no guarantee of success. But when it had been raised informally in Hanoi, the authorities had been intrigued and promised the full support of the Vietnamese state media, on the understanding that UNHCR would take the lead and pay the costs.

⁵ The foreign ministers of the countries of ASEAN issued a Joint Statement on Indo-Chinese Refugees on July 4, 1988. This led to General Assembly Resolution 43/119 (December 8, 1988), UN Doc. A/RES/43/119.

⁶ See UN General Assembly, *Declaration and Comprehensive Plan of Action of the International Conference on Indo-Chinese Refugees: Report of the Secretary-General*, UN Doc. A/44/523, September 22, 1989.

REACTIONS TO THE PLAN

The signing of the CPA was not met with widespread support—far from it. While governments were relieved that a contentious issue had been brought under control, at least in the short term, the reaction outside of governments was a combination of concern, disbelief, and outright hostility.

Within UNHCR, lawyers had always looked askance at the ODP. For them, refugees were, by definition, individuals outside their home country, from which they had fled to escape persecution. For an agency whose task it was to protect refugees to operate inside a refugee-producing country in order to help people leave legally—which could imply that they were not persecuted and thus not refugees—went against the grain. They also found it objectionable that screening for refugee status could be undertaken in and by countries that were not signatories to and did not adhere to the principles underpinning the UN Refugee Convention. Although UNHCR retained the right to oversee every decision, thus guaranteeing that no genuine refugee would be left unidentified, this oversight was seen as a technicality. And while this technicality ensured that asylum would be preserved, UNHCR's objection was one of principle.

Among nongovernmental organizations (NGOs), hostility toward the CPA was widespread. Many NGO staff working in camps for displaced Vietnamese had developed personal attachments to the Vietnamese there and were profoundly disturbed by the idea that, if denied refugee status, they ran the risk of being forcefully returned to Vietnam.

Moreover, many were distressed by the fact that return was envisaged in the CPA at all, even if it were “voluntary.” During the Cold War, the concept of “refugee” was predicated on the belief that the communist regimes were so abhorrent that the simple fact of having left illegally entitled a person to refugee status. This was the principle that had been applied in Europe and in Vietnam until the adoption of the CPA.

For the many tens of thousands of Americans who had fought or worked in Vietnam during the

war, the idea of return was also not easy to accept. It was even more difficult to accept for the large number of Vietnamese living in the United States who had benefited from an across-the-board resettlement policy that would now be denied to their relatives.

Last but not least, the human rights and advocacy community, which had just emerged on the international scene, proved unsparing in its censure of both the screening system and the return policy.

While these fountainheads of dissent were not enough to derail the CPA, anti-CPA efforts—often well-meaning but generally based on unsubstantiated claims about the persecution faced by returned Vietnamese—contributed to politicizing the issue in American politics. This, in turn, made the CPA's implementation more difficult and its closure more protracted.⁷

Implementing the Plan

PUTTING THE PROCEDURES IN MOTION

The first upshot of the adoption of the CPA was that pushbacks came to an immediate stop. With the ASEAN countries now assured that all boat people who landed on their shores would either be resettled or repatriated, deterring them from landing became unnecessary, and countless lives were no doubt saved.

It then fell to UNHCR to set up a comprehensive screening system to identify who among the boat people was entitled to refugee status. This entailed hiring and training lawyers from the countries of first asylum who, under UNHCR supervision, would adjudicate cases. It also put in place appeals procedures, with UNHCR retaining the right to have the final say in each case.

However, for many of the newly arrived Vietnamese boat people, the screening process proved confusing. It was difficult to comprehend that friends or relatives who had arrived in countries of first asylum just weeks or days before, were automatically entitled to resettlement while they were not. Corruption also became a problem.

⁷ For example, US Representatives Christopher Smith and Robert Dornan led an attack on the CPA using arguments fed to them by certain elements of the US Vietnamese community. For an example of unintended consequences of this politicization, see Charles P. Wallace, “Rep. Dornan Blamed for a New Flood of ‘Boat People,’” *LA Times*, May 14, 1991.

Although the issue was never raised in public, there were cases of boat people offering to pay screening officers to grant them refugee status with money received from relatives who had already been resettled in Western countries. Ultimately, UNHCR chose to address corruption on a case-by-case basis on the principle that the lesser evil was to err on the side of generosity, and granting a few people refugee status for the wrong reasons was preferable to wrongly denying refugee status to even one person.

