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Rethinking "Regional Processing": Could the lessons learned from the Comprehensive Plan of Action for Indochinese refugees (CPA) offer a roadmap for international cooperation in response to 'regional' refugee situations?

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Rethinking "Regional Processing": Could the lessons learned from the Comprehensive Plan of Action for Indochinese refugees (CPA) offer a roadmap for international cooperation in response to 'regional' refugee situations?

Riona Moodley*

Abstract

In light of the high death toll of asylum seekers and migrants seeking entry into Europe across the Mediterranean seas in recent years, debate has reignited over the creation of more accessible legal pathways for asylum seekers to reach Europe, particularly during large-scale or protracted refugee situations. This has included the possibility of the European Union (EU) establishing 'regional processing' centres in North Africa, or elsewhere in the 'region' to process the protection claims of asylum seekers before they reach Europe. Assuming that such arrangement is made without prejudice to the right to claim territorial asylum in Europe or elsewhere, in theory, regional processing could help reduce the risks associated with the onward movement of asylum seekers and migrants and facilitate more predictable movements of people during large and/or protracted refugee situations. But what could or should a 'regional processing' framework entail for it to be compatible with human rights and international law principles? Moreover, could such an idea offer a road map for international cooperation in response to 'regional' refugee situation? This paper considers these questions by drawing insights from the Comprehensive Plan of Action for Indochinese refugees (CPA), which was the first international attempt to introduce region-wide processing during the Indochinese refugee crisis in the 1970s and 1980s. Despite its historical and context-specific nature, the CPA's attempt to manage the 'mixed flows' of refugees and migrants crossing territorial waters and land is a particularly relevant case study for the EU and the search for 'solutions' in the Mediterranean and elsewhere. Through an evaluation of the CPA, this paper will explore how it might inform the development of a *principled* approach to regional cooperation; that is, one that could offer safe pathways to protection for refugees and migrants, and promote greater international cooperation and responsibility sharing during large or protracted refugee situations.

1. Introduction: Lessons from the Past and Future Opportunities

In 2015 the European Union (EU) faced an unprecedented humanitarian situation as over one million people travelled irregularly[1] to Europe in search of safety. That year alone, over 5,000 people died attempting the journey across the Mediterranean (UNHCR 2015), sparking a humanitarian and political crisis within the EU that continued into 2016. While the large number of new arrivals did place significant pressure on the internal asylum procedures of many EU member states, the numbers alone were not a 'crisis' in themselves, nor were they unmanageable for a region comprising 28 countries and a population of nearly 508 million (Goodwin-Gill 2016). By comparison, relative to their respective

* This paper is based on research for my PhD at the Kaldor Centre for International Refugee Law at UNSW Sydney.

[1]Although there is no universally accepted definition for 'irregular migrant' or 'irregular migration', according to the International Organization for Migration (IOM), these terms refer to a 'movement [of people] that takes place outside the regulatory norms of the sending, transit and receiving countries […]. From the perspective of destination countries it is entry, stay or work in a country without the necessary authorization or documents required under immigration regulations': see IOM definitions at http://www.iom.int/key-migration-terms.Irregular migration into the EU usually contains mixed flows of both 'migrants' and 'refugees'. The term 'migrant' is fundamentally different from the term 'refugee' or 'asylum seeker'. In this regard, UNHCR states that while '[r]efugees [or asylum seekers] are forced to flee to save their lives or preserve their freedom, the term 'migrant' describes any person who moves, usually across an international border, to join family members already abroad, to search for a livelihood, to escape a natural disaster, or for a range of other purposes': see UNHCR's definition of 'migrant' and 'refugee' at https://emergency.unhcr.org/entry/44938/migrant-definition.

