

# 4 Flight from Indochina

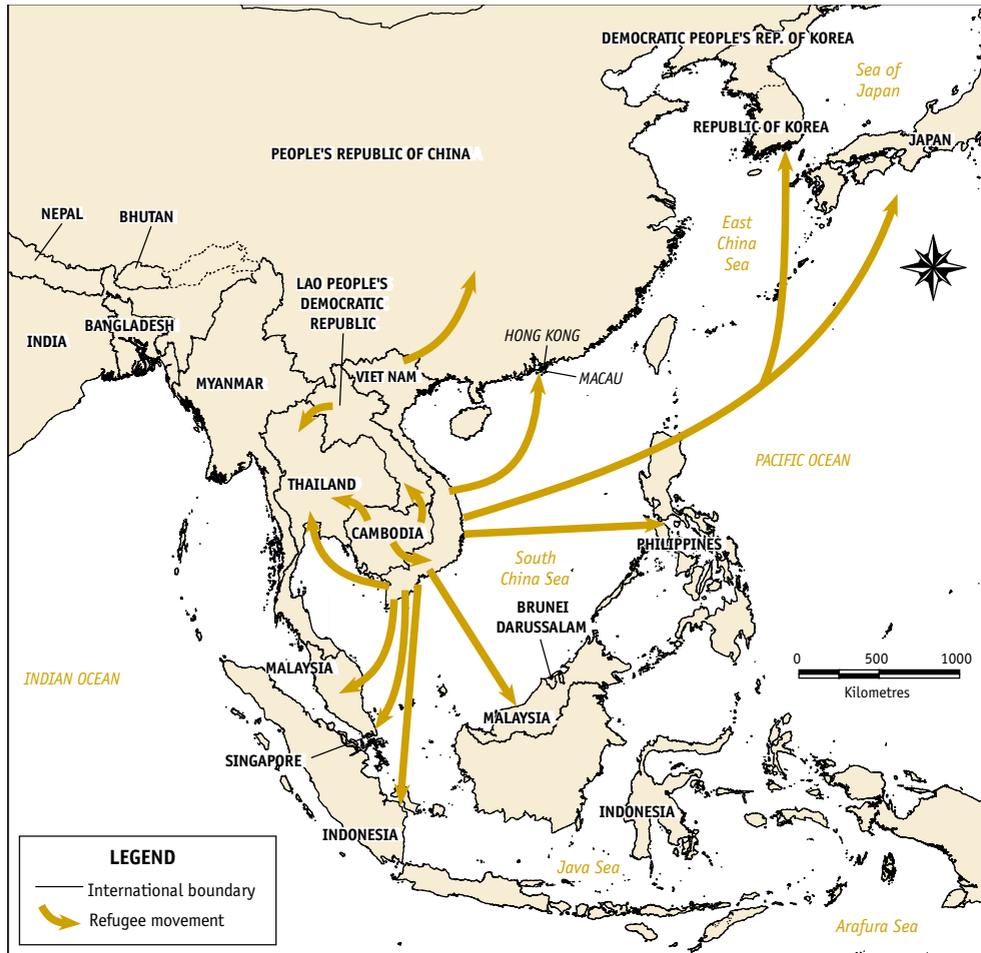
The upheavals which followed the communist victories in 1975 in the former French colonies of Indochina—Viet Nam, Cambodia and Laos—caused more than three million people to flee these countries over the next two decades. The sustained mass exodus from the region and the massive international response to the crisis thrust UNHCR into a leading role in a complex, expensive and high-profile humanitarian operation. When the first refugees fled Viet Nam, Cambodia and Laos in 1975, UNHCR's total annual expenditure stood at less than US\$80 million worldwide. By 1980, this had increased to over US\$500 million.<sup>1</sup>

The displacement caused by the conflicts in Indochina, which were exacerbated by rivalries between the United States and the Soviet Union as well as China, tested to breaking point the capacity of states in the region to absorb the refugees. It also tested the commitment of Western states to resettle refugees fleeing communism. Eventually, it brought the affected states together in a search for solutions. In the case of Viet Nam, an Orderly Departure Programme was devised, whereby the Vietnamese authorities agreed to permit the orderly departure of individuals to resettlement countries, to avoid the clandestine and dangerous departures by sea. The programme marked the first occasion in which UNHCR became involved in efforts to pre-empt a refugee problem rather than simply dealing with its aftermath. Other innovative programmes included anti-piracy and rescue-at-sea measures to protect the Vietnamese 'boat people'.

During the early stages of the crisis, the resettlement of refugees in countries outside the region offered a solution which reduced the pressure on countries of first asylum. As the 1980s continued, however, Western governments became increasingly concerned about the large numbers of refugees arriving in their countries. They also became more suspicious of their motives for leaving, regarding many of them as economic migrants rather than refugees. The argument was increasingly heard that open-ended resettlement was perpetuating an open-ended need for asylum. After 1989, new measures were therefore taken, under what was known as the Comprehensive Plan of Action, to control the departures and to encourage and facilitate the repatriation of asylum seekers from the region. This marked a crossroads in Western attitudes towards refugee issues. As the coming crises of the 1990s were to demonstrate all too clearly, Western countries, while upholding the principle of asylum, were no longer prepared to envisage the resettlement of massive refugee populations.

## Exodus from Indochina, 1975–95

Map 4.1



## War and exodus from Viet Nam

The 30 years of almost continuous war that beset Viet Nam from 1945 to 1975 were marked by immense suffering and massive displacement of people. Following the French defeat at Dien Bien Phu in May 1954, the first Indochina war concluded with the establishment of a communist state in the north (the Democratic Republic of Viet Nam—also known as North Viet Nam) and a separate state in the south (the Republic of Viet Nam—also known as South Viet Nam). With the founding of a communist government in the north, more than a million people moved south in the years 1954–56. Their numbers included nearly 800,000 Roman Catholics, an estimated two-thirds of the total Roman Catholic population in the north. There was a smaller movement in the opposite direction,

as some 130,000 supporters of the communist Viet Minh movement were transported north by Polish and Soviet ships.<sup>2</sup>

In 1960, there was renewed conflict in South Viet Nam. Anti-communist forces, supported by the United States, which eventually sent in over 500,000 troops, sought to halt the spread of Soviet and Chinese-backed communism in Southeast Asia. The war in Viet Nam led to greater and greater waves of displacement in all three Indochinese countries. Most of the displacement was internal, but in some cases it spilled across borders, as in the case of the 'delta Khmer' who fled into Cambodia to escape the fighting in Viet Nam.<sup>3</sup> By the late 1960s, when the war was at its height, an estimated half of South Viet Nam's 20 million people had been internally displaced.<sup>4</sup>

The Paris Peace Agreement of 27 January 1973 brought a temporary end to the Viet Nam conflict and opened the door for a greater role for UNHCR, which launched a programme to assist displaced people in Viet Nam and Laos. This included US\$12 million which was used for reconstruction projects. The programme was soon eclipsed, however, by the renewal of hostilities in early 1975 and the fall of Saigon to the revolutionary forces on 30 April. The same year, communist governments came to power in neighbouring Laos and Cambodia.

Unlike the ultra-radical Khmer Rouge movement, which took control of Cambodia in April 1975, more conventional, pro-Soviet leaderships assumed power in Viet Nam and Laos. Through its prior involvement in these two countries before April 1975, UNHCR was able to maintain contact with the governments in Hanoi and Vientiane respectively. Indeed, High Commissioner Sadruddin Aga Khan visited both countries in September 1975, inspecting projects where UNHCR was engaged in assisting war-displaced people to return to their homes.

In the north of Viet Nam, UNHCR provided agriculture, health and reconstruction aid to some of the 2.7 million displaced people. Many of these people had fled the fighting in the south, while others had been displaced by US bombing of the north between 1965 and 1972. In the south, UNHCR made available over 20,000 tonnes of food and other relief supplies for millions of displaced people, who were seeking to rebuild their lives after the war.

## **The fall of Saigon**

Increasingly, UNHCR's focus shifted from helping the displaced within Viet Nam to helping those who fled the country. In the final days before the fall of Saigon in April 1975, some 140,000 Vietnamese who were closely associated with the former South Vietnamese government were evacuated from the country and resettled in the United States. The US-organized evacuation was followed by a smaller exodus of Vietnamese who found their own way by boat to neighbouring Southeast Asian countries. By the end of 1975, some 5,000 Vietnamese had arrived in Thailand, along with 4,000 in Hong Kong, 1,800 in Singapore, and 1,250 in the Philippines.

