**International Cooperation Between
North and South to Enhance
Refugee Protection in Regions of Origin**

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Acknowledgements

CONTENTS

ABSTRACT

This paper explores the current Geneva-level debate on targeting development assistance to enhance refugee protection capacity in regions of origin. It does so in order provide a case study for better understanding the impasse in north-south cooperation which has characterised the refugee regime since its inception. It argues that, although historically prevalent, 'collective action failure' is not an inevitable outcome of attempts to achieve north-south cooperation. Instead, through critical historical reflection on relevant past precedents and analysis of the insights that can be drawn from the international relations theory relevant to international cooperation, it identifies a number of factors that may be conducive to improving the prospects for cooperative outcomes. It is suggested that this has particular relevance for the role that UNHCR and other actors can play in promoting future multilateral cooperation in order to achieve global responsibility-sharing in the provision of access to interim protection and durable solutions.

Based on research undertaken in Geneva, the paper begins by exploring the current debate on targeting development assistance (TDA) to host states to support self-sufficiency and local integration within the broader context of UNHCR's Convention Plus initiative and the wider European debate on 'protection in regions of origin'. It highlights how, despite the application of such concepts in Zambia and Uganda, the debate has so far generally been characterised by north-south polarisation.

In an attempt to better understand this impasse, the paper explores the past precedents of attempting to enhance refugee protection in Africa through development assistance. It focuses on the 'refugee aid and development' (RAD) debates of the 1980s and, in particular, the two International Conferences on Assistance to Refugees in Africa (ICARA I and II). It is argued that the ICARA precedents have significant parallels with the current debate. Analysis of the similarities and differences between the two eras is used as a means to identify lessons relevant to understanding the north-south impasse and the prospects for cooperation.

In light of this comparative analysis, the paper draws on the insights available from the international relations theory relevant to international cooperation as a means to illuminate the prospects for overcoming polarisation. It surveys the existing literature on 'burden-sharing' in the global refugee regime, placing it in the broader context of regime theory, the body of international relations theory on which it implicitly and selectively draws. It argues that the dominant perspectives in that debate have not fully engaged with the range of insights available from the broader literature, and have consequently underestimated the available means by which cooperation may be understood and facilitated.

The relevance and potential of these under-explored concepts is highlighted by demonstrating how some of them are already implicit to the conceptual logic of UNHCR's Convention Plus. Through applying these concepts in order to understand Convention Plus, the paper sets out a framework for north-south responsibility-sharing. It concludes by showing how the conceptual logic of Convention Plus' approach to north-south cooperation could be further developed as a means to facilitate future multilateral cooperation and thereby overcome the sources of past and present polarisation.

LIST OF ACRONYMS

Due to the vast number of acronyms associated with development and forced migration governance, the following list is provided for reference. Most acronyms will be given in full the first time they are used in the text.

CIREFCA	International Conference on Central American Refugees
COMPAS	Centre on Migration Policy and Society (Oxford University)
CPA	Comprehensive Plan of Action
CPU	Convention Plus Unit (UNHCR)
CRS	Centre for Refugee Studies (York University, Canada)
DANIDA	Danish International Development Agency
DAR	Development Assistance for Refugees
DFID	Department For International Development (UK)
DIP	Department of International Protection (UNHCR)
DLI	Development Through Local Integration
DOS	Division of Operational Support (UNHCR)
EPAU	Evaluation and Policy Analysis Unit (UNHCR)
EU	European Union
ExCom	Executive Committee (UNHCR)
G-77	Group of Seventy Seven
IASFM	International Association for the Study of Forced Migration
ICARA	International Conference on Assistance to Refugees in Africa
ICMC	International Catholic Migration Commission
ICVA	International Council of Voluntary Associations
IGO	Inter-Governmental Organisation
ISM	Irregular Secondary Movements
JRS	Jesuit Refugee Service
MDGs	Millennium Development Goals
NGO	Non-Governmental Organisation
OAU	Organisation of African Unity
OCHA	Office for the Coordination of Humanitarian Affairs (UN)
ODA	Overseas Development Aid
PRSP	Poverty Reduction Strategy Papers (World Bank)
QIP	Quick Impact Project
RAD	Refugee Aid and Development
RPZ	Regional Processing Zone
RSC	Refugee Studies Centre (Oxford University)
SIDA	Swedish International Development Agency
SRS	Self-Reliance Strategy (Uganda)
TDA	Targeting Development Assistance
TPC	Transit Processing Centre
UNDP	United Nations Development Programme
UNHCR	United Nations High Commission for Refugees
UNOG	United Nations Office At Geneva
USCRI	The U.S. Committee for Refugees and Immigrants
USD	United States Dollars
4Rs	Repatriation, Reintegration, Reconciliation and Reconstruction

INTRODUCTION

The North-South Impasse

The responsibility to share the financial or physical burden for global refugee protection outside of a state's immediate territorial or jurisdictional obligations to not return refugees to persecution is recognised in the Preamble to the 1951 Convention.[1] However, given that 'burden-sharing'[2] has not been formally recognised as an international legal obligation to the same extent as the principle of *non-refoulement*, proximity to refugees' states of origin has historically been the principal determinant of the inter-state allocation of responsibility for refugee protection. It has therefore been the states in the global south[3] which, as a result of the 'accident of geography' of being closer to areas of conflict or human rights-abusing regimes, have assumed territorial and jurisdictional responsibility for hosting the overwhelming majority of the world's refugees.[4]