populations, neighbouring countries such as Turkey and Lebanon were sheltering far greater numbers of asylum seekers and refugees fleeing conflicts in Syria and elsewhere in the Middle East. Given the transnational nature of irregular migration and the drivers behind it, there was then, as now, an international dimension to the 'crisis' that called for a more co-ordinated response between states both within and outside the region to create accessible pathways to protection. Given its supranational common asylum system and human rights framework, the EU was uniquely placed to show leadership to achieve this.[2] And yet, despite the strong imperatives to do so, a co-ordinated EU (or international) response never came. By the end of 2016, it became apparent that the *real* crisis in Europe was not the number of people arriving, but rather the inaction and failure of States to equitably share responsibility and provide safe and accessible pathways to protection to those in search of it (McEwan 2017; Goodwin-Gill 2016). Since that time there has been a growing emphasis on the creation of complementary and more accessible legal pathways to international protection, particularly during large-scale refugee and irregular migration situations (Moreno-Lax 2016; Türk and Garlick 2016; Costello 2018). In 2016, this issue was put squarely on the international agenda following the unanimous adoption of the New York Declaration for Refugees and Migrations (The New York Declaration 2016), and the subsequent adoption of the Global Compact on Refugees (GCR) and Global Compact on Safe, Orderly and Regular Migration (GCM) in 2018. However, while States voted overwhelmingly to adopt the GCR and GCM, their commitments are non-binding. In the circumstances, questions remain over how these instruments will translate in practice to respond to refugee and 'mixed flow'[3] situations, like those in the Mediterranean.

Within Europe, a number of potential options for creating safe and accessible legal pathways have been flagged (European Union Agency for Fundamental Rights 2015; European Commission 2018). Of particular note, is the possibility of the EU establishing reception facilities in 'transit' countries in North Africa and elsewhere in the 'region'[4] to process the protection claims of asylum seekers *before* they reach Europe (Garlick 2015; European Council Meeting Conclusion 2018). This concept, referred to

[2] Relevantly, the Common European Asylum System (CEAS) contains a mechanism, the 'Temporary Protection Directive' (TPD), which is designed to deal with situations of 'mass influx' (i.e. the 'arrival in the Community of a large number of displaced persons, who come from a specific country or geographical area, whether their arrival in the Community was spontaneous or aided, for example through an evacuation programme'). However, during the 2015-2016 'crisis' the TPD was not activated. For information on the non-activation of the TPD during 2015-2016, see Ineli-Ciger, M (2015) 'Has the Temporary Protection Directive Become Obsolete? An Examination of the Directive and its Lack of Implementation in View of the Recent Asylum Crisis in the Mediterranean' in C. Bauloz, M. Ineli-Ciger, S. Singer, V. Stayanova (eds), *Seeking Asylum in the European Union: Selected Protection Issues Raised by the Second Phase of the Common Asylum System* (Brill Nijhoff Publishers) 225; and European Commission (2016) *Study on the Temporary Protection Directive* at https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/asylum/temporary-protection/docs/final_report_evaluation_tpd_en.pdf.

[3] The terms 'mixed flow,' or 'mixed migration', is often used to describe 'complex population movements including refugees, asylum seekers, economic migrants and other migrants': see IOM's Ninety-Sixth Session, Discussion Note: International Dialogue on Migration (7 November2008), 2 at https://www.iom.int/jahia/webdav/shared/shared/mainsite/microsites/IDM/workshops/return_migration_challenges_120208/mixed_migration_flows.pdf.

[4] When the term 'region' or 'regional' is used in the context of EU discussions about 'external processing', it usually refers to the region or countries in the regions from which asylum seekers come (e.g. North Africa and the Middle East), not to a regional EU approach: see Jane McAdam, "Policy Brief 1 - Extraterritorial processing in Europe: Is 'regional protection' the answer, and if not, what is?" (2015) at http://www.kaldorcentre.unsw.edu.au/publication/policy-brief-1-extraterritorial-processing-europe-%E2%80%98regional-protection%E2%80%99-answer-and-if].