UNHCR's initial reaction was to treat these movements as the aftermath of war rather than as the beginning of a new refugee crisis. In a November 1975 funding

appeal, High Commissioner Sadruddin Aga Khan emphasized that programmes for Vietnamese and Laotians inside or outside their country were 'interrelated humanitarian actions, designed to assist those who had been most seriously uprooted by war and its consequences'.<sup>5</sup>

As discontent with the new communist regime increased, however, so did the number of people fleeing the country. In July 1976, the government in Hanoi stripped the Provisional Revolutionary Government which had been established in the south after the fall of Saigon of any remaining autonomy it possessed, and unified the country as the Socialist Republic of Viet Nam. It also embarked on a programme of resettling urban dwellers in the countryside in so-called 'new economic zones'. More than a million people were placed in 're-education camps'. Many died, while tens of thousands were to languish in detention until the late 1980s. As time went by, it also became clear that the prominence of the ethnic Chinese population in the private economic sector was contrary to the socialist vision of the new authorities.

By early 1978, formal measures were being taken to expropriate businesses of private entrepreneurs, most of whom were ethnic Chinese. These actions coincided with a marked deterioration in relations between Viet Nam and China, itself a reflection of Viet Nam's increasingly bitter relationship with China's ally, Cambodia. Official Vietnamese attitudes towards the ethnic Chinese (or Hoa) became increasingly hostile and, in February 1979, Chinese forces attacked Vietnamese border regions and normal relations were not resumed until more than a decade later.

In 1977, about 15,000 Vietnamese sought asylum in Southeast Asian countries. By the end of 1978, the numbers fleeing by boat had quadrupled and 70 per cent of these asylum seekers were Vietnamese of Chinese origin. Many more ethnic Chinese fled to China itself. They were mainly from northern Viet Nam, where they had lived for decades, and they were mostly poor fishermen, artisans and peasants. China subsequently established a project to settle the refugees on state farms in southern China. UNHCR assisted by donating US\$8.5 million to the Chinese authorities and opening an office in Beijing. By the end of 1979, more than 250,000 people from Viet Nam had taken refuge in China.<sup>6</sup> China was virtually alone in the east Asia region in granting not only asylum, but also local settlement for refugees fleeing Viet Nam.

## **The boat people**

By the end of 1978, there were nearly 62,000 Vietnamese 'boat people' in camps throughout Southeast Asia. As the numbers grew, so too did local hostility. Adding to the tension was the fact that several of the boats arriving on the shores of countries in Southeast Asia were not small wooden fishing craft but steel-hulled freighters chartered by regional smuggling syndicates and carrying over 2,000 people at a time. In November 1978, for example, a 1,500-tonne freighter, the *Hai Hong*, anchored at Port Klang, Malaysia, and requested permission to unload its human cargo of 2,500 Vietnamese. When the Malaysian authorities demanded that the boat be turned back



*Part of a group of 162 Vietnamese refugees who arrived in Malaysia on a small fishing boat which sank a few metres from the shore. (UNHCR/K. GAUGLER/1978)*

to sea, the local UNHCR representative argued that the Vietnamese on board were considered to be ‘of concern to the Office of the UNHCR’.<sup>7</sup> This position was reinforced by a cable from UNHCR headquarters suggesting that ‘in the future, unless there are clear indications to the contrary, boat cases from Viet Nam be considered *prima facie* of concern to UNHCR’.<sup>8</sup> For more than a decade, Vietnamese who reached a UNHCR-administered camp were accorded *prima facie* refugee status and were given the opportunity of eventual resettlement overseas.

At the beginning of the Indochinese exodus in 1975, not a single country in the region had acceded to the 1951 UN Refugee Convention or the 1967 Protocol. None of the countries receiving Vietnamese boat people gave them permission to stay permanently and some would not even permit temporary refuge. Singapore refused to disembark any refugees who did not have guarantees of resettlement within 90 days. Malaysia and Thailand frequently resorted to pushing boats away from their coastlines. When Vietnamese boat arrivals escalated dramatically in 1979, with more than 54,000 arrivals in June alone, boat ‘pushbacks’ became routine and thousands of Vietnamese may have perished at sea as a result.

At the end of June 1979, the then five members of the Association of Southeast Asian Nations (ASEAN)—Indonesia, Malaysia, the Philippines, Singapore, and Thailand—issued a warning that they had ‘reached the limit of their endurance and [had] decided that they would not accept any new arrivals’.<sup>9</sup> With the principle of

## Box 4.1

## International conferences on Indochinese refugees

### The 1979 Geneva conference

By mid-1979, of the more than 550,000 Indochinese who had sought asylum in Southeast Asia since 1975, some 200,000 had been resettled and some 350,000 remained in first-asylum countries in the region. Over the previous six months, for every individual who moved on to resettlement, three more had arrived in the camps. At the end of June 1979, the member states of the Association of Southeast Asian Nations (ASEAN) announced that they would not accept any new arrivals. 'Pushbacks' were in full spate and asylum was in jeopardy. 'The problem', said High Commissioner Poul Hartling, 'has clearly run ahead of the solutions.'<sup>i</sup>

On 20–21 July 1979, 65 governments responded to an invitation from the UN Secretary-General to attend an international conference on Indochinese refugees. The international commitments they made were several and significant. Worldwide resettlement pledges increased from 125,000 to 260,000. Viet Nam agreed to try to halt illegal departures and, instead, to promote orderly and direct departures from Viet Nam. Indonesia and the Philippines pledged to establish regional processing centres to speed resettlement and new pledges to UNHCR totalled about US\$160 million in cash and in kind, more than doubling the total of the previous four years.

Although no formal commitments were made regarding asylum, the meeting endorsed the general principles of asylum and *non-refoulement*. As the Secretary-General had said in his opening remarks, countries of first asylum expected that no refugees would stay in their countries for more than a specified period. Thus was formalized a *quid pro quo*—temporary or 'first' asylum in the region for permanent resettlement elsewhere — or, as some came to describe it, 'an open shore for an open door'.

The 'pushbacks' of Vietnamese boats seeking to flee were largely halted. Regional arrival rates fell dramatically

as Viet Nam placed heavy penalties on clandestine departures and a small trickle of direct departures began from Viet Nam. More than 450,000 Indochinese refugees were resettled from Southeast Asian camps in the space of 18 months. From 1980 to 1986, as resettlement out-paced declining arrivals, refugee officials began to speak with growing optimism about solving the regional crisis.

In 1987–88, however, Vietnamese arrivals surged again and it became apparent that the old consensus would no longer hold. Western countries, faced with a rising tide of asylum seekers at their own doors and persuaded that the Indochinese arrivals no longer warranted automatic refugee status, had gradually been reducing resettlement numbers and had introduced more selective criteria. The agreement of 1979—temporary asylum to be followed by resettlement in a third country—no longer held. As High Commissioner Jean-Pierre Hocké remarked: 'The passage of time [has] progressively eroded the consensus on which our approach to the Indo-Chinese refugee question has been based.'<sup>ii</sup>

### The 1989 Geneva conference and the Comprehensive Plan of Action

In June 1989, 10 years after the first Indochinese refugee conference, another was held in Geneva. On this occasion, the 70 governments present adopted a new regional approach, which became known as the Comprehensive Plan of Action (CPA). The CPA represented a major multi-lateral effort to resolve the Vietnamese refugee problem. It was one of the first examples of a situation where the country of origin became a key player, together with other countries and actors from both within and outside the region, in helping to resolve a major refugee crisis.

The CPA had five main objectives: first, to reduce clandestine departures through official measures against those organizing boat departures and

through mass information campaigns, and to promote increased opportunities for legal migration under the Orderly Departure Programme; second, to provide temporary asylum to all asylum seekers until their status was established and a durable solution found; third, to determine the refugee status of all asylum seekers in accordance with international standards and criteria; fourth, to resettle in third countries those recognized as refugees, as well as all Vietnamese who were in camps prior to the regional cut-off dates; and fifth, to return those found not to be refugees and to reintegrate them in their home countries.'<sup>iii</sup>

The task of implementing the CPA fell to UNHCR, with financial support coming from the donor community. A Steering Committee was established, chaired by UNHCR and comprising representatives of all governments making commitments under the CPA, whether for asylum, resettlement or repatriation.

Where the 1979 commitments on asylum were general, those made a decade later were more specific. They stated: 'Temporary refuge will be given to all asylum seekers who will be treated identically regardless of their mode of arrival until the status determination process is completed.' These commitments were honoured throughout most of the region, though there were exceptions. Thailand, amongst others, halted its pushbacks, but Singapore no longer permitted rescue-at-sea cases or direct arrivals to disembark. In Malaysia, throughout much of 1989–90, local authorities had orders to redirect boat arrivals back into international waters.

Through the combined effect of disincentives in the camps (including the termination of repatriation assistance for new arrivals after September 1991) and UNHCR media campaigns inside Viet Nam, the CPA finally brought an end to the flow of Vietnamese asylum seekers. In 1989, roughly 70,000 Vietnamese sought asylum in

Southeast Asia. In 1992, only 41 Vietnamese did so and the numbers have remained negligible ever since.