Despite the inequitable allocation of global responsibility for hosting refugees, there have been few past attempts to build sustained international cooperation between north and south to improve refugee protection standards. The International Conferences on Assistance to Refugees in Africa (ICARA I and II), the Indo-Chinese Comprehensive Plan of Action (CPA) and the International Conference on Central American Refugees (CIREFCA) of the 1980s represent the most salient examples of attempts to encourage international cooperation to promote north-south responsibility-sharing.[5] Yet, while ICARA had little lasting legacy, CIREFCA and the CPA focused on resolving very specific mass influx or protracted refugee situations, partly on the basis of northern state interests,[6] rather than on developing general principles of sustainable responsibility-sharing. Where recommendations have been made on the need to develop such general principles – at UNHCR's Executive Committee (ExCom) in 1998[7] or by the Refugee Law Reformulation Project,[8] for example – they have generally been ignored by states. Although states' voluntary contributions to UNHCR are intended to provide a form of north-south burden-sharing, they generally amount to a combined sum of less than USD 1 billion per year and are largely earmarked in accordance with state-specific interests.[9]

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[1] The 1951 Convention relating to the Status of Refugees, Preamble, Paragraph 4, www.unhcr.ch

[2] For the purposes of this paper, the terms 'burden-sharing' and 'responsibility-sharing' are used inter-changeably. The terms are generally used in two ways: normatively, to define how responsibility for refugee protection should be shared between states; and, descriptively, to identify the degree to which states share legal, financial or physical responsibility for refugee protection. In a north-south context, 'burden-sharing' implies extra-regional responsibility-sharing beyond a state's immediate territorial or jurisdictional obligations to not return refugees to persecution.

[3] Although the concepts of 'north' and 'south' should not be reified as monolithic or homogenous representations of the world, dividing the states that are part of the global refugee regime into these categories offers a valuable heuristic simplification. Duffield defines 'north' and 'south' in socio-economic terms according to the degree and type of states' integration into the global economic system. See Duffield, M (2001), *Global Governance and the New Wars,* (Zed: London), pp. 4-7. In the refugee context, the 'north' can be regarded to comprise the industrialised third-country asylum states, which are generally outside of refugees' regions of origin. Meanwhile, the 'south' invariably comprises the refugee-producing, transit or first asylum host states within regions of origin.

[4] In 2001, 72% of the world's 12 million refugees were hosted by developing countries. UNHCR (2002), *Statistical Yearbook 2001*, (UNHCR: Geneva).

[5] For a brief summary of these, see Loescher, G (2001), *The UNHCR and World Politics*, (Oxford: Oxford).

[6] In both cases, for example, the USA played a major role, partly as a result of the legacy of its own Cold War involvement in both regions.

[7] In 1998 burden-sharing was the annual theme of UNHCR's ExCom. UNHCR (1998), 'Annual Theme: International Solidarity and Burden Sharing In All Its Aspects: National, Regional and International Responsibilities for Refugees', Executive Committee Report, 49th Session, A/AC.96/904, www.unhcr.ch

[8] Between 1991 and 1996, the Refugee Law Research Unit at York University's Centre for Refugee Studies (CRS) embarked on a project entitled 'Toward the Reformulation of International Refugee Law'. One of its major themes was the search for more equitable and efficient responsibility-sharing. See, for example, the discussion paper, CRS (1996), *Common But Differentiated Responsibility*, (CRS: Toronto).

[9] UNHCR (2003d), *Global Report 2003*, (UNHCR: Geneva), pp. 37-60.

In the context of south-north migration, northern states have therefore generally resorted to restrictionism instead of seeking comprehensive solutions through multilateral cooperation.[10] During the 1990s, in particular, industrialised states' asylum policies focused on excluding or deterring potential asylum applicants from reaching their territory as a means to avert incurring legal responsibility for protection. Policies such as interdiction, visa restrictions, carrier sanctions, detention, dispersal, the reduction of social benefits, and transit processing have been used in order to assuage public and media concern relating to the 'control' and 'management' of 'mixed migration flows'.[11] In currently allocating over USD 10 billion per year to their asylum systems and less than USD 1 billion to UNHCR, northern states choose to prioritise unilateral border control above comprehensive refugee protection.[12] In the words of Hathaway, this has resulted in a "relegation of burdens to the south".[13]

The Need to Overcome the Impasse

The clearest manifestation of the ongoing impasse in north-south cooperation is the existence of protracted refugee situations and the related use of encampment as a tool of 'protection' in the global south. UNHCR estimates that there are currently 6,200,000 refugees who have been in a "long-lasting and intractable state of limbo" in a developing country for five years or more.[14] Such situations include over 2,000,000 Afghans in Pakistan and Iran; 490,000 Burundians in Tanzania; 200,000 Sudanese in Uganda; 150,000 Liberians in Guinea, 150,000 Somalis in Kenya; 120,000 Burmese in Thailand; 100,000 Bhutanese in Nepal.[15] Without the ability to return to their homeland, settle permanently in their country of first asylum or move on to a third country prepared to admit them, many refugees find themselves confined to camps, organised settlements or designated geographical zones, often in peripheral border areas.[16]

Protracted situations often entail serious human security consequences for refugees as a result of confinement and low standards of care and maintenance. The U.S. Committee for Refugees and Immigrants' (USCRI) ongoing 'Anti-Warehousing' Campaign has drawn attention to many of the implications of confinement, in particular.[17] It highlights how encampment violates numerous 1951 Convention rights such as those relating to freedom of movement, wage-earning employment, moveable and immovable property, non-discrimination, and public education. The campaign emphasises the dehumanising effect that 'warehousing' has in nurturing long-term dependency and neglect.[18] Furthermore, Crisp argues that where protection standards are limited to very basic subsistence in confined conditions, idleness, dependency on

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[10] Loescher, G and Milner, J (2003), 'The Missing Link: The Need For Comprehensive Engagement in Regions of Origin', *International Affairs*, 79:3, pp. 583-617.

[11] Gibney, M and Hansen, R (2005), 'Asylum Policy in the West: Past Trends, Future Possibilities', in Crisp, J and Borjas, G (eds), *Poverty, International Migration and Asylum*, (Palgrave: Basingstoke), pp. 70-96.