broadly as 'regional processing' in this paper, describes the idea of several states engaging in an arrangement (typically, a multilateral one) to 'process'[5] asylum seekers in a particular country or a region *before* they reach their intended destination(s) (UNHCR 2011, p.14-15). The central goal of such an idea is to improve access to protection during large-scale migration situations and share responsibility for doing so between states. Whilst acknowledging that *regional processing* is by no means a panacea to managing asylum and irregular migration movements in Europe or elsewhere – assuming such arrangements are made *without prejudice* to the right to seek asylum within the EU or elsewhere – in theory, regional processing has the potential not only to address immediate humanitarian needs, but could also help ameliorate the risks associated with the onward movement of asylum seeker. Moreover, it could facilitate access to protection and share the responsibility for providing it. At a bare minimum, however, this would require international cooperation and firm commitments from participating states to respect key international and human rights law principles.

While a protection-oriented approach to *regional processing* may sound novel, it is worthwhile noting that a similarly ambitious plan to undertake region-wide processing – *the Comprehensive Plan of Action for Indochinese Refugees* (CPA) – was implemented successfully nearly forty years ago, when over 65 states collaborated to resolve the Indochinese refugee crisis impacting South-East Asia in the 1970s and 1980s. The CPA's unique accord brought together a broad mix of stakeholders from within and outside the South-East Asia region, including donor and resettlement countries, countries of first asylum and countries of origin. And whilst aspects of the CPA have been criticised (Bari 1993; Robinson 2004; Davies 2008) the arrangement nonetheless brought temporary refuge and durable solutions for hundreds of thousands of people who fled Vietnam, Laos and Cambodia (Türk and Garlick 2016, p. 667). Despite its historical and context-specific nature, the CPA provides a valuable case study for understanding how multi-lateral agreements between countries with divergent interests can be successfully implemented to address refugee crises. In particular, the CPA's attempt to manage the 'mixed flow' movements of both refugees and migrants crossing territorial waters and land is a particularly relevant case study for the EU and the search for protection oriented 'solutions' in the Mediterranean.

In the circumstances, through an evaluation of the CPA framework, this paper considers how it might inform the development of a more *principled* approach to regional processing in Europe and elsewhere to manage future large-scale movements. Specifically, drawing on the CPA experience, this paper will outline some of the key features a regional processing framework should possess if it is to work. Despite the many challenges present today, this paper argues that lessons from the past are encouraging and offer future opportunities for the international community to respond more effectively, equitably and humanely to refugee and irregular migration movements.

[5] When the term 'processing' is used in this context it includes but is not limited to profiling or screening procedures (i.e procedures which aim to identify and differentiate between various categories of arrivals), refugee status determination procedures under the 1951 Refugee Convention, procedures designed to assess temporary forms of protection, and reception arrangements.

2. The Comprehensive Plan of Action – Striking a Balance Between Pragmatism and Principle

2.1 Historical context

Following the fall of Saigon in 1975, hundreds of thousands of refugees fled Vietnam, Cambodia and Laos to neighbouring Southeast Asian countries by land and sea, in search of asylum. The scale of the movement, notably the boatloads of Vietnamese arrivals, proved too overwhelming for many states in the region, prompting many to 'push back' new arrivals by force (Helton 1989, p.23). Many asylum seekers perished at sea during this period. In 1979, an international conference was convened by the United Nations (UN) Secretary-General to respond to the unfolding humanitarian and political crisis. Recognising the international dimension to the situation, the conference engaged a broad spectrum of actors. This included sixty-five governments (donor and resettlement countries, countries of first asylum and regions of origin) together with international organisations and NGOs. Although no binding legal commitments were made, the meeting led to general principles of asylum and non-refoulement being endorsed, and a substantial increase in the funding of relief and the provision of resettlement places for those seeking asylum (Goodwin-Gill 2015). Remarkably, the principal country of origin, Vietnam, was also involved and agreed to continue its work with UNHCR to advance an arrangement (the Orderly Departure Programme, or ODP) to facilitate 'the orderly departure of persons who wished to leave Vietnam for countries of new residence' (UNHCR and Vietnam Memorandum of Understanding 1979; Higgins 2019). This arrangement functioned to stem irregular departures from Vietnam by creating safe alternatives to boat departures from Vietnam.