At the time of the CPA conference in 1989, a total of 50,670 pre-cut-off-date Vietnamese refugees were in Southeast Asian camps. Of these, nearly a quarter had already been rejected by at least one resettlement country and another quarter were low priority cases under increasingly restrictive resettlement criteria. By the end of 1991, virtually all of these people were resettled. Of the post-cut-off-date Vietnamese, a total of some 32,300 were recognized as refugees and resettled, as against 83,300 whose claims were rejected and who returned home. Overall, during the eight years of the CPA, more than 530,000 Vietnamese and Laotians were resettled in other countries.

None of the countries which agreed to implement the refugee status determination procedures were parties to the 1951 Refugee Convention except the Philippines, and none had previous legislative or administrative experience in determining refugee status. Never-theless, all of the five principal places of first asylum—Hong Kong, Indonesia, Malaysia, the Philippines and Thailand—a dopted procedures giving asylum seekers access to UNHCR, a full refugee status determination interview, the services of an interpreter, and the possibility of review by a second authority. Additionally, in Hong Kong, applicants had access to the courts for judicial review.

Overall, about 28 per cent of Vietnamese asylum seekers who applied for refugee status under CPA procedures were successful. Hong Kong, which interviewed the highest number of applicants (60,275), also had the lowest approval rate (18.8 per cent). UNHCR's authority to recognize refugees under its mandate provided an important safety net for ensuring that no person with a valid claim was rejected and returned to Viet Nam.

In order to reach a consensus on repatriation to Viet Nam, the governments that were party to the CPA had agreed in 1989 that 'in the first instance, every effort will be made to encourage the voluntary return of [those whose applications are rejected] . . . If, after the passage of reasonable time, it becomes clear that voluntary repatriation is not making sufficient progress toward the desired objective, alternatives recognized as being acceptable under international practices would be examined.'<sup>iv</sup> Although no one would say so directly, most people acknowledged at the time that this meant involuntary return.

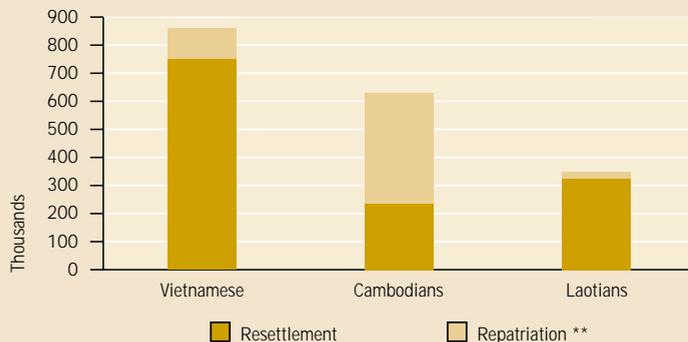
Hong Kong had begun screening arrivals one year earlier than the rest of the region and, by March 1989, had already organized the first voluntary repatriation to Viet Nam in more than a decade. Over the following months, however, the government decided that insufficient numbers were returning voluntarily and resorted to more extreme measures. On 12 December 1989, under cover of darkness, more than 100 Hong Kong police escorted a group of 51 Vietnamese men, women

and children to a waiting aeroplane and flew them to Hanoi. The ensuing international protests persuaded Hong Kong to postpone further involuntary repatriation but, in a new development, the United Kingdom, Hong Kong and Viet Nam signed an agreement in October 1991 to implement an 'Orderly Return Programme'.

The ASEAN countries of asylum eventually signed their own Orderly Return Programme agreements, under which UNHCR agreed to cover transportation costs and to provide some logistical support, while insisting that it would not participate in movements that involved force. In the end, however, the distinction between voluntary and involuntary return became blurred with rising tensions in the Vietnamese camps and frequent outbreaks of violence in the Hong Kong camps. From 1992, the pace of repatriation quickened and the task fell to UNHCR to coordinate reintegration assistance and to monitor the more than 109,000 Vietnamese who ultimately returned home under the CPA arrangements.

### Indochina: resettlement and repatriation, 1975–97\*

Figure 4.1



\* The table shows resettlement or repatriation from countries or territories of first asylum.

\*\* Includes 367,040 Cambodians who were not counted as arrivals in UNHCR camps in Thailand but returned under UNHCR auspices in 1992–93 as well as screened-out Vietnamese asylum seekers.

asylum under direct threat, the UN Secretary-General convened an international conference on 'refugees and displaced persons in Southeast Asia' in Geneva that July [see Box 4.1].<sup>10</sup> 'A grave crisis exists in Southeast Asia', said High Commissioner Poul Hartling in a background note prepared for the conference, for 'hundreds of thousands of refugees and displaced persons . . . [the] fundamental right to life and security is at risk'.<sup>11</sup>

As a result of the 1979 conference, the immediate crisis was averted. In what amounted to a three-way agreement between the countries of origin, the countries of first asylum and the countries of resettlement, the ASEAN countries promised to uphold commitments to provide temporary asylum as long as Viet Nam endeavoured to prevent illegal exits and to promote orderly departures, and as long as third countries accelerated the rate of resettlement. Indonesia and the Philippines agreed to establish regional processing centres to help resettle refugees more quickly and, with notable exceptions, pushbacks were halted. International resettlement, which had been taking place at the rate of around 9,000 per month in the first half of 1979, increased to around 25,000 per month in the latter half of the year. Between July 1979 and July 1982, more than 20 countries—led by the United States, Australia, France, and Canada—together resettled 623,800 Indochinese refugees.<sup>12</sup>

For its part, Viet Nam agreed to make every effort to halt illegal departures and to follow through on a Memorandum of Understanding it had signed with UNHCR in May 1979 on the establishment of the Orderly Departure Programme.<sup>13</sup> Under the terms of that arrangement, the Vietnamese authorities undertook to authorize the exit of those Vietnamese wishing to leave the country for family reunion and other humanitarian reasons, while UNHCR coordinated with resettlement countries to obtain entry visas. Although the programme started slowly, it gradually gathered momentum. By 1984, annual departures under the programme had risen to 29,100, exceeding the regional boat arrival total of 24,865.

Throughout much of the 1980s, although regional arrivals declined and resettlement commitments were sustained, the Vietnamese boat exodus continued and the human cost was immense. One writer has estimated that around 10 per cent of the boat people were lost at sea, fell victims to pirate attacks, drowned, or died of dehydration.<sup>14</sup> The anti-piracy programme and rescue-at-sea efforts [see Box 4.2] had their successes, but every failure was a tragedy. A boat reaching the Philippines in July 1984 reported that during 32 days at sea, some 40 vessels had passed by without providing any assistance. In November 1983, UNHCR's Director of the Division of International Protection, Michel Moussalli, spoke of 'scenes that surpass normal imagination . . . Eighteen persons leave in a small craft and in crossing the Gulf of Thailand are attacked by pirates, one girl who resists being raped is killed and another young girl of 15 is abducted. The remaining 16 persons who are of no use to the pirates have their boat rammed repeatedly and all perish at sea'.<sup>15</sup>

As the years passed, there was increasing fatigue in Western countries towards the Vietnamese boat people, and suspicions grew about the motives of some of these people for leaving. The task fell to UNHCR to make sure that governments maintained their resettlement commitments, both in order to preserve the principle

## Box 4.2 Piracy in the South China Sea

Piracy in Southeast Asia is as old as seafaring itself. For the Vietnamese 'boat people' it posed an unexpected terror and for those seeking to protect them it was a vexing problem. In 1981 alone, when 452 boats arrived in Thailand carrying 15,479 refugees, UNHCR's statistics were a study in horror: 349 boats had been attacked an average of three times each; 578 women had been raped; 228 women had been abducted; and 881 people were dead or missing.

### The anti-piracy programme

Responding to mounting international outrage and a demand for action, UNHCR launched a fund-raising appeal at the end of 1981. By June 1982, an anti-piracy programme was officially begun with US\$3.6 million in funding from 12 countries.

In Thailand, anti-piracy efforts initially focused on sea and air patrols, which produced a gradual decline in the number of attacks. However, as High Commissioner Poul Hartling noted at the time: 'Even if the quantity has gone down, the quality of the attacks, if you can say that, is going up . . . What we hear is even more horrifying than in the past.' The reports 'tell of cruelty, brutality and inhumanity that go beyond my imagination. The refugees are attacked with knives and clubs. There is murder, robbery and rape, everything in this world.'<sup>v</sup>

From 1984, the UNHCR anti-piracy programme shifted increasingly toward land-based operations. Thai police units and harbour officials registered fishing boats, photographed crews, and conducted public awareness campaigns on the penalties for piracy. UNHCR helped to link piracy victims with police and prosecutors, monitored court trials, arranged witness transfers from abroad, and provided interpretation

services for investigations, arrests and trials. By 1987, only eight per cent of all boats arriving in Thailand were attacked. There were abductions and rape but no reported deaths due to piracy.