[12] This is a statistic which has been widely used by northern governments. See, for example, Caroline Flint MP, Statement to Sub-Committee F (Social Affairs, Education and Home Affairs) of the House of Lords Select Committee on the European Union, in discussing extraterritorial processing, October 29, 2003.

[13] Hathaway, J (1997), 'Preface: Can International Refugee Law Be Made Relevant Again?' in Hathaway, J (ed), *Reconceiving Refugee Law* (Martinus Nijhoff: The Hague), p. xxi.

[14] UNHCR (2004a), 'Protracted Refugee Situations', Standing Committee, 30th Meeting, EC/54/SC/CRP.14, 10 June.

[15] *Ibid*, p. 2.

[16] Crisp, J (2003a), 'No Solutions In Sight? The problem of protracted refugee situations in Africa', *New Issues In Refugee Research*, Working Paper No. 75 (UNHCR: Geneva).

[17] USCRI define 'warehousing' as, "the indefensible practice of keeping refugees in camps or segregated settlements, deprived for years of the basic rights guaranteed in the UN Refugee Convention and without hope of a normal life". Chen, G (2004), 'A Global Campaign To End Refugee Warehousing', *World Refugee Survey*, p. 21.

[18] Smith, M (2004), 'Warehousing Refugees: A Denial of Rights, a Waste of Humanity', *World Refugee Survey*, pp. 40-1.

humanitarian assistance, the weak rule of law, and prior experiences of conflict are amongst the factors that make already vulnerable refugees likely to resort to negative coping strategies and so induce cycles of violence that further threaten human security.[19] To take an example, Helton explains how rape, clan violence, drug abuse, arms trafficking, and psychological illness have become common amongst Somali refugees in the Dadaab camps of northern Kenya.[20]

If the impasse in north-south cooperation could be overcome in such a way as to channel resources into improving protection standards, it may be possible to resolve the underlying causes of encampment and the corresponding rights violations that commonly result from mass influx and protracted refugee situations in the south. As Jacobsen argues, the portrayal by many southern host governments of refugees as a 'burden' to be confined to camps in border areas is not inevitable.[21] Rather, it is the result of electoral and resource competition which has undermined the political feasibility of granting equal rights to non-citizens.

Encampment in Africa gathered momentum in the 1980s as a response to changing economic and political circumstances, which have eroded protection capacity.[22] With the imposed structural adjustment and democratisation of the 1980s and 1990s, the political and economic capacity of many southern states has declined, reducing their ability and willingness to host refugees. No longer capable of providing social services even to their own populations, and accountable to a democratic electorate, politicians in states such as Kenya and Tanzania increasingly identify refugees as a source of threat to the security and welfare of their own citizens.[23] However, the fact that some states such as Guinea[24] and Zambia[25] have continued to facilitate self-sufficiency implies that alternatives remain possible.

UNHCR's *Framework For Durable Solutions* sets out a series of concepts that relate to the targeting of development assistance (TDA) by northern donor states and development agencies to support improved burden-sharing for countries hosting large numbers of refugees by promoting either interim self-reliance for refugees or permanent local integration.[26] These initiatives have been applied in Zambia and Uganda, for example, to build on the prior initiatives of the host governments to support the self-sufficiency and autonomy of refugees and, to varying degrees, their integration within the local community. The concept of host state-focused TDA offers a means to mitigate the underlying economic and political causes of encampment which have emerged since the 1980s because it has the potential to empower politicians to relegitimate refugees in the eyes of the electorate.

The concepts implicitly have two principal means through which to achieve this relegitimation. Firstly, they envisage that local host populations will also benefit from additional support for

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[19] Crisp (2003a), p. 11.

[20] Helton, A (2002), *The Price of Indifference*, (Oxford: Oxford), pp. 154-162

[21] Jacobsen, K (2002), 'Can Refugees Benefit The State? Refugee Resources and African Statebuilding', *Journal of Modern African Studies*, Vol. 40:4, pp. 577-596.

[22] See, for example, Rutinwa, B (1999), 'The End of Asylum? The Changing Nature of Refugee Policies in Africa', *New Issues in Refugee Research*, Working Paper No. 5, (UNHCR: Geneva).

[23] Milner, J (2005), 'The Politics of Asylum in Africa: The Cases of Kenya, Tanzania and Guinea', Presented at the Refugee Studies Centre, 9 March 2005.

[24] *Ibid*.

[25] UNHCR (2004b), 'In Pursuit of Durable Solutions in Zambia', (UNHCR: Geneva).

[26] The *Framework* elaborates three concepts that relate to TDA. The two that relate to enhancing the protection capacities of host states are Development Assistance to Refugees (DAR) and Development Through Local Integration (DLI). In relation to countries of origin, the *Framework* also sets out the concept of the '4Rs' ('Repatriation, Reintegration, Rehabilitation and Reconstruction') which focuses on enhancing the sustainability of repatriation by improving the transition from emergency relief to long-term development planning in post-conflict societies. UNHCR (2003a), *Framework For Durable Solutions For Refugees and Persons of Concern*, (UNHCR: Geneva).

infrastructure, social services and credit schemes, for example, helping to assuage the perception of refugees as a source of threat or competition for resources. Indeed, if citizens begin to share in the benefits of hosting, vilifying refugees will become less electorally desirable and politicians may be more disposed to refrain from emphasising refugees as a 'burden'. Secondly, Jacobsen argues that empowering refugees to become active 'agents of development', capable of participating in and contributing to the national economy is integral to improving their welfare *and* that of their host population.[27] The idea that refugees can become active contributors to the development process is supported by Bakewell's empirical work. Looking at the case of self-settled Angolan refugees in Zambia, he has highlighted how self-reliant refugees have become productive and autonomous contributors to both the local economy and the development of their home state upon return.[28]

However, fulfilling TDA's potential to increase the willingness and ability of states to improve protection standards is dependent upon first overcoming the impasse in north-south cooperation that has existed since the inception of the global refugee regime. Without donor support and the creation of trust to surmount unilateralism, new resources will not be channelled into promoting higher standards of protection.