However, when departures from Vietnam began increasing again in 1986, the 1979 arrangement began to breakdown. This prompted the UN Secretary General to convene a second conference to address what had, by 1989, become a protracted refugee situation. After extensive negotiations, the 1989 conference culminated in a new framework, the CPA. While it was again agreed that South-East Asian countries would provide temporary refuge in return for resettlement places offered by countries of final settlement, there would no longer be a presumption of refugee status. Given changes in political situation in Vietnam and reasons for flight – which some states considered were motivated by economic reasons (Robinson 1998, p. 273) – it was decided that the presumption of refugee status for Indochinese refugees would cease, and that *new measures* would need be taken to comprehensively resolve the crisis and deter irregular movements outside Vietnam (and to a lesser extent, Laos).[6]

2.2 The Key Features of the CPA

While one of the CPA's principal objectives was to 'restore asylum' in South-East Asia region in circumstances where commitments made by countries of first asylum to provide temporary asylum were failing (Towle 2006) the overriding purpose of the CPA was to bring an end to the ongoing movement of asylum seekers from Vietnam (and, to a lesser extent, those fleeing Laos) by 'obviating

[6] States decided not to address the situation of Cambodian refugees in the CPA because it was being addressed at the time in going Cambodian peace negotiations, culminating in the 1991 Framework for a Comprehensive Political Settlement of the Cambodia conflict, UN GAOR, 46th sess, Agenda Item 24, UN Doc A/46/608-S/2317.

the need for it' (Robinson 2004, p.323). Seen in this light, the arrangement sought to reach a compromise between all relevant stakeholders, and in doing so, strike a balance between political pragmatism and human rights law principles. To achieve this, the CPA developed a regional processing framework to enable refugees to be resettled abroad and those *not* in need of international protection to be returned to their country of origin, principally Vietnam. In return, countries of first asylum agreed to provide temporary asylum pending resettlement or repatriation. Importantly, countries of first asylum would also assume primary responsibility for undertaking refugee status determination procedures (RSD) under the supervision of UNHCR and in accordance with the criteria set out in the 1951 Refugee Convention and the UNHCR Handbook (1979).

Due to the politics at the time, most countries of first asylum did not agree to integrate *any* of the persons seeking asylum into their own populations, whether they were refugees or not. As a result, a repatriation option for those *not* found to be refugees proved critical to win over their support (Towle 2006, p. 538). As a result, the main country of origin, Vietnam, became an essential partner under the CPA. Incentivised by political and economic gains through its engagement with the international community Vietnam agreed to repatriate those who voluntarily returned to Vietnam on the basis that they would not suffer persecution on their return (Betts 2006, p.39). In addition, it committed to work with the international community to prevent irregular departures, while facilitating the orderly departure of those wishing to leave the country as refugees or special immigrants (Kumin 2008, p.116). The ODP, originally developed at the 1979 Conference, was another core component of the arrangement which some suggest 'made every other element of the arrangement possible' (Kumin 2008, p.116) and helped prevent the resettlement process being 'overwhelmed in its infancy' (Helton 1989, p.25) by creating an alternative to irregular maritime journeys (Higgins 2019).