In 1988, however, the violence of the attacks began to rise alarmingly again, with more than 500 people reported dead or missing. In 1989, this number exceeded 750. Rapes and abductions spiralled upward. In August 1989, one UNHCR official who debriefed the survivors of one attack, described how the pirates brought up men singly from the hold, clubbed them and then killed them with axes. Vietnamese in the water were then rammed, sunk and killed, leaving 71 people dead, including 15 women and 11 children. The rise in violence at sea, anti-piracy experts suggested, was due in part to the success of the land-based efforts. More sophisticated investigations were leading to higher rates of arrest and conviction. This was scaring off the occasional opportunists but leaving behind a hard core of professional criminals who, in turn, wished to leave behind no witnesses.

Eventually, it seems that even they tired of the chase. After mid-1990, there were no more reports of pirate attacks on Vietnamese boats, and in December 1991 the UNHCR anti-piracy programme was discontinued. 'The war on the pirates is not over', said the final assessment report, 'but it has reached the stage where it can be effectively managed' by local agencies.

### Rescue at sea

From 1975 to late 1978, 110,000 Vietnamese boat people arrived in first-asylum countries. At first, ship captains seemed eager to aid boats in distress and during these three years ships from 31 different countries

rescued refugees from a total of 186 boats. In the first seven months of 1979, however, when Vietnamese arrivals climbed to more than 177,000 in the region and 'push-backs' of these boats were at their peak, only 47 boats were rescued. Half the rescues, moreover, were by ships from only three countries.

In August 1979, UNHCR convened a meeting in Geneva on the subject of rescue at sea. Out of these discussions came a programme known as DISERO (Disembarkation Resettlement Offers). Under this programme, eight Western states including the United States jointly agreed to guarantee resettlement for any Vietnamese refugee rescued at sea by merchant ships flying the flags of states that did not resettle refugees. The new commitments appeared to have an almost immediate effect. In the last five months of 1979, 81 boats carrying 4,031 people were rescued at sea. In May 1980, UNHCR donated an unarmed speedboat to the Thai government in a token effort to bolster sea patrolling. Meanwhile, some of the private international mercy ships, including most prominently the *Kap Anamur* and the *Ile de Lumière*, shifted their operations from resupply of island camps to boat rescue. Altogether, 67,000 Vietnamese were rescued at sea between 1975 and 1990.

The problem with this programme was that the guarantee that any Vietnamese rescued at sea would be resettled within 90 days did not square with the 1989 Comprehensive Plan of Action guidelines, which required that all new arrivals undergo screening to determine their status. Eventually, both DISERO and a later companion programme known as RASRO (Rescue at Sea Resettlement Offers) were terminated as countries in the region proved unwilling to disembark rescued boat people.

of asylum itself and to ensure that the especially vulnerable were not left behind in camps throughout Southeast Asia. It was of course beyond UNHCR's scope to grant or deny permanent admission to another country. That authority lay with governments. By the late 1980s, however, international willingness to resettle all Vietnamese asylum seekers was waning and resettlement numbers were scarcely keeping pace with the rate of arrivals in first asylum countries.

Then, in mid-1987, Vietnamese arrivals began to climb again. Encouraged by the relaxation of internal travel restrictions and the prospect of resettlement in Western countries, thousands of southern Vietnamese had discovered a new route that took them through Cambodia then, via a short boat ride, to Thailand's east coast. At the turn of the year, Thai authorities began interdicting boats and sending them back to sea.

Tens of thousands of others from the north took another new route via southern China to Hong Kong. In 1988, more than 18,000 boat people poured into Hong Kong. This was by far the highest number since the crisis of 1979. Most were from northern Viet Nam—a population that had proved to be of little interest to most resettlement countries. Consequently, on 15 June 1988, the Hong Kong administration announced that any Vietnamese arriving after that date would be placed in detention centres to await a 'screening' interview to determine their status. In May 1989, the Malaysian authorities again began to redirect boat arrivals toward Indonesia, as they had done a decade earlier.

### **A new formula**

By the late 1980s, it had become apparent to virtually all concerned with the Indochinese refugee crisis that the regional and international consensus reached in 1979 had collapsed. A new formula was needed, one that preserved asylum but decoupled its link to guarantees of resettlement. In June 1989 therefore, a second international conference on Indochinese refugees was held in Geneva and a new consensus was reached. The Comprehensive Plan of Action, as it came to be called, reaffirmed some of the elements of the 1979 agreement, namely the commitments to preserve first asylum, to reduce clandestine departures and promote legal migration, and to resettle refugees in third countries. It also contained some new elements, including in particular a commitment to institute regional refugee status determination procedures and to return those whose applications were rejected [see Box 4.1].

The new commitments on asylum successfully ended pushbacks in Thailand, although Malaysia did not relent on its policy of redirecting boats away from its waters. With the exception of Singapore, all of the first asylum countries dropped their demands for guarantees of resettlement. The 50,000 Vietnamese who had arrived in camps before the cut-off date (14 March 1989 in most countries) were resettled overseas. Those arriving after that date were expected to undergo screening to determine their status. Viet Nam enforced penalties against clandestine departures and UNHCR launched a media campaign designed to acquaint would-be asylum

seekers with the new regional arrangements, which now included the return of asylum seekers whose applications were rejected.

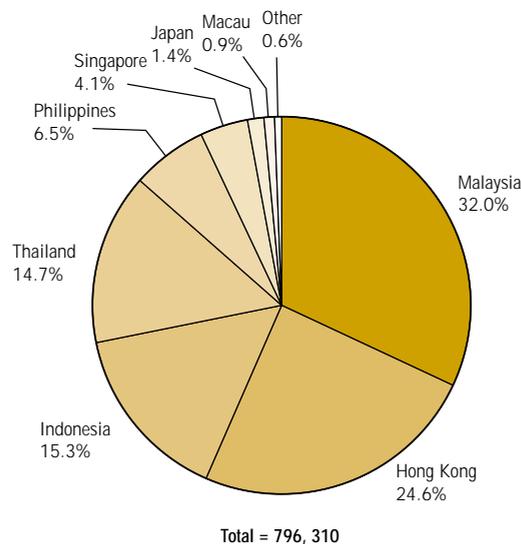
The Comprehensive Plan of Action has generally been credited with restoring the principle of asylum in the region. But some analysts have seen such measures as running counter to the right to leave one's country, and have questioned whether UNHCR should—even tacitly—have effectively condoned such operations by Viet Nam.<sup>16</sup> The Comprehensive Plan of Action also represented an early instance of the application of a cut-off date. Those who fled before this date were automatically accepted for resettlement abroad, while those who arrived afterwards had to be screened first to determine their status.

If the success of the 1979 conference depended on the commitments of the countries of resettlement, that of the Comprehensive Plan of Action depended on the commitments of the countries of first asylum and the countries of origin. In December 1988, seven months before the Geneva conference, UNHCR and Viet Nam signed a Memorandum of Understanding, whereby Viet Nam would allow for the voluntary return of its citizens without penalizing them for having fled, it would expand and accelerate the Orderly Departure Programme, and it would permit UNHCR to monitor returnees and facilitate reintegration.

It has been argued that the Orderly Departure Programme created a 'pull factor' which effectively encouraged departure. While this may often have been the case, it nevertheless enabled those seeking to leave to do so by legal means rather than in illegal and dangerous departures. Even if this did create a 'pull factor', it was but one

**Arrivals of Vietnamese boat people by country or territory of first asylum, 1975–95**

**Figure 4.2**



### Box 4.3

## Vietnamese refugees in the United States

From 1975, the United States opened its doors to over a million Vietnamese people. Although the largest number now live in California, these people have made their way to every state and almost every major US city.

The Vietnamese arrived in several waves. More than 175,000 Vietnamese refugees fled to the United States during the first two years following the fall of Saigon in 1975. A large majority arrived within a few weeks and were sheltered in four makeshift refugee camps on US military bases. A dozen private, mostly religious organizations were given responsibility for resettling the Vietnamese in cities and towns across the United States. They arranged housing and English-language classes, found schools for the children, and helped the adults to find jobs.

Americans responded positively to this first wave of Vietnamese. Many felt a sense of guilt over the US involvement in Viet Nam and welcomed the opportunity to help the refugees. Churches and community groups across the country served as local sponsors, helping orient the refugees in their new communities. This first group of refugees fared remarkably well in the United States. Most of them came from the urban middle class in the south of Viet Nam. Of household heads, more than a quarter had university education and over 40 per cent more had some secondary education. Overall, this group was relatively skilled, urbanized and flexible.<sup>vi</sup>

Despite having arrived in the United States at a time of serious economic recession, by 1982 their rate of employment was higher than that of the general US population. Vietnamese communities sprang up in California, Texas and Washington, DC. Soon, Vietnamese businesses were

catering to the new communities. A second wave of Vietnamese refugees began arriving in the United States in 1978. These were the 'boat people', who fled increasing political repression in Viet Nam, especially against ethnic Chinese Vietnamese. Although exact figures are difficult to assess, the total number of Vietnamese boat people who entered between 1978 and 1997 is estimated to be in excess of 400,000.<sup>vii</sup> The boat people were less well equipped for life in the United States. In general, they were less well educated and had a more rural background than the refugees who arrived in 1975; far fewer spoke English. Many had experienced persecution in Viet Nam, trauma on the high seas, and harsh conditions in refugee camps in Southeast Asian countries that only reluctantly accepted their temporary presence. Also, unlike the first wave of Vietnamese, many of whom fled in family groups, a large number of boat people were single men.