THE MASS INFORMATION CAMPAIGN

While UNHCR put in place the complex administrative mechanism for dealing with the screening process and its various appeal mechanisms, the exodus continued. UNHCR therefore decided to start the mass information campaign. To implement the campaign, UNHCR created a position of “special adviser” in Bangkok, and the job was assigned to the staff member who had conceived the idea for the project. The time had come to give substance, if substance there was, to the idea.

The arrival of boat people from Vietnam in countries of first asylum was essentially regulated by weather patterns. In northern Vietnam, the peak sailing season to Hong Kong, which was the preferred destination, was March, and the average sailing time to the British colony was one week. The peak sailing season from the south was May. Based on this data, it was decided that the first mass information campaign would be undertaken in northern Vietnam and would target the exodus toward Hong Kong. The campaign would explain that a new situation had arisen in which refugee status had become a prerequisite for resettlement, and that those denied refugee status would have to return to Vietnam.

In January 1990, a Hanoi TV crew arrived in Hong Kong—a first. With the support of the authorities, the crew was given free run of the city, including the port, the stock market, and the refugee camps. Among the many interviews planned, potentially the most convincing would have featured an American consular official explaining the CPA in Vietnamese. This, however, would have required waiting months for approval

from Washington. Instead, an American consular official who had worked for years in Vietnam, spoke fluent Vietnamese, and was now involved with the ODP agreed to give an interview to a local cameraman; the tape was then given to the Vietnamese TV crew. In addition, because voluntary repatriation of those denied refugee status had just begun, albeit slowly, the TV crew was able to return to Hanoi by air on a repatriation flight chartered by UNHCR.

The one-hour film was factual and to the point. It showed the prosperity of Hong Kong, as well as life in the camps, where food was adequate and housing no worse than in Vietnam. But it also emphasized that, for those denied refugee status, there was only one option: return to Vietnam. The film was aired on March 15, 1990, and rebroadcast on the three following evenings. At the same time, six copies were made and distributed to mobile film teams, which went with a projector and a generator to villages without access to TVs.

Just six days after the first airing of the film, arrivals in Hong Kong were down by some 70 percent compared to the same period the previous year. When the sailing season was over, the total arrivals in Hong Kong numbered some 3,500, compared to 30,000 for the same period the year before—an 88 percent decrease. In financial terms, with the cost of the upkeep of one boat person in Hong Kong amounting to \$1,800 per year, the total savings came to some \$45 million. With an operational budget of \$150,000, the mass information campaign more than paid for itself. And more importantly, the results were long-lasting. While it took a few more years to reduce the residual caseload in Hong Kong, mass inflow from the north was now over for good.⁸

The sailing season from southern Vietnam to the countries of ASEAN reached its apex in May. However, despite departures steadily continuing, it was too late to move the mass information campaign to the south, so the endeavor was postponed until 1991. By this time, news of the updated screening procedures had reached the south, but boat departures continued. This was largely due to those in the south having a higher chance of being granted refugee status than their

⁸ While the information campaign was not solely responsible for the decrease in departures, a survey undertaken in Hanoi indicated that many people decided, after watching the film, that leaving for Hong Kong was not worth the cost and effort.

northern counterparts, as well as feeling generally disaffected with the regime. The ODP, which did not exist in the north, could also provide a realistic alternative to illegal departure if fully implemented.

The film for the south, which was produced by Ho Chi Minh City TV, focused on two elements: first, that the chances of being granted refugee status were very low and often not worth the risk and the cost of the journey, and second, that the ODP was now a realistic alternative to illegal departure. Additionally, forms that readers could fill out and send to apply for the ODP were printed in all the main newspapers in the south.

The results of the campaign in the south were impressive. In May 1990, boat departures from the south totaled around 6,000; in May 1991, the figure had dropped to around 400. From then on, the mass exodus of boat people from Vietnam was a thing of the past.

The mass information campaigns alone did not bring the exodus to a close, nor did the CPA's provisions for first asylum, screening, resettlement, and return. Rather, it was provisions within the CPA together with a changed situation in Vietnam that created enabling conditions for the information campaign to be seen as credible. This said, if the information campaign had not been professionally managed and had not taken into account cultural sensitivities, it would likely have been of little consequence.