2.3 Final Outcomes

Through each of these interlocking commitments, the CPA managed successfully to renegotiate the varied interests and responsibilities of states within and outside the affected region. Although there were concerns that the arrangement might falter like the 1979 arrangement had, the CPA continued to operate until its conclusion in 1996. In the circumstances, to the extent that the principal objectives of the CPA were to restore asylum to the region and bring an end to the flow of asylum seekers, the overwhelming consensus was that the CPA was a success (Towle 2006, p. 538). The CPA had managed to implement regional processing across South-East Asia, and in doing so, successfully restored temporary refuge for asylum seekers pending resettlement or repatriation, reduced unsafe irregular departures by expanding legal departure possibilities from countries of origin via the ODP, and provided durable solutions to hundreds of thousands of displaced people (Executive Committee of the High Commissioner's Programme 1996)

The arrangement was, however, far from perfect. While the CPA brought about an end to the exodus of asylum seekers, there were a number of problematic aspects encountered in its implementation. During its initial stages, for instance, RSD screening was fraught with procedural issues, including erroneous assessments and misapplied refugee criteria (Helton 1993, p.557). As a result, in the

CPA's initial stages, refugee recognition rates were inconsistent across the region, prompting concerns that those denied protection were at risk of refoulement if repatriated to their country of origin (Helton 1993, p.557). Other issues concerned the fact that asylum seekers were held in closed detention with limited access to work rights and education (Mathew and Harley 2016, p.154). The ODP, which facilitated the transfer of hundreds of refugees from within Vietnam to countries of resettlement, was also criticised for potentially intruding on the right to leave one's own country and seek asylum (Kumin 2008, p.114-116). Another feature that has been singled out for criticism was the CPA's repatriation component. Although repatriation was intended to be voluntary, the CPA nonetheless (controversially) countenanced the possibility of involuntary returns. And eventually, as the CPA drew to a close, a number of those who refused to leave voluntarily were forcibly returned.

Despite initial difficulties, particularly in implementing the RSD screening process, commentators – even those highly critical of the process – have acknowledged that, over time, UNHCR was able to 'enhance co-ordination and reduce the problems that might have occurred otherwise' (Bari 1993, p.508; Towle 2006, p.549). Relevantly, in all CPA countries except Hong Kong, UNHCR was able to 'participate in the examination of each case, to take a view on the status of each individual and to promote its opinion before a decision [was] reached' (Bari 1993, p.508). Moreover, if UNHCR still considered an individual to be a refugee after a negative government decision, it had the option of exercising its mandate to grant refugee status to that individual, and as a consequence, that person would have been entitled to resettlement (Bari 1993, p.508). As regards the repatriation of those found *not* to be refugees, considerable efforts were also taken to protect and support returnees through sustained monitoring by UNHCR and reintegration programmes. Over the period 1993 to 1995, UNHCR spent a total of $43.4 million on economic and social integration projects for returnees, in the form of cash grants and community projects (Robinson 2004, p.331). The EU also spent approximately $135 million on returnee reintegration, which included small businesses loans available to locals and returnees on the condition that they 'promoted economic reintegration and development' (Robinson, p.331).

Despite initial discrepancies, during the seven years that the CPA was operational, the overall quality of procedural fairness and standard of regional consistency improved and were considered relatively high (Towle 2006, p.549). This outcome can be largely attributed to the central supervisory role and assistance provided by UNHCR during the screening process and repatriation (Towle 2006, 549). Over the quarter century that the Indochinese displacement endured, over 3 million people fled their countries across the region. However, as a consequence of the sustained international effort to resolve the crisis, approximately 2.5 million people were resettled elsewhere and half a million were repatriated (UNHCR 2000, p.102).

Developing A Principled and Comprehensive Approach Regional Processing

3.1 Lessons for the Future

The CPA offers particularly important lessons because, despite the specific historical and political context in which it was implemented, it was one of the first attempts to undertake a large-scale RSD

screening process to meet the immediate humanitarian needs of asylum seekers and provide durable solutions for *all* who were processed under the scheme – i.e. those found to be refugees as well as those who were not (Betts 2006, p.62). In addition, the CPA created legal alternatives for both asylum seekers and migrants approaching people smugglers and embarking on dangerous maritime voyages through its ODP programme. This, of course, has clear parallels with current efforts by the EU and its members to manage irregular migration and find 'solutions' in the Mediterranean that are able to provide protection for refugees and, at the same time, alternatives for those found not to be refugees (Betts 2006). Indeed, the lessons derived from the CPA reveal key features that a regional processing framework should possess, if it is to *comprehensively* address the protection challenges of the future – be they in the Mediterranean or elsewhere.