Globalisation: New Incentives for Engagement?

Crisp has argued that a 'new asylum paradigm' may be emerging in the global refugee regime. He suggests that the growth of south-north migration and 'jet-age' asylum since the 1980s, and the corresponding political 'crises' in asylum which have affected both industrialised and developing states during the 1980s and 1990s, have led northern states to increasingly seek extraterritorial solutions to the 'refugee problem'.[29] At a rhetorical level, at least, states such as the UK, Denmark and the Netherlands have engaged in debate on the need to reallocate resources from their domestic asylum policies towards 'protection in regions of origin'.[30] The engagement of European states with the 'external dimension'[31] of the refugee problem is part of the recognition of a wider trend of increasing interdependence between north and south, in which the ongoing north-south divide is increasingly being identified as having implications for the north in areas such as migration and security.[32] Yet the approach of northern states continues to be dominated by a logic of unilateralism and containment rather than constructive engagement, dialogue and cooperation with southern states. The question is whether the motives underlying this emerging trend towards the internationalisation of asylum policy can be channelled into something more conducive to improving refugee protection.

In this context, UNHCR's Convention Plus initiative, launched by the High Commissioner in 2002 to run from 2003-5, has emerged as an attempt to reconcile the concerns of north and south.[33] It has attempted to do so by placing UNHCR's search for durable solutions within the

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[27] Jacobsen, K (2001), 'The Forgotten Solution: Local Integration for Refugees In Developing Countries', *New Issues In Refugee Research*, Working Paper No. 45, (UNHCR: Geneva).

[28] Bakewell, O (2000), 'Repatriation and Self-Settled Refugees in Zambia: Bringing Solutions to the Wrong Problems', *Journal of Refugee Studies*, Vol. 13:4, pp. 371-2.

[29] Crisp, J (2003b), 'A New Asylum Paradigm? Globalization, Migration and the Uncertain Future of the International Refugee Regime', *New Issues in Refugee Research*, Working Paper No. 100, (UNHCR: Geneva).

[30] For an overview of the various EU proposals that relate to 'protection in regions of origin', see Oxfam (2005), *Foreign Territory: The Internationalisation of EU Asylum Policy*, (Oxfam: Oxford).

[31] Article III-167 (2) (g), for example, of the proposed European Constitution sets out a constitutional basis for an external asylum policy, claiming that there is a need for "partnerships and cooperation with third countries for the purpose of managing inflows of people applying for asylum". www.europa.eu.int

[32] For an analysis of the interconnectedness of north and south in the context of asylum and migration see for example: Castles, S (2003), 'The International Politics of Forced Migration', *Development.* Vol. 46, pp. 11-20; Collinson, S (1999), 'Globalization and the Dynamics of International Migration: Implications For the Refugee Regime', *New Issues in Refugee Research*, Working Paper No. 1, (UNHCR: Geneva).

[33] UNHCR (2004c), 'Convention Plus: At a Glance', www.unchr.ch

context of a multilateral dialogue. The initiative was conceived in the aftermath of the Global Consultations and was launched immediately prior to the publication of the Agenda for Protection, ostensibly as an attempt to supplement the 'gaps' in the 1951 Convention and to promote burden-sharing and the search for durable solutions. In practice, its launch represented an attempt by the High Commissioner to make the organisation relevant to its core donors, emerging partly as an *ad hoc* response to the debate on extraterritoriality in the European context.[34]

Nevertheless, during the two and a half year term of its secretariat, the Convention Plus Unit (CPU), Convention Plus has acquired ever greater coherence. There have been three generic 'strands' to the debate, in which 'special agreements' have been negotiated on an inter-state level: firstly, 'the strategic use of resettlement'; secondly, 'irregular secondary movements' (ISM); thirdly, 'targeted development assistance' (TDA) to improve protection capacities in regions of origin. These three areas have in common that they all relate to the division of protection responsibilities between northern and southern states. Through attempting to create a dynamic relationship between its three main elements, Convention Plus has appealed to the interests of northern states in managed asylum entry and the reduction of onward movement as a means to encourage burden-sharing in the form of targeted development assistance and resettlement. According to Jean-François Durieux, the Head of the CPU, "what we [UNHCR] see as positively exploitable, if you wish, is not the urge to keep people away…it is the urge to control"; the initiative is about identifying "the opportunities at hand in the current state of affairs" and "turning the obstacles into opportunities".[35]

Although its two and a half year term has greatly limited its substantive achievements, the initiative's conceptual innovations pose significant questions for the prospects of achieving north-south cooperation in the context of globalisation. In particular, Convention Plus highlights the possibility that appealing to and channelling the interests and concerns of northern and southern states may lead to complementary outcomes that benefit both north and south, and simultaneously enhance refugee protection. This approach poses crucial questions about the conditions under which north-south cooperation is possible, the methods that are available to an organisation like UNHCR to foster such cooperation and the risks that may accompany appealing to state interests in this way.