By the time this group of Vietnamese arrived, many Americans were growing weary of refugees. Anti-immigrant sentiment fuelled by a declining economy led to attacks on Vietnamese in several communities. US government support for the refugee programme was also waning. In 1982, the US government reduced the period of time during which it assisted newly arrived refugees and, despite the economy being in an even worse state than in 1975, instituted a number of measures aimed at moving refugees into the workforce as soon as possible. Many of the boat people ended up in poorly paid jobs, often without having had an opportunity to learn English or acclimatize to their new environment. Nevertheless, according to a 1985 US-government commissioned study on self-sufficiency among Southeast Asian refugees, within three years of their arrival,

their economic status was comparable to that of other US minority groups.

The Orderly Departure Programme, established in 1979, made it possible for Vietnamese to migrate directly from Viet Nam to the United States. Initially intended to benefit relatives of Vietnamese refugees already in the United States and South Vietnamese who had ties to the US government, the US government later extended the Orderly Departure Programme to Amerasians (Vietnamese children of US servicemen), and former political prisoners and re-education camp detainees. Between 1979 and 1999, more than 500,000 Vietnamese entered the United States under this programme.

Many of these arrivals found making a new start in the United States particularly difficult. Former political prisoners and re-education camp detainees arrived traumatized by their experiences in Viet Nam.

They were also older than most boat people or those who had arrived in 1975. It was more difficult for them to find work, and what jobs they could find were often not commensurate with their previous social position. Together, these factors have made both their economic and psychological adjustment harder. Overall, however, most of the million-plus Vietnamese who resettled in the United States—and more particularly the second-generation Vietnamese Americans—have adapted well and today form an integral part of US society.

of many factors encouraging people to leave. Indeed, it has been argued by some analysts that ever since 1975 the US and other Western governments showed an interest in encouraging departures, not least to demonstrate to the world that the people in the southern half of Viet Nam were 'voting with their feet' by leaving in the wake of the communist victory.<sup>17</sup>

On 30 July 1989, the US and Vietnamese governments issued a joint statement that they had reached agreement on the emigration of former political prisoners and their families. With that agreement, departures under the Orderly Departure Programme increased dramatically, reaching a high point of 86,451 in 1991. This included 21,500 former re-education camp detainees and family members, and nearly 18,000 Amerasian children. The latter were children of US troops who had served in Viet Nam. The United States eventually resettled a total of over a million Vietnamese people [see Box 4.3].

During the eight-year period of the Comprehensive Plan of Action, more than 109,000 Vietnamese returned home. To assist them in their reintegration, UNHCR offered each returnee a cash grant of between US\$240 and US\$360, which was paid in instalments by the government's Ministry of Labour, War Invalids, and Social Affairs. UNHCR also spent more than US\$6 million on 300 micro-projects around the country, focusing on water, education, and community infrastructure. In the area of employment and job development, UNHCR looked to the European Community International Programme which made more than 56,000 loans of between US\$300 and US\$20,000 to returnees and local residents alike. The loans greatly facilitated the development of small businesses and 88 per cent were repaid.

Although 80 per cent of the returnees went primarily to eight coastal provinces, they returned to all of Viet Nam's 53 provinces from north to south. To make UNHCR's monitoring responsibilities even more challenging, an estimated 25 per cent of returnees moved at least once after returning from the camps, mostly to cities and towns to look for work. UNHCR officials monitoring the reintegration of the returnees reported that the great majority of requests from returnees dealt with matters of economic assistance and that 'monitoring has revealed no indication that returnees have been persecuted'.<sup>18</sup>

## Cambodian refugees in Thailand

Among the countries of asylum in Southeast Asia, Thailand was alone in bearing the burden of all three Indochinese refugee populations, of whom the largest number were Cambodian. Thailand had not acceded to the 1951 UN Refugee Convention, but it was willing to sign an agreement with UNHCR in July 1975 pledging to cooperate in providing temporary humanitarian aid to those forcibly displaced, and in seeking durable solutions including voluntary repatriation or resettlement in third countries. A Thai cabinet decision a month earlier had established that the new arrivals should be housed in camps run by the Ministry of the Interior. This decision captured the

ambivalent and even contradictory attitude which would be reflected in much of the country's subsequent policies and practices towards the displaced population on Thai territory. It stated: 'Should any displaced persons attempt to enter the Kingdom, measures will be taken to drive them out of the Kingdom as fast as possible. If it is impossible to repel them, such persons will be detained in camps.'<sup>19</sup>

On 17 April 1975, communist revolutionaries who had been carrying out their own armed struggle in Cambodia for years, marched triumphantly into the capital, Phnom Penh, and proceeded systematically to empty it of its inhabitants. Although the new Khmer Rouge regime of what was renamed Democratic Kampuchea never revealed itself fully to the world or even to the Cambodian people, its shadowy leader, Pol Pot, directed a brutal campaign to rid the country of foreign influences and establish an agrarian autarky.<sup>20</sup> During the four-year rule of the Khmer Rouge in Cambodia, the regime evacuated major cities and towns, abolished markets and currency, prevented Buddhist monks from practising their religion, expelled foreign residents, and established collectivized labour camps throughout the country.<sup>21</sup> By the time of the Vietnamese invasion in early 1979, more than one million Cambodians had been executed or had died of starvation, disease or overwork, while hundreds of thousands were internally displaced.

Although a substantial number of Cambodians did manage to flee the country, this was small compared with the widespread internal displacement that occurred under the brutal Khmer Rouge regime. UNHCR estimates that only 34,000 Cambodians managed to escape into Thailand from 1975 to 1978, another 20,000 going to Laos and 170,000 to Viet Nam.<sup>22</sup> When the Indochinese refugee exodus exploded in early 1979, Thailand received a relatively small flow of Vietnamese refugees, but by the middle of the year it was playing reluctant host to 164,000 Cambodian and Laotian refugees in camps managed by UNHCR. As a result of the Vietnamese invasion that ousted the Khmer Rouge regime, tens of thousands more Cambodians fled to Thailand's eastern border. This invasion installed another communist regime in what was then renamed the People's Republic of Kampuchea.

In June 1979, Thai soldiers rounded up more than 42,000 Cambodian refugees in border camps and pushed them down the steep mountainside at Preah Vihear into Cambodia. At least several hundred people, and possibly several thousand, were killed in the minefields below. One day after the pushbacks began, the representative of the International Committee of the Red Cross issued an urgent, public appeal that they cease; he was ordered to leave Thailand. Fearing an adverse Thai reaction, UNHCR effectively kept silent, despite the fact that this was the single largest instance of forced return (*refoulement*) the organization had encountered since it was established. As a senior protection official commented later, 'UNHCR's remarkable failure to formally or publicly protest the mass expulsions of Cambodians from Thailand during 1979 must be seen as one of the low points of its protection history'.<sup>23</sup>

Against this backdrop, the July 1979 conference in Geneva sought resettlement commitments from third countries to relieve pressures on Thailand. Of the 452,000 Indochinese resettled in 1979–80, nearly 195,000 came from the camps in Thailand. In October 1979, Thailand announced an 'open-door' policy

towards the Cambodians who had continued to gather at the border in search of food and security. UNHCR was invited to establish 'holding centres' for these new arrivals, which would be supervised not by the Interior Ministry but by the armed forces. The reason for this, the Thai government argued, was that 'among the Kampuchean fleeing to Thailand, a number of them are combatants. So to put them under control in safe areas, the Thai military has to get involved.'<sup>24</sup>

UNHCR pledged nearly US\$60 million to meet the needs of up to 300,000 Cambodian refugees and created a special Kampuchean Unit in its regional office in Bangkok to coordinate the building and administration of the holding centres. Never before had UNHCR been so involved in the actual construction and maintenance of refugee camps. Among the many outcomes of its operational role on the Cambodian border was the creation within UNHCR of an Emergency Unit, which has played a central role in every major refugee emergency since that time.

By the beginning of 1980, the principal holding centre, Khao-I-Dang, was home to more than 100,000 Cambodians. Among these refugees were many unaccompanied minors, who were of particular concern to UNHCR and other agencies [see Box 4.4]. Enjoying the sometimes mixed blessing of extraordinary media exposure, Khao-I-Dang became, for a time at least, what one observer called 'probably . . . the most elaborately serviced refugee camp in the world'.<sup>25</sup> At the time, it had a larger population than any city in Cambodia. By March 1980, when the camp population reached a peak of 140,000, 37 non-governmental organizations (NGOs) were working in Khao-I-Dang. This reflected the global proliferation of NGO activity which was taking place at the time.