THE END OF THE EXODUS—AND OF THE COLD WAR

The situation in Vietnam changed drastically following the collapse of the Soviet Union in 1991. For the leadership in Hanoi, it was a shattering experience. For half a century, they had viewed themselves as the vanguard of the “world revolution” in Southeast Asia. Now, a world revolution ceased to exist. Not only had they lost their ideological compass, and their only patron evaporated; overnight they had become orphans. Their foreign policy of occupying Cambodia, taunting ASEAN, vexing China, and irritating the US could no longer be sustained.

As a result, Vietnam's leadership recognized that they would have to normalize relations with their neighbors. The boat people exodus had been one of the major irritants in their foreign relations with both ASEAN and the US. Now they had a blueprint

to bring the issue to a close: the CPA. Its implementation had been a sideshow. Now it was a priority that would permit the region to turn a page on the Vietnam War.

Once the exodus came to an end, however, implementation of the CPA became a matter of routine for UNHCR. Refugee status screening and the resettlement of those recognized as refugees was an ongoing process, and those denied refugee status were quietly set aside for repatriation. With the mechanics of the CPA under control, interest in Asia within UNHCR waned. The director of UNHCR's Asia bureau was reassigned, as was the special adviser overseeing the mass information campaign, which by this point was no longer necessary.

THE PROBLEM OF REPATRIATION

As UNHCR's focus shifted away from the region, implementation of the CPA began to falter, and by the spring of 1995, it was on the verge of collapse. Besides the mass information campaign, the CPA was composed of four mutually supportive components: first asylum, screening, resettlement, and return. If one component were to fail, the whole edifice would collapse—and now one was failing. Repatriation to Vietnam had come to a halt, and more and more Vietnamese who had been denied refugee status were arriving to the camps.

Return was the most controversial component of the CPA, but also one of its most significant. UNHCR was responsible for refugees, but those screened out were, by definition, not refugees. By including the concept of return among its provisions, the CPA extended UNHCR's mandate to service a new category of people considered illegal migrants. As a result, the refugee issue could not be addressed without simultaneously addressing the migration issue. In this respect, the CPA was indeed “comprehensive,” because it sought to address population movements in general, including both asylum and migration.

If the corollary of asylum was resettlement, the corollary of illegal migration was repatriation. This, however, not only required the active involvement of the country of origin, but it also implied that Vietnam was now a “normal” country and that its citizens could not claim to be subject to persecution. The CPA was the first example of the West declaring that individuals who fled a communist

country were not automatically refugees and that they could be repatriated.

Granted, when the CPA was adopted, Vietnam was still a one-party state that did not tolerate any political dissent. At the same time, however, the way in which the regime exercised its authority had profoundly changed. By the time the CPA was adopted, Vietnamese nationals were no longer subject to restrictions on their freedom of movement, freedom to choose their profession, and economic freedom. Thus, the average Vietnamese person could no longer claim to be fleeing a totalitarian environment and to face automatic persecution if repatriated. It was a contention that many could not countenance, and these opponents continued to hinder the implementation of the CPA.⁹

The other contentious issue was how repatriation should be implemented. In December 1989, Hong Kong had forcibly returned to Vietnam a group of fifty-one boat people who had been denied refugee status. Though the British would never have taken the political risk of repatriating Vietnamese who would have been in danger of persecution on return, the international outcry was such that, for one year, Hong Kong suspended all forced returns and only proceeded with voluntary returns. Nonetheless, deportation was now more than a theoretical option. So for those denied refugee status, the message was clear: your only choice is to return voluntarily or be forcefully deported.

All governments favored voluntary return, as it was easier to organize and less stressful for all concerned. At the same time, they recognized that without the threat of forced return, there would be far fewer candidates for voluntary return. This applied in particular to the US. Both for domestic political reasons and for reputational concerns, Washington had officially expressed disapproval of forced return. In private, however, US diplomats conceded that the option of forced return should be maintained so as to preserve the momentum of voluntary repatriation.

But by 1995, that momentum had been lost. The agreement on voluntary repatriation between UNHCR and Vietnam provided that UNHCR would submit the bio data of potential returnees to

Hanoi, which would approve them on a case-by-case basis. But while UNHCR had submitted some 20,000 names, the Vietnamese government was clearing them very slowly. Eventually, clearances completely stopped after the head of Vietnam's immigration service felt that he had been publicly insulted by the director of UNHCR's Asia bureau during an official meeting. It did not help that UNHCR had no representative in Hanoi to address the problem. With the CPA due to end on June 30, 1996, it was imperative to resume repatriation.