The Academic Debate on North-South Cooperation

In many ways, the questions raised by Convention Plus on the prospects for north-south cooperation were debated in the context of the Refugee Law Reformulation Project.[36] The project started from the premise of the need to overcome a "crisis" in the global refugee regime, exemplified by the emergence of *non-entrée* policies in north and south, and the lack of international burden-sharing in cases of mass influx.[37] In order to overcome this crisis, it explored historical precedents such as ICARA, the CPA and CIREFCA, and models of cooperation from the global environmental regime as a means to derive recommendations for how the global refugee regime should be restructured.[38] One of the main arguments to emerge from the project was the idea that "common but differentiated responsibility" offers a means to reconcile divergent but complementary interests between different groups of states in a way

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[34] For an analysis of the almost symbiotic relationship between the development of Convention Plus and the 'UK Proposals' on extraterritorial processing see, for example, ICAR (2004), *Regional Protection Zones and Transit Processing Centres* (ICAR: London), www.icar.org.uk
[35] Interview with Jean-François Durieux, Head of the Convention Plus Unit (CPU), UNHCR, Geneva, 7/9/04.
[36] The main work to emerge from the project was the edited volume Hathaway, J (ed) (1997). *Reconceiving Refugee Law* (Martinus Nijhoff: The Hague).
[37] Center for Refugee Studies (CRS) (1996), pp. 5-8.
[38] *Ibid*, pp. 11-23.

that can foster positive sum outcomes from cooperation.[39] However, although the project set out to engage with both normative and political questions, the majority of the work subsequently published focused primarily on the question of how the regime *should* be restructured to the detriment of considering how to achieve inter-state consensus on implementation. It was perhaps partly for this reason that the project had little lasting legacy in policy and practice.

The notable exception to this was the work of Suhrke, who did engage with the question of north-south cooperation from an international relations perspective both during and in the aftermath of the Reformulation Project.[40] In particular, she claims that the prospects for international cooperation are extremely limited. Drawing on Noll's work on asylum policy in the European Union, she argues that the regime can be characterised by Prisoner's Dilemma, in which "two parties try to save themselves through unilateral action rather than accepting the costs which accompany the benefits of cooperation".[41] Outside of a strong and enforceable institutional framework, states will act in accordance with their immediate self-interest rather than cooperate. Given this 'collective action failure', free-riding is likely to continue to be pervasive, she argues. Only in cases such as the Post-Second World War Resettlement Scheme and the resettlement of Vietnamese refugees after 1975, where national interest or hegemony have been present, has cooperation been possible. However, her conclusions are, to a large extent, the result of the relatively narrow theoretical approach that she takes, exploring only a very small part of the insights available from the international relations literature relevant to international cooperation.

It is important to revisit the question of the prospects for international cooperation between north and south for two principal reasons. Firstly, there have been significant conceptual and political developments since the Reformulation Project. For example, the increased acknowledgement of north-south interdependence that has accompanied the 'War on Terror', the Millennium Development Goals and the new approaches to asylum developed at a UNHCR and European Union (EU) level highlight the extent of change. Crisp's analysis, in particular, begs the question of whether 'a new asylum paradigm' has emerged to the extent that new opportunities are available to overcome collective action failure which did not previously exist. Secondly, reassessment is important because adequately understanding the conditions conducive to cooperation requires a more thorough engagement with the international relations literature relevant to international cooperation than has occurred so far. None of Hathaway, Suhrke or the authors subsequently engaged with the question of burden-sharing in the EU context[42] have fully explored the insights available from this wider theory.

The Focus of this Paper

This paper seeks to answer the question of whether north-south cooperation is possible in the area of the targeting of development assistance to host states to improve protection capacities in regions of origin and, if so, under what conditions?

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[39] This is most clearly explained in Hathaway, J and Neve, A (1997), 'Making International Refugee Law Relevant Again: A Proposal For Collectivized and Solution-Oriented Protection', *Harvard Human Rights Journal*, Vol. 10.

[40] Hans, A and Suhrke, A (1997), 'Responsibility-Sharing', in Hathaway, J (1997). *Reconceiving Refugee Law* (Martinus Nijhoff: The Hague), pp. 83-109; Suhrke, A (1998), 'Burden-Sharing During Refugee Emergencies: The Logic of Collective Action Versus National Action', *Journal of Refugee Studies*, 11:4, pp. 396-415.

[41] *Ibid*, p. 399.

[42] See the special edition of the *Journal for Refugee Studies* on 'European Burden-Sharing and Forced Migration'; in particular, Thielemann, E (2003), 'Between Interests and Norms: Burden-Sharing in the European Union', *Journal of Refugee Studies* , Vol. 16:3, pp. 253-273.

Given that the TDA debate is the contemporary focus of international responsibility-sharing, it is taken as a case study for exploring the broader debate on the prospects for north-south cooperation in the global refugee regime.

The paper focuses specifically on Geneva, as the locus of north-south meeting in the international system. This is significant because generally work on international cooperation in the refugee regime has been undertaken in abstraction from analysis of the political and institutional context in which negotiations take place. The methodology of the paper is qualitative and inter-disciplinary, being based on a 5-week research trip to Geneva in September and October 2004. Firstly, it is based on semi-structured interviews with around 30 UNHCR, Non-Governmental Organisation (NGO) and state representatives engaged in the contemporary Convention Plus debate. Secondly, it is grounded in participant observation, based on having attended meetings such as the Convention Plus Forum, UNHCR's Executive Committee and bilateral meetings relating to the TDA debate as an intern to the UK Permanent Mission to the United Nations Office at Geneva (UNOG). Thirdly, it is based on archive research on the past precedents of host state-focused TDA, carried out at UNHCR.

The paper argues that, although current and past attempts to achieve cooperation of targeting development assistance to host states have polarised along north-south lines, north-south cooperation *is* possible and that there is no inevitability to Suhrke's characterisation of the regime as condemned to collective action failure. Rather, historical and theoretical reflection highlight that if appropriate lessons are drawn, the interests of north and south can be channelled into cooperative outcomes that may be beneficial to improving refugee protection in regions of origin. This case is made in two linked parts, one empirical and the other theoretical.