Thailand's door for Cambodians was not to remain open for very long. In January 1980, only three months after announcing its 'open-door' policy, the Thai government backtracked and declared the holding centres closed to new arrivals. Henceforth, the government declared, Cambodian arrivals would be kept in border encampments without access to third-country resettlement.

## The border camps

From 1979 to 1981, relief aid to the Cambodian border camps was coordinated by a Joint Mission, headed by the UN Children's Fund (UNICEF) and the International Committee of the Red Cross. At the end of 1981, UNICEF officially withdrew as the lead UN agency for the border relief programme—partly to focus its attention on development aid inside Cambodia and partly in protest at the increased militarization of the border camps, especially by the resurgent Khmer Rouge forces.

Since 1979, UNHCR had been responsible for Khao-I-Dang and other 'holding centres' for Cambodian refugees, but it had avoided seeking a role in the border camps. At one point in late 1979, UNHCR had offered to be the lead UN agency on the border. However, the terms it set—including the removal of all soldiers and weapons from the camps and the relocation of the camps away from the border—were considered to be unrealistic at the time. Moreover, at least some

## Box 4.4

## Indochina's unaccompanied minors

When Cambodian refugees began to spill across the Thai border in 1979, they included a high proportion of children and adolescents under the age of 18, who appeared to have no relatives. Such children were known as 'unaccompanied minors' or 'separated children'. From the beginning, there were urgent international appeals for their resettlement abroad. But their situation was complex, and finding solutions for them became highly controversial.

Many of these children had been forcibly recruited years earlier to serve in the Khmer Rouge youth brigades. Some had lost their families; others had become separated by the disruptions that followed the Vietnamese invasion of Cambodia in 1978. Still others were true orphans, having lost both parents. But a significant number of children turned out, after more detailed enquiry, to have close relatives living in Cambodia, somewhere along the border, or even in the same camp. Here lay the crux of the controversy. In December 1979, therefore, UNHCR cautioned against any precipitous moves toward third-country resettlement and permanent adoption until exhaustive efforts had been made to reunite unaccompanied or separated children with their surviving relatives in Cambodia or in the border camps.

A study the following year sponsored by the Norwegian Redd Barna and other non-governmental organizations (NGOs) found evidence that parents of many of the children were alive. After examining more than 2,000 files, Redd Barna concluded that more than half the children in the camps had been separated from their parents by circumstance, not death. Some children presumed their parents were dead on the basis of long separation or unfounded rumours. Others falsely claimed their parents were dead in the belief that their 'unaccompanied' status would facilitate their resettlement in third countries. 'The evidence suggests', the Redd Barna report concluded, 'that the majority of the unaccompanied

minors' parents are still alive inside Kampuchea, therefore the potential for eventual reunification is considerable.<sup>viii</sup>

The report proved correct on the first point, but it was wrong on the second. For the next decade, Cold War politics defeated all efforts at family reunification inside Cambodia. While hundreds of unaccompanied or separated Cambodian children were eventually reunited with family members in border camps, the great majority were indeed resettled in third countries, whether or not they had relatives there.

#### The best interests of the child

The framework of family and child welfare law upon which policies for unaccompanied or separated children are based accords parents the presumptive right and obligation to care for their children until they reach the age of majority. In the case of a child whose parents are dead or unavailable, the unifying international principle is to promote 'the best interests of the child' by providing temporary safety and care while seeking reunification with a family member or fostering by another responsible adult.

The question is, what happens when the principle of 'family unity' clashes with the 'best interests of the child', as so frequently happened in Indochina? Some seven per cent of all Vietnamese who reached first asylum countries were unaccompanied minors. Some had been separated from family members during the chaotic war years or had lost their parents at sea on the journey out. But for many of the children, the separation from parents was an intentional act. As many as a third were fleeing not so much from political oppression as from dysfunctional households. In other cases, the parents were sending their children out in the hope that they would secure an education and a better life in the West. In the 1970s and 1980s, when *prima facie* refugee status applied to virtu-

ally all Vietnamese boat people, the debate about unaccompanied minors centred on how they could best be protected in the first asylum camps and on how to resettle them successfully thereafter. But with the establishment of regional status determination procedures under UNHCR's Comprehensive Plan of Action, the question of repatriation and the return of minors to their families in Viet Nam became a central issue.

In 1989, UNHCR set up special committees in each country of first asylum to decide on a case-by-case basis what solution would be in the best interests of each unaccompanied minor. Members of these committees included representatives of the host government, UNHCR, and other agencies with child welfare expertise. UNHCR insisted that speed was of the essence, since prolonged residence in camps was potentially harmful to unaccompanied minors, even more so than to adults or children accompanied by other family members. By November 1990, there were 5,000 unaccompanied minors in the region awaiting a decision, and the special procedures were attracting intense criticism. More than one NGO accused UNHCR of a bias in favour of repatriation and of creating unwarranted delays as a means of achieving this objective.

Those unaccompanied minors who were recommended for resettlement during the status determination process—nearly a third of those concerned—moved on to start new lives. Those recommended for repatriation mostly remained in the camps. In reality, the special procedures meant that many minors were kept waiting longer than anyone else. By the end of 1993, more than 2,600 minors who had arrived in camps under the age of 16 had 'aged-out', putting them into the normal status determination procedures for adults.

international donors felt that UNHCR was not equipped to handle such a large and complex emergency.

In January 1982, the newly designated United Nations Border Relief Operation (UNBRO) took over the coordination of the relief operation. UNBRO was given a clear mission—to provide humanitarian relief to those who had fled to the ‘no-man’s-land’ along the Thai–Cambodian border—but it had no explicit protection mandate, and no mandate to seek durable solutions for the population in its care.

In June 1982, the two Cambodian non-communist resistance factions fighting the Vietnamese occupation of their country joined with the forces of the Khmer Rouge who were also sheltering in the border camps to form a tripartite Coalition Government of Democratic Kampuchea (CGDK). Maintaining a seat in the UN General Assembly and a string of base camps along the Thai border, the CGDK applied steady political and military pressure on Phnom Penh throughout the decade, and the ensuing civil war brought new waves of violence into the camps.

Between 1982 and 1985, UNBRO staff assisted in more than 95 camp evacuations from the border area, 65 of them under shellfire.<sup>26</sup> A Vietnamese dry-season offensive in 1984–85 succeeded in driving most of the makeshift camps from the border area into Thai territory, although they remained under UNBRO care, administered by the CGDK, and closed to resettlement. Following the official closure of the border and of the holding centres to new arrivals in 1980, Khao-I-Dang became a kind of ‘promised land’ for many border Cambodians, a haven free of shelling and forced conscription, which held the possibility, however remote, of escape. Yet Khao I Dang had its own special protection problems. Would-be entrants faced bribery and abuse by smugglers and security guards just to get into the camp and, once inside, the ‘illegals’ often faced years of intimidation, exploitation, and risk of discovery before they were registered and given an opportunity to be interviewed for resettlement.

While UNHCR continued to administer Khao-I-Dang, it also continued its largely unfruitful efforts to negotiate organized, voluntary repatriation to Cambodia. As the resistance groups grew and as the conflict intensified, movement from the border area into Cambodia became increasingly difficult. One observer explained:

Not only did the Vietnamese and PRK [People’s Republic of Kampuchea] government mine the Kampuchean side of the border but also, from the PRK’s perspective, the people from the camps inevitably became associated with the resistance groups. The camp inhabitants therefore fear they would be deemed traitors and in risk of persecution if they did return. This changes their status from displaced people to *refuges-sur-place* . . . Correspondingly, the political-military groups have gained increasing control over the camp populations and the border entry posts to Kampuchea, making it very difficult for people to return to Kampuchea should they wish to do so.<sup>27</sup>

In September 1980, UNHCR had opened a small, two-person office in Phnom Penh, and had announced the establishment of a programme of humanitarian assistance for Cambodian returnees, then estimated at 300,000 (including 175,000



*These Cambodian children at a camp in Aranyaprathet, Thailand, were among the tens of thousands who fled their country as Khmer Rouge soldiers emptied towns and cities at gunpoint. (UNHCR/Y. HARDY/1978)*

returning from Thailand). The programme was to provide basic food assistance, seeds, tools, and household goods to returnees in five frontier provinces. This effort proved to be about a decade premature. Although talks continued for many years, UNHCR was unable to find common ground between Bangkok and Phnom Penh, and organized returns from the Thai border camps did not take place. Between 1981 and 1988, only one Cambodian refugee officially returned from a UNHCR camp.<sup>28</sup>

Meeting in Paris in August 1989, the four rival factions of what had by then been renamed the State of Cambodia, failed to achieve any breakthroughs in their search for a comprehensive settlement.<sup>29</sup> They did, however, manage to agree on one thing: that the Cambodian refugees in Thailand and the Cambodians on the Thai border, who amounted to some 306,000 people, should be allowed to return home safely and voluntarily in the event of a peace agreement being reached. The collapse of the Paris meeting left that prospect in real doubt, however, while the withdrawal of the remaining 26,000 Vietnamese troops in September 1989 plunged Cambodia into renewed civil war. The border regions exploded in another round of displacement.