3.1.1 International Co-operation – Responsibility Sharing and Leadership

What was clear then, as now, is that large-scale refugee movements and humanitarian crises cannot be resolved by a few state actors. The movement of people is an international phenomenon, and so, too, are the drivers for it (Goodwin-Gill 2016). As such, addressing the inherent challenges encountered with a large-scale migration warrants a co-ordinated international response. Regional processing – if undertaken in the same vein as the CPA framework – has the potential to coordinate global efforts to address events such as those which occurred in Europe and the Middle East in 2015-2016. However, this calls for a multi-stakeholder partnership including countries of resettlement (or final destination), 'transit' or host countries, countries of origin, international organisations, NGOs, and where possible, refugees and migrants themselves. It is only through this multilateral and multi-layered engagement between state and non-state actors that a truly comprehensive regional framework can be arranged, implemented and sustained. In light of the adoption of both the GCR and GCM, this now appears to be accepted by the international community. But how, in practice, is such cooperation to be galvanised? There are two critical lessons one can draw from the CPA in this regard.

Responsibility Sharing

The first is ensuring that responsibilities between states are broadly and equitably shared. The CPA, for instance, was not concerned with the interests of a few states to the exclusion of others. It involved multiple state actors – countries of asylum, resettlement and countries of origin – working together to share their responsibilities in accordance with their capacity, needs and interests. Indeed, there is no 'one-size fits all' approach to managing large-scale asylum and migration movements. In this regard, the scope of 'processing' under future arrangements could be more, or less, extensive depending on the situation and actors involved. For instance, while 'processing' could involve conducting RSD procedures and hosting reception facilities, states could also adopt different roles and responsibilities consistent with their capabilities and capacity – as occurred under the CPA (UNHCR 2010).

Political Leadership and the Role of UNHCR

The second key component to galvanising international cooperation is political leadership. During the CPA, US participation is often cited as having played an instrumental role in garnering the political support of states outside the region to offer resettlement and financial aid (Betts 2006, p.62; Suhrke 2006, p. 406). Although there were specific political circumstances, including post-cold war dynamics at play at the time the CPA was implemented, many argue that for a similar model to work it, too, would need a political leader (or 'hegemon') to galvanise international cooperation and support (Surkhe 2006, p.413; Ineli-Cigar 2016, p.435). In the context of addressing future crises in the Mediterranean, for instance, the EU might easily fulfil that need and role. Moreover, given the EU's supranational asylum and human rights framework, it is uniquely placed to show guidance on how a *principled* approach to refugee status determination might take place within its neighbouring region.

Perhaps the most critical requirement, however, would be the involvement and support of UNHCR. Under the CPA, UNHCR played an instrumental role as the 'honest broker' supporting and supervising the implementation of the CPA's various components to ensure protection principles were not compromised (Towle 2006). In the circumstances, for any future arrangement to succeed, it would be vital for UNHCR to play a major role in not only coordinating the involvement of all relevant actors, but also overseeing and monitoring its implementation to ensure protection standards are met (UNHCR 2018, p.7) .

3.1.2 Access to Protection

However, for regional processing to be successful the most critical requirement is that the sum of all its components – including admission, shelter, humanitarian assistance, refugee status determination and repatriation – *must* be firmly grounded within a human rights and international protection framework. This would require *all* states, including those not party to key refugee and human rights law instruments, to agree nonetheless to respect key international and human rights law principles. What the CPA demonstrated was that this could be achieved even when countries of first asylum are not parties to the 1951 Refugee Convention or other international human rights instruments at the time.