The empirical part has three Sections. Section 1 explores the contemporary debate on TDA in the context of Convention Plus. Section 2 analyses the main historical precedent for host state-focused TDA by looking at the two International Conferences on Assistance to Refugees in Africa (ICARA I and II) of 1981 and 1984 in the context of the Refugee Aid and Development (RAD) debates of the early 1980s. Like the current initiative, the ICARA process focused on using development assistance as a means to enhance refugee protection in Africa, particularly through promoting self-sufficiency and local integration. Section 3 synthesises the two sets of initiatives, undertaking a comparative analysis as a means to explore the lessons that can be derived for north-south cooperation.

The theoretical part applies the international relations literature relevant to international cooperation to analyse the contemporary Convention Plus debate on TDA in light of comparison with the ICARA process. It extends the theoretical scope of the burden-sharing debate beyond the 'rationalist' approach of authors such as Suhrke and Thielemann to examine the inter-state, sub-state and trans-national processes through which state interests may be constructed, reconstructed and channelled in order to promote institutional bargaining and cooperative outcomes. In particular, it explores the concept of *linkages* across issue areas, such as migration, security and development, and the role they can play in interest formation and negotiation. Section 4 therefore relates the wider international relations literature on international cooperation to the burden-sharing literature, upon which it has implicitly and selectively drawn. It highlights the insights available from drawing on unexplored aspects of regime theory. Section 5 applies these theoretical insights to the debate on TDA in the context of Convention Plus as a means to set out an applicable framework for future north-south responsibility-sharing. Aside from summarising the paper's main arguments, the conclusion highlights their relevance for the role that UNHCR, in particular, can play in promoting sustainable north-south cooperation.

SECTION 1: TARGETING DEVELOPMENT ASSISTANCE IN THE CONTEXT OF CONVENTION PLUS

Contrary to many of the narratives subsequently produced by UNHCR, Convention Plus did not initially emerge as a coherent and pre-packaged entity. [43] Rather, it evolved reactively and in response to the initiatives and proposals of a number of key donor states.[44] The three strands draw upon initiatives previously developed within the organisation[45] and, although the relationship between them has become increasingly clearly articulated by the CPU, their original inclusion was mainly attributable to donor priorities rather than a clear conceptual relationship.

The TDA strand, for example, draws upon the concepts outlined in the *Framework for Durable Solutions* and numerous pilots developed outside of the Convention Plus context. Its relationship to the irregular secondary movement (ISM) strand has been formulated largely as a means to attract donor interest.[46] Consequently, it is important to see the current north-south debate on host state-focused TDA within its broader context. This Section therefore divides into three parts. Firstly, it explains the significance of host state-focused TDA, in particular, and the concept's emergence outside of the Convention Plus framework. Secondly, it examines the related European debate on 'protection in regions of origin', which has shaped the current debate on TDA. Thirdly, it draws upon primary interview material to examine the Geneva-level debate on TDA, and, in particular, the insights that it offers for understanding the north-south impasse.

UNHCR and Host State-Focused TDA

Humanitarian assistance and development have conventionally been conceived as distinct areas of both national and global governance. The transition 'gap' between refugee and returnee assistance programs and long-term development efforts has, however, been identified as one of the central limitations of both sustainable repatriation and the promotion of self-sufficiency and permanent local integration. The *Framework For Durable Solutions*, developed by the Division of Operational Support (DOS) of UNHCR, has emerged as a means to better integrate refugees in development planning.[47] It has two explicit aims: firstly, to improve international burden-sharing to build refugee protection and reception capacities in developing states and, secondly, to improve access to durable solutions.

Drawing on the *Framework*, TDA subdivides into two distinct areas: firstly, those approaches that focus on states of origin, based around the so-called '4Rs' ('Repatriation, Reintegration, Rehabilitation and Reconstruction'); secondly, those that focus on host states of first asylum, 'Development Assistance for Refugees' (DAR) and 'Development Through Local Integration'

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[43] UNHCR has constantly updated its public portrayal of Convention Plus as it has acquired conceptual clarity. For example, the online 'Convention Plus: At A Glance' document has been updated on numerous occasions, reflecting the CPU's progress.

[44] For a detailed explanation of the emergence of Convention Plus in relation to these proposals, see Betts, A (2004a), 'The International Relations of the "New" Extraterritorial Approaches To Forced Migration', *Refuge*, 22:1, pp. 58-70.

[45] For example, the work of the resettlement strand built upon the ideas conceived within the Working Group on Resettlement; the ISM strand builds upon the debate on the definition of 'effective protection' which emerged during the Global Consultations and has been extensively discussed within a Department of International Protection (DIP) context; the situation-specific applications of the initiative – for Afghan and Somali refugees - build upon work developed by the Afghanistan Comprehensive Solutions Unit and the Africa Bureau, respectively,

[46] *Ibid.*

[47] UNHCR (2003a).

(DLI).[48] This dissertation focuses exclusively on those aspects of TDA that focus on host countries: DLI and DAR. These are explained in turn.

Support for Local Integration

DLI is intended to promote local integration as a durable solution. In order to support this process, DLI envisages that UNHCR "would solicit additional development assistance" from donors and partners to help facilitate economic self-reliance, socio-cultural integration, and access to legal rights culminating in citizenship.[49] DLI builds on the experience of UNHCR in Mexico during the 1990s when a multi-year development programme was implemented to support the integration of Guatemalan refugees in the states of Campeche and Quintana Roo. DLI has also been applied in Serbia and Montenegro where UNHCR has collaborated with the Government and partner agencies to provide housing, micro-credit facilities and vocational training to locally settled refugees displaced by conflict in the Balkans.[50]

The most prominent example of DLI, though, relates to the so-called Zambia Initiative (ZI), which has been coordinated and monitored by UNHCR since 2002. The project's aim has been to support the Government's ongoing approach by contributing to the development of local infrastructure and social services for the benefit of both refugees and the local community. Water wells, silos for food storage, schools, health facilities, and rural credit schemes have been provided by several donors, with contributions totaling over USD 14 million for some 456,000 persons, including 150,000 refugees. It has been supported by donors such as Denmark, Sweden, Japan, and the USA.[51] Although it has been vaunted as a success by UNHCR, the organisation notably resisted attempts by the Evaluation and Policy Analysis Unit (EPAU) to commission an independent evaluation of the project.