A UN-sponsored settlement, under which the United Nations was to provide an interim administration, was eventually signed in Paris in October 1991. This placed Cambodia under the control of a United Nations Transitional Authority in Cambodia (UNTAC) pending national elections [see Chapter 6]. The plan also required the factions to disarm and demobilize 70 per cent of their troops, release their political prisoners, open their 'zones' to international inspection and electoral registration, and permit all Cambodian refugees displaced in Thailand to return in time to register and vote. By the time that agreement was signed, the UNBRO border camps in Thailand held more than 353,000 refugees and another 180,000 Cambodians were displaced inside their own country. In the context of the peace settlement, UNHCR took over

responsibility for the border camps from UNBRO from November 1991 and set in motion plans for repatriation.

From March 1992 to May 1993, UNHCR coordinated a repatriation effort that succeeded in closing the border camps and moving more than 360,000 people safely back to Cambodia in time to vote in the elections. On 3 March 1993, the last convoy of 199 returnees left Khao-I-Dang and the camp—first opened on 21 November 1979—was officially closed. In his speech at the closing ceremony, UNHCR's Special Envoy, Sergio Vieira de Mello, called Khao-I-Dang a 'powerful and tragic symbol' of the Cambodian exodus and the international humanitarian response. UNHCR's 'prime objective and eventual achievement', he said, was 'to create a camp that was neutral, where people of all political affiliations could seek refuge'. At the same time, Vieira de Mello commented, 'Khao-I-Dang also became a gateway for resettlement in third countries'.<sup>30</sup> From 1975 to 1992, more than 235,000 Cambodian refugees in Thailand were resettled overseas, including 150,000 in the United States. Most of them passed through the gates of Khao-I-Dang.

## Laotian refugees in Thailand

In May 1975, when a communist victory in Laos was all but certain, US transport planes carried about 2,500 Hmong out of their mountain stronghold in Laos and into Thailand. A highland minority who had helped the US war effort in Laos, the Hmong had lost 20,000 soldiers in combat, 50,000 non-combatants had been killed or wounded, and 120,000 more had been displaced from their homes.<sup>31</sup> Many chose not to wait for a new political regime but fled across the Mekong River. By December 1975, when the Lao People's Democratic Republic was formally established, Laotian refugees in Thailand numbered 54,000, of whom all but 10,000 were Hmong.

A UNHCR official in Laos and Thailand offered this analysis of the Hmong flight from Laos: 'That the great majority of Hmong refugees fled because of a genuinely felt fear of reprisal or persecution from the new regime is not called into question . . . [but] there were additional economic reasons for the Hmong to leave Laos and to leave when they did.' Not only had the war removed large areas from cultivation through bombing and chemical defoliation but, as he explained:

A great many Hmong families came to rely increasingly on food drops by aircraft, handouts in the population centers, or the soldier's pay earned by adult males . . . When, in 1975, the alternative means of livelihood came to an abrupt end, tens of thousands of Hmong found themselves abruptly face to face not only with the fear of the enemy's revenge but also with a situation of accumulated resource scarcity . . . Had they remained in Laos, it is difficult to see how they could have avoided large-scale famine.<sup>32</sup>

During a visit to Laos in September 1975, High Commissioner Sadruddin Aga Khan had signed an agreement with the Laotian government 'to cooperate in

supporting the Laotian refugees who want to go back to their native country as soon as possible'.<sup>33</sup> The following year, Laos reached agreement with the Thai government to accept the return of refugees, but despite UNHCR commitments of transportation and reintegration aid, no repatriation occurred until 1980 when 193 lowland Lao returned home.

UNHCR had opened a branch office in the Laotian capital, Vientiane, in October 1974. By the end of 1977, the office had helped thousands of people to go home and had provided them with food aid and agricultural equipment.<sup>34</sup> Following a visit by High Commissioner Poul Hartling in September 1978, however, UNHCR halted all further activities for displaced people inside Laos. Instead, it announced a 're-orientation of UNHCR's activities towards the provinces bordering Thailand, particularly in the southern part of the country . . . with a view to preventing the exodus of persons who might wish to leave Laos because of economic difficulties and chronic food shortages in some areas'.<sup>35</sup>

### Indochinese arrivals by country or territory of first asylum, 1975–95

Figure 4.3

Country/territory of first asylum	1975–79	1980–84	1985–89	1990–95	Cumulative 1975–95
<i>Vietnamese boat people</i>					
Hong Kong	79,906	28,975	59,518	27,434	195,833
Indonesia	51,156	36,208	19,070	15,274	121,708
Japan	3,073	4,635	1,834	1,529	11,071
Korea, Republic of	409	318	621	0	1,348
Macau	4,333	2,777	17	1	7,128
Malaysia	124,103	76,205	52,860	1,327	254,495
Philippines	12,299	20,201	17,829	1,393	51,722
Singapore	7,858	19,868	4,578	153	32,457
Thailand	25,723	52,468	29,850	9,280	117,321
Other	2,566	340	321	0	3,227
<b>Sub-total (boat people)</b>	<b>311,426</b>	<b>241,995</b>	<b>186,498</b>	<b>56,391</b>	<b>796,310</b>
<b>Thailand (overland)</b>	<b>397,943</b>	<b>155,325</b>	<b>66,073</b>	<b>20,905</b>	<b>640,246</b>
<i>Cambodians</i>	171,933	47,984	12,811	4,670	237,398
<i>Laotians</i>	211,344	96,224	42,795	9,567	359,930
<i>Vietnamese</i>	14,666	11,117	10,467	6,668	42,918
<b>Total (boat and land)</b>	<b>709,369</b>	<b>397,320</b>	<b>252,571</b>	<b>77,296</b>	<b>1,436,556*</b>

\*There were also 2,163 Cambodians who arrived in Indonesia, Malaysia and the Philippines after 1975.

Although the exodus of lowland Lao had started slowly, by 1978, refugee camp records showed more than 48,000 arrivals in Thailand. Some Lao had fled due to fears of being incarcerated in re-education camps. Others had left because of the loss of political, economic and religious freedoms. For its part, UNHCR was concerned—and its concern was shared by Thai officials—that a significant portion of the lowland Lao outflow was being spurred by economic problems in Laos and the prospect of ready resettlement out of the camps just across the Mekong river.

In January 1981, Thailand opened a new camp for lowland Lao, Na Pho, and placed all new arrivals there; the camp provided only limited services, survival-level rations, and no access to resettlement.<sup>36</sup> The policy that Thailand referred to as ‘humane deterrence’—keeping the borders open while closing the doors to resettlement and limiting camp amenities—seemed to have an effect on the lowland Lao exodus. Laotian resettlement drop-ped from over 75,000 in 1980 to about 9,000 in 1982. During this same period, lowland Lao refugee arrivals dropped from 29,000 to 3,200.

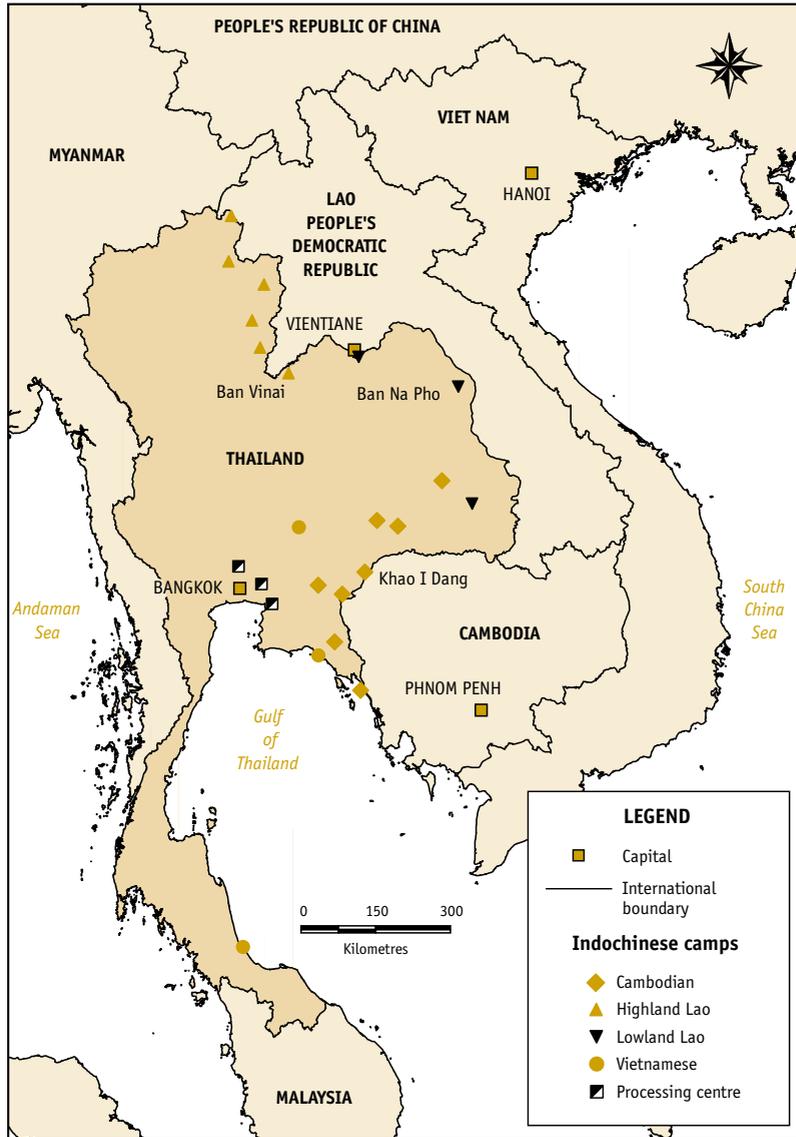
### Resettlement of Indochinese refugees by destination, 1975–95