After UNHCR appointed a new director of the Asia bureau, Vietnamese authorities explained that clearance for returnees from the south was delayed due to communication problems. The background of returnees had to be checked at their last place of residence, which was often an isolated village. Most of these villages did not have any communications infrastructure, and it took an inordinate amount of time for the results of the investigation to reach the provincial capitals. Solving this problem required communications equipment that cost \$60,000. The director immediately approved the purchase.

Two months later, in January 1996, the number of clearances skyrocketed, and UNHCR called an informal meeting of ASEAN in Bangkok to officially review the situation. The real reason for the meeting, however, was to catalyze the countries of ASEAN and the Vietnamese into formally ending the CPA. The CPA was supposed to end on June 30th of that year, but suddenly the urgency seemed to have faded. With an absence of new arrivals, Malaysia and Indonesia were in no hurry to close the camps; the presence of a few thousand Vietnamese whom UNHCR was paying for was something they could live with.

But not so in Washington. With the camp population diminishing and clearances for return suddenly snowballing, a massive advocacy campaign originating in the US began. It targeted the remaining camp population, encouraging them to oppose repatriation at all cost and inaccurately claiming that new opportunities for resettlement were just around the corner. It became clear that this campaign—supported by US politicians with large constituencies of Vietnamese émigrés and seeking to embarrass the administration—would

⁹ A number of advocacy and human rights groups argued that those returned to Vietnam were jailed or persecuted for their decision to flee, but there are no documented cases of this happening.

endure as long as there was a single Vietnamese left in a single camp. Closing the camps therefore became a priority for the US administration—and if returns were to be forced, Washington would look the other way.¹⁰

To increase pressure to meet the CPA deadline, during the ASEAN meeting UNHCR announced that it had run out of funds and, as of June 30th, would no longer pay for the upkeep of the camps. In reality this was not the case. Rather, it was the agency's attempt to incentivize the ASEAN countries to make one last effort to engage directly with Vietnam to empty and close the camps. After an hour of negotiations, ASEAN and Vietnam had come to an agreement: repatriation would now be by ship, would take place under a mandatory Orderly Repatriation Program, and would commence as soon as possible from Malaysia and Indonesia, with UNHCR bearing the costs.

The last obstacle was internal to UNHCR. The representative in Kuala Lumpur refused on principle to execute an order for mandatory return until she was prevailed upon to do as instructed. Having revised her position, she enlisted the services of the Malaysian police, who descended on the camp. In three systematic sweeps, the 2,500 remaining Vietnamese were hustled onto three naval landing ships chartered by UNHCR and dispatched to Vietnam. The operation was repeated in Indonesia. On June 30, 1996, UNHCR proclaimed the closure of the CPA.

Conclusion

The CPA brought to a close a problem that had, at one point in time, looked as if it was beyond a solution. It had endured for some fifteen years, and had resulted in the loss of thousands of lives. But not only did the CPA save lives; it did so without compromising the principle of asylum. It ensured both that refugees be given the protection they were entitled to and that non-refugees, while not benefitting from a status for which they were ineligible, be treated in a humane way.

But the impact of the CPA extended well beyond the realm of humanitarian action. It became one of the main drivers behind Vietnam's slow reintegration into the ASEAN community and the interna-

tional community as a whole. Likewise, the implementation of the ODP, by requiring some degree of collaboration between Washington and Hanoi, paved the way for subsequent exchanges that, over the years, led to the normalization of relations between the two countries.

All refugee situations are different; the lessons derived from one cannot readily be applied to another. But this said, the CPA does provide lessons that extend beyond refugees from Indochina.