Support for Self-Sufficiency

DAR is defined as "additional development assistance for: improved burden-sharing for countries hosting large numbers of refugees; promoting better quality of life and self-reliance for refugees pending different durable solutions; and, a better quality of life for host communities".[52] In other words, it is about empowering the productive capacities and self-reliance of refugees alongside supporting host country and local community development. DAR is an attempt to provide economic support for the notion of 'self-sufficiency', defined by UNHCR as a situation in which "refugees are able to provide for themselves, their household and community members in terms of food and other needs, including shelter, water, sanitation, health and education".[53] Rather than necessarily leading to full local integration, it may ultimately promote repatriation by better equipping refugees with the skills and sense of autonomy they need to return home. The experience of Angolan refugees in Western Zambia, for example, has shown how refugees have contributed to the local economy, retained the rights to free movement and to earn a livelihood on land provided by the state, and yet have returned home once conditions have allowed.[54]

Jacobsen suggests that self-sufficiency in particular has great potential because of its ability to meet the needs of the host government and local population, as well as those of refugees. If states were empowered to mobilise the human capital of refugees, refugees might become an

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[48] These are analysed in a security context by: Stepputat, F (2004a), 'Refugees, Security and Development', *DIIS Working Paper* No. 2004/11.
[49] *Ibid.*
[50] UNHCR (2004d), 'Serbia and Montenegro: Development Through Local Integration', RLSS/DOS Mission Report 2004/10, www.unhcr.ch
[51] UNHCR (2004b).
[52] UNHCR (2003a).
[53] UNHCR (2004e), *Handbook for Repatriation and Reintegration Activities* (UNHCR: Geneva).
[54] Bakewell (2000).

'asset' to development and state-building, she argues.[55] In many ways, self-sufficiency, when appropriately implemented, represents a means to overcome interim 'warehousing' without necessarily leading to full local integration.

However, although in the context of rural self-settlement in Africa prior to the mid-1980s self-reliance was extensively promoted in states such as Tanzania, it is currently extremely rare. The Ugandan Self-Reliance Strategy (SRS) is the notable exception. Based on Uganda's longstanding approach to making land available to Sudanese refugees for settlement on the basis of "right-of-use-for-the-time-that-they-are-in-exile",[56] the Government and UNHCR jointly established the SRS in 1998. Focusing on the districts of Moyo, Arua and Adjumani in the West Nile Region, the overall goal was to improve the standard of living of the people in those districts *including* that of the refugee populations. The project set out its principal goals as, firstly, "to empower refugees and nationals in the area to the extent that they will be able to support themselves" and, secondly, "to establish mechanisms that will ensure integration of services for the refugees with those of the nationals". The SRS was established as a four-year plan to run between 1999 and 2003.[57]

The SRS has been criticised, though, firstly, for failing to overcome restrictions on the freedom of movement and the segregation engendered by the ongoing settlements policy; secondly, for providing land of extremely variable fertility and then attempting to stop food aid prematurely.[58] However, in comparison to camp conditions across Africa, the SRS has shown the potential to offer solutions in protracted situations. Dryden-Peterson and Hovil,[59] for example, acknowledge that the SRS has been a better option than encampment and conclude that "joint development of refugees and their hosts through a model of local integration…may be the only remaining option for most of the world's refugees, as possibilities for repatriation and resettlement become slim in areas of protracted conflict and tightening of borders in countries of the north".

The 'Protection in Regions of Origin' Debate

Convention Plus, in general, and TDA, in particular, must also be seen within the context of the 'protection in regions of origin' debate that has emerged within the European Union. The increasingly politicised asylum and migration debate within European states has led to growing demand for external solutions to refugee issues as a means to facilitate and legitimate increased control over the spontaneous arrival of so-called 'mixed flows'. As Crisp highlights, the growth in south-north asylum movements since the 1980s has led increasingly to the use of methods of exclusion and deterrence such as detention, welfare restrictions, visa controls, deportation, and carrier sanctions.[60] The failure of such measures to stem the inflow or to mitigate the emerging backlash from the Far Right has led the UK, the Netherlands, Denmark, and the European Commission, in particular, to lead a debate on the prospects for alternative, extraterritorial approaches to refugee issues.[61]

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[55] Jacobsen (2002).

[56] Merkx, J (2000), 'Refugee Identities and relief in an African Borderland: A Study of Northern Uganda and Southern Sudan', *New Issues In Refugee Research*, Working Paper No. 19, (UNHCR: Geneva).

[57] UNHCR (2004f), Report of the Mid-Term Review: Self-Reliance Strategy (SRS 1999-2003) For Refugee Hosting Areas in Moyo, Arua and Adjumani Districts, Uganda, (UNHCR: Geneva).

[58] Dryden-Peterson, S and Hovil, L (2004), 'Local Integration of Refugees and Their Hosts in the Case of Uganda', *Refuge*, Vol. 22:1, pp. 26-38; Kaiser, T, Hovil, L and Lomo, Z (2005), 'The Local Settlement System, Freedom of Movement and Livelihood Opportunities For Refugees in Arua and Moyo Districts', *Refugee Law Project Working Paper*, University of Makerere.

[59] Dryden-Peterson and Hovil (2004), p. 35.

[60] Crisp (2003b).