The criteria set out in the 1951 Refugee Convention and the UNHCR Handbook, and minimum standards for protection set out in the ExCom Conclusion No. 22 (1981)[7] were all specifically incorporated in the CPA and firm commitments were made by states to adhere to those standards of protection. Relevantly, countries of first asylum committed to: providing admission to those seeking refuge in accordance with those terms; respecting the principle of non-refoulement; and working with UNCHR to assist them comply with international standards for protection and refugee determination. While there were several aspects of the CPA's implementation (notably its use of 'closed' reception

[7] The CPA did not itself provide guidance to countries of first asylum on the rights and minimum conditions for the reception of asylum seekers. In order to fill this gap, the Committee of the High Commissioner's Programme adopted ExCom Conclusion No. 22 which 'urged host States to provide basic necessities, such as physical security, shelter, food, and medical care to asylum seekers in large-scale influx situations': Ineli-Cigar (2016) p.415

facilities) that would need re-envisioning if a similar plan were to be implemented in the future, the overall commitment to human rights and the provision of asylum and protection, managed to restore peace and order to a humanitarian crisis threatening the stability of the region. In the circumstances, for any future arrangement to have similar success, it *must* be premised on a clear commitment from all relevant stakeholders to respect key international and human rights law principles.

3.1.3 Durable Solutions

One of the key lessons from the CPA – particularly in the current global environment – is that durable solutions are needed for those travelling irregularly, whether they are refugees or not. The drivers for irregular migration are complex, but one of the most critical issues facing those who move irregularly is the absence of safe, orderly and regular pathways for migration. Indeed, since the adoption of the GCR and also the GCM (the overarching aim of which is to foster 'safe, orderly and regular migration') this issue is now firmly placed on the agenda of the international community (New York Declaration, 2016; Global Compact on Migration 2018). In the circumstances, if States are to truly address the complexities of 'mixed migration' movements, any future arrangement(s) would need to provide swift access to solutions for asylum seekers *and* migrants to reduce the demands placed on receiving states, and offer *real* alternatives to onward movement (Türk and Garlick 2016). While the CPA focussed on resettlement and repatriation as its two main forms of durable solution, it did noticeably (and deliberately) exclude local integration – which was not seen as a possibility for countries of first asylum at that given time. However, given the growing acceptance of the benefits local integration plays in addressing protracted refugee situations, this is one additional durable solution that could, and should be accommodated in the future (Loescher and Milner 2003, p.612; UNHCR 2005). Furthermore, while future arrangements should factor all three of the traditional durable solutions (resettlement, local integration and repatriation), *other* options should also be explored, as they were during the CPA, to create additional and complementary migration pathways for refugees and other migrants. These might include, for instance, 'orderly departure programmes' in countries of origin, protected entry procedures in host countries, student visas and labour mobility programmes, to name but a few.

4 Conclusion

The multilateral formulation of regional processing put forward in this paper stands in stark contrast to models based on containment and deterrence. While state imperatives to manage the entry of asylum seekers and 'irregular' migrants into their territories, particularly during large-scale movements, are worthy of attention, actions taken to address them must be premised on a commitment to international cooperation, burden-sharing and, most importantly, respect for human rights – as has been specifically endorsed in the New York Declaration and Global Compacts. As the CPA demonstrates, regional processing has the potential not only to address immediate humanitarian needs during such situations but also to help ameliorate the risks associated with the onward movement of asylum seekers and migrants. Moreover, through international cooperation and sustained efforts to share responsibility for providing international protection, such an arrangement is capable of alleviating the 'burden' of

responsibility disproportionately carried by countries directly impacted by the large-scale movements of asylum seekers and migrants. These are not lofty goals or aspirations. The CPA provides tangible evidence of what is possible, and what could have been possible during 2015-2016 in the EU. The lessons of the past should not be dismissed or ignored. There is an opportunity to learn from them and create possibilities for the future, which are both pragmatic and principled. Regional processing is not the only answer, but it is one of many that should be explored to address the needs of the future.

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