1. **Decisive action sometimes depends on initiatives undertaken by enterprising individuals in the field.** There would likely have been no CPA if the Ford Foundation had not called a meeting in Cha-Am and if four of the participants, acting on their own initiative, had not decided that some action was required. With UNHCR headquarters largely inactive, plans to address the Indochinese refugee crisis only progressed because US Ambassador Jonathan Moore personally prevailed on the high commissioner to authorize, albeit reluctantly, UNHCR's Bangkok office to proceed.
2. **New approaches to refugee crises are bound to be controversial.** Opposition to the CPA was widespread. While the NGO community did a credible job in the day-to-day management of the camps, it was not attuned to a wholesale rethinking of the refugee crisis and was against it. The same sentiment was shared by the Vietnamese émigré community in the US and by the human rights and advocacy community.
3. **Comprehensive solutions require the commitment and involvement of the country of origin.** It was only once Vietnam became involved that a solution to the crisis became possible. While Vietnam was involved from early on in the process, it was not fully committed until the collapse of the Soviet Union. Without this change in external conditions, the CPA may have stagnated, as had the ODP after initially agreed on in 1979. Once Vietnam was committed to implementation—even without a substantive change in its regime—repatriation of those denied refugee status became possible.
4. **UN crisis response can be most effective when**

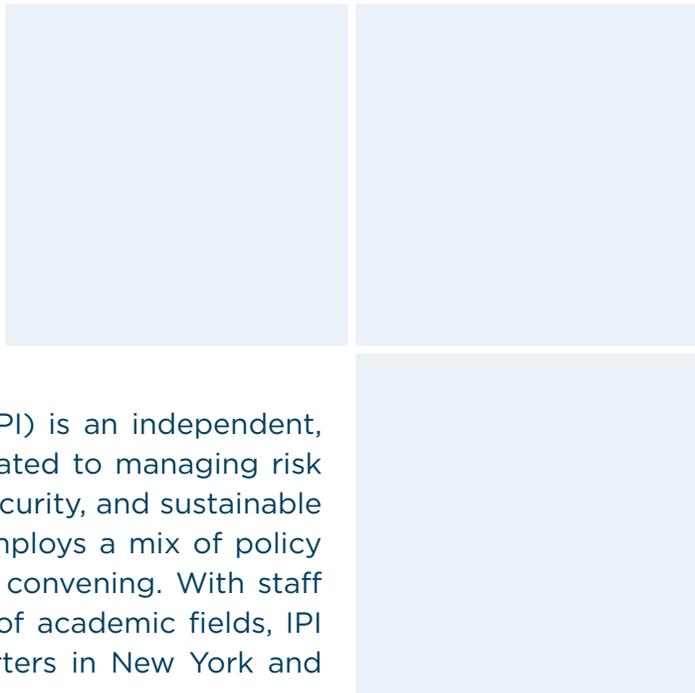
10 For more information, see Tim Weiner, "New Effort by U.S. and Vietnam to Return Boat People Home," *New York Times*, December 4, 1995.

a single agency is in the lead. Within the UN system, the implementation of the CPA was spared the demands of “interagency coordination” due to UNHCR being the only agency substantively involved in the plan. While IOM took over the management of the ODP, this was essentially a technical operation. The UN Secretariat in New York appeared risk-averse and was involved in the process only in name. Politically, there was only one UN player: UNHCR.

5. **Countries’ involvement in responding to refugee crises does not necessarily translate into them adopting refugee law.** While UNHCR did succeed in training a core of screening officers from the ASEAN countries, the region’s rejection of the Refugee Convention endured unchanged.
6. **Refugees and migrants are easy victims of rumors and disinformation.** One of the reasons the CPA was successful was not only that it had been set up but that it was known to exist. The information campaign enabled potential boat people to make an educated decision about whether to leave by boat, while also explaining the mechanics of the ODP. Setting up a credible information program using available means of communication to target refugees and migrants should be a priority for any comprehensive response.

7. **Durable solutions must address both refugees and migrants.** Probably the main achievement of the CPA was to bridge the asylum-migration conundrum and replace it, in fact if not in words, with a solution to population movement in general. Within this movement, some might have been forced to move for reasons covered by the Refugee Convention; others might have been forced by other circumstances. Ultimately, solving the problem of the refugee component of the movement required a parallel solution to its non-refugee component. The CPA was therefore comprehensive not only in terms of the solutions adopted—first asylum, screening, resettlement, and repatriation—but also in addressing population movement beyond the convention.

None of this would have occurred without the right circumstances. But these circumstances alone would not have sufficed. What carried the day, ultimately, were the right people at the right place at the right time. This did not in any way mean that the international bureaucracies, with their set procedures, administrative routines, lawyers, and accountants could be dispensed with. But it did confirm that, in times of crisis, when the situation demands more than a “business-as-usual” approach, there is no substitute for the odd maverick who dares to take an initiative, and for whom doing the right thing comes before doing things right.



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