[61] Diplomatic representatives of all three governments acknowledge that the three states have cooperated on a bilateral, European and IGC level to develop innovate extraterritorial approaches. Interviews with various diplomats, Geneva, September-October 2004.

Convention Plus is, to a large extent, a response to this debate. As the High Commissioner's Special Adviser, Bartjan Wegter, acknowledges,

> Convention Plus clearly has some of its inspiration in the European context where asylum numbers are going down and there is a restrictive stance…People tend to think we [UNHCR] are a bit Europe-centric. I'm a little bit more realistic there. I don't have a problem with being Europe-centred. I think these are overall our biggest donors. Now if they are faced with certain problems I think we should respond because these countries are instrumental in bringing about the durable solutions that we say are needed.[62]

The UK Proposals

Convention Plus was consequently launched in Copenhagen in the context of an EU Justice and Home Affairs (JHA) meeting in September 2002. Indeed, it emerged alongside, and was seen by some as synonymous with,[63] the so-called 'UK Proposals' for extraterritorial processing and protection in Transit Processing Centres (TPCs) and Regional Protection Zones (RPZs). The UK's proposals directly invoked UNHCR's Convention Plus as the source of their legitimacy, claiming, for example, "this new approach draws on the UNHCR's plans for modernisation of the international protection system (Convention Plus)" and that "it would build on work already underway in UNHCR (Convention Plus)".[64] Soon after, High Commissioner, Ruud Lubbers met with Tony Blair in London to discuss the proposals and UNHCR posited a 'counter-proposal' in its 'three prongs' for transit processing centres *within* the EU's external borders.[65] The parallel relationship between the two initiatives was only questioned by UNHCR in the light of, firstly, widespread NGO criticism[66] and, secondly, a meeting between Swedish Minister for Development Cooperation, Jan Karlsson, and the High Commissioner in which Karlsson warned Lubbers that continued bilateral negotiations on the 'UK Proposals' might threaten Swedish commitment to UNHCR.[67] The UK's unilateral approaches to Tanzania and South Africa to negotiate on implementing RPZs to which Somali refugees could be returned were rejected with derision by the southern states.[68]

After the rejection of the 'UK proposals' by Germany and Sweden at the Thessaloniki European Council in June 2003, UNHCR began to clarify Convention Plus in contradistinction to the UK position.[69] The EU states' own ideas about the concept of 'protection in regions of origin' began to evolve away from transit centres. The first High Commissioner's Forum at the end of June clarified the content of the three strands. Meanwhile, Thessaloniki Conclusion 26

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[62] Interview with Bartjan Wegter, Special Advisor to the High Commissioner, 30/9/04.

[63] *The Economist*, for example, defined Convention Plus as an "attempt to separate the concept of protecting asylum-seekers, to which the convention binds them [states], from that of admitting them to the country they want to go to", a definition widely regarded by UNHCR as more applicable to the UK Proposals. 'Special Report on Asylum', *The Economist*, March 15, 2003, pp. 35-38.

[64] UK Government (2003), 'New International Approaches to Asylum Processing and Protection', 10/3/03, www.statewatch.org/news/2003/apr/blair-simitis.asile.pdf

[65] UNHCR (2003b), 'UNHCR's 3-Prongs Proposal', Working Paper, www.unhcr.ch

[66] Amnesty International (2003), *Unlawful and Unworkable – Amnesty International's Views on Proposals for Extra-Territorial Processing of Asylum Claims*, http://web.amnesty.org/library/index/engior610042003;

[67] Interview with Mark Cutts, Former Special Assistant to Ruud Lubbers, 17/9/04, Geneva.

[68] The Tanzanian Ministry of Home Affairs, for example, set-out a press release on 26 February 2004 dismissing the UK's proposals. On file with the author.

[69] Janowski, K (2003), 'UNHCR Asylum Policy: Setting the Record Straight', June 2003, www.unhcr.org.uk/press/press_releases2003/pr2oJun03.htm.

invited the European Commission "to examine ways and means to enhance the protection capacity of regions of origin".[70]

The resulting Commission Communication of June 2004 argues for improved coordination between the EU's internal and external governance of refugees. In particular, it suggests the need to financially "assist countries in becoming robust providers of effective protection"[71] through its B7-667/AENEAS budget line for cooperation with third countries in areas of asylum and migration. Among the elements of protection that it intends to develop are legal and reception capacity and, significantly, "support for self-reliance and local integration".[72] It urges that "improved safety and availability of and access to means of self-reliance are particularly relevant to avert secondary movements, and is an important precursor to a durable solution". It suggests that "the overall aim of such an approach should be to better manage asylum related flows".[73] Within this context, it is the initiatives of the Dutch and Danish Governments which are driving much of the 'protection in regions of origin' debate at both a European and UNHCR level. These can be explained in turn.

The Dutch Proposals

In its capacity as rotating President of the European Council of Ministers, the Dutch Government has outlined its vision for 'protection in regions of origin'. It hosted a Presidency Conference on Asylum, Migration and Frontiers in Amsterdam in September 2004 at which Van Selm outlined the need to build protection capacities in host states of first asylum through enhancing their political, legal, administrative, social, and economic infrastructures.[74] At the workshop, the closing statement argued that this represented "a shift from a European *asylum* policy to a European *refugee* policy".[75] The justification for the approach has been given in terms of resource allocation. Liesbeth Bos of the Dutch Justice Ministry argued that "we are not spending our money in the right place, nor are we spending it on the right people".[76] The argument put forward by the Justice Ministry is based on the logic that spontaneous arrival asylum is, firstly, disproportionately expensive in comparison to protection in regions of origin; secondly, it does not normally provide protection to the least vulnerable; thirdly, only a minority of claimants are adjudged to be refugees. The proposals are therefore justified in opposition to the current spontaneoeus arrival asylum system.[77] This was further illustrated by