Figure 4.4

Resettlement country	Cambodians	Laotians	Vietnamese	Total 1975–95
Australia	16,308	10,239	110,996	137,543
Belgium	745	989	2,051	3,785
Canada	16,818	17,274	103,053	137,145
Denmark	31	12	4,682	4,725
Finland	37	6	1,859	1,902
France	34,364	34,236	27,071	95,671
Germany, FR	874	1,706	16,848	19,428
Japan	1,061	1,273	6,469	8,803
Netherlands	465	33	7,565	8,063
New Zealand	4,421	1,286	4,921	10,628
Norway	128	2	6,064	6,194
Sweden	19	26	6,009	6,054
Switzerland	1,638	593	6,239	8,470
United Kingdom	273	346	19,355	19,974
United States *	150,240	248,147	424,590	822,977
Others	8,063	4,688	7,070	19,821
<b>Total</b>	<b>235,485</b>	<b>320,856</b>	<b>754,842</b>	<b>1,311,183</b>

\*Excludes arrivals under the Orderly Departure Programme (ODP).

## UNHCR-assisted Cambodian, Laotian and Vietnamese refugee camps in Thailand, 1980s and 1990s Map 4.2



When Laotian arrivals climbed again in 1983 and in 1984, Thailand decided to try another approach. On 1 July 1985, the Thai government announced that it would institute a screening process at the border. Laotian arrivals were to present themselves at screening committee offices in any of the nine border provinces for interview by immigration officials. UNHCR legal officers were free to attend these interviews as

observers. Those who were considered to be refugees were sent to Ban Vinai, the Hmong camp, or Na Pho, the camp for lowland Lao. For those whose applications were rejected, UNHCR was given an opportunity to appeal before they were detained pending return to Laos.

By the end of 1986, UNHCR reported that out of some 7,000 Laotians who had been interviewed, roughly 66 per cent had been approved as refugees. Although this exceeded many initial expectations, the figures showed that hardly any of the applicants were Hmong. Reports from the border indicated that, in fact, several hundred Hmong had been pushed back to Laos in 1986. By early 1988, the Thai government position toward the Hmong eased somewhat, influenced perhaps by a US commitment to raise resettlement numbers for the Hmong. From 1985 to 1989, Thai officials interviewed some 31,000 Laotians, of whom 90 per cent were given refugee status.

The Comprehensive Plan of Action called upon the governments of Thailand and Laos, together with UNHCR, to speed up negotiations aimed at 'maintaining safe arrival and access to the Lao screening process; and accelerating and simplifying the process for both the return of the screened-out and voluntary repatriation ... under safe, humane and UNHCR-monitored conditions'.<sup>37</sup> By the end of 1990, UNHCR and the Thai Ministry of the Interior had worked out new procedures consistent with those applied regionally to Vietnamese asylum seekers. UNHCR was permitted to observe interviews, to question the applicants themselves, and to appeal decisions of the Thai committee responsible for assessing claims. In all, from October 1989 to the end of 1996, a total of 10,005 Laotians were interviewed, of whom 49 per cent were given refugee status and 45 per cent were rejected, with the remainder pending or otherwise closed. One reason for the decline in the percentage of approvals was the fact that Thai immigration officers generally no longer considered the presence of close relatives in a resettlement country as sufficient grounds for approval.

By the end of 1993, all Laotian refugee camps had closed with the exception of Na Pho. UNHCR's main task on the Thai side of the border was to persuade people to return home and, on the Laotian side, to help them reintegrate once they did. Although the principal emphasis was on voluntary return, by the middle of 1991 the Laotian and Thai governments had agreed that 'those rejected in the screening process will be returned without the use of force in safety and dignity'.<sup>38</sup>

By the end of 1995, returns to Laos from Thailand totalled just over 24,000. Of those, more than 80 per cent had been granted refugee status in Thailand and thus were not obliged to return except voluntarily. Roughly 4,400 returnees (most of whom were Hmong) were rejected asylum seekers. Since 1980, it is estimated that somewhere between 12,000 and 20,000 Laotians may also have returned spontaneously from the camps in Thailand.

All returnees were given the same standard assistance package consisting of a cash grant equivalent to US\$120 as well as an 18-month rice ration. Other standard assistance provided prior to departure from Thailand included agricultural and carpentry tools, vegetable seeds and mosquito nets. In addition to this, each returnee family going to a rural settlement site received a plot of land for a house, between one and two hectares of land for cultivation, and building materials. Most of the UNHCR-

funded rural settlement sites were also provided with water supply systems, roads and primary schools. In 1996, UNHCR monitors reported that 'the physical security of returnees is not an issue in Laos. More frequently, returnees are concerned about re-establishing their lives and feeding their families.'<sup>39</sup>

## Indochina as a turning point

In nearly a quarter of a century of displacement within and from Indochina, more than three million people fled their countries, of whom some 2.5 million found new homes elsewhere and half a million returned. In the course of this displacement, many lessons were learned with regard to international efforts to resolve refugee problems. On the positive side, it is possible to point to the extraordinary commitments from resettlement countries around the world, and to the fact that Cambodia, Laos and Viet Nam all eventually accepted repatriation and reintegration programmes. Innovative responses were also found in the Orderly Departure Programme and the anti-piracy and rescue-at-sea measures. Before the crisis, most countries in the region were not party to the 1951 UN Refugee Convention, but since then Cambodia, China, Japan, South Korea, Papua New Guinea and the Philippines have all become parties to the Convention.

On the negative side, there are the countless people who drowned at sea, or who lost their lives or suffered in other ways from pirate attacks, rape, shelling, pushbacks, and long-term detention in inhumane conditions. All too often, as High Commissioner Jean-Pierre Hocké noted in 1989, vigilance was not constant and international solidarity wavered or collapsed:

We are all painfully aware that what has been achieved in this spirit of international solidarity has required constant vigilance and ever renewed efforts in the face of the appalling tragedies and less spectacular human misery that have accompanied the Indo-Chinese refugee exodus. There have been occasions when the political will to provide asylum and durable solutions has faltered and even failed, resulting ... in the outright denial of asylum, including tragic 'push-offs' of refugee boats, in restriction of access by my Office to asylum-seekers, or in prolonged internment of persons of our concern under difficult conditions which fall below minimum accepted standards.<sup>40</sup>

The Indochinese refugee conference of 1979 witnessed an outpouring of international concern and commitment to refugee protection but it also gave rise to the concept of 'first asylum', whereby one country's promise of protection is purchased by another country's offer of resettlement. As one former UNHCR official noted, two concepts left behind from the Indochinese experience—international burden-sharing and temporary asylum—'proved 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'.<sup>41</sup>

It has been suggested that the 1989 conference endorsing the Comprehensive Plan of Action represented not only a major policy change towards Vietnamese asylum

seekers but a turning point in Western attitudes towards refugee issues. As the crises of the 1990s were to demonstrate all too clearly, Western countries were no longer prepared to make open-ended commitments to resettlement as a durable solution. Even within UNHCR, one 1994 assessment noted that 'the disenchantment with resettlement' brought on by the Indochinese experience, 'has had a negative effect on UNHCR's capacity to effectively perform resettlement functions'.<sup>42</sup>

From the vantage point of a new century, it may be possible to look back at UNHCR's experience with the Indochinese refugees and see that resettlement was not the problem. On its own, however, it was not the solution either. The legacy of the Indochinese refugee programme is that the international community and UNHCR stayed engaged over a long and challenging period to find a combination of solutions that eventually brought the crisis to a relatively humane end.

# Endnotes

## Chapter 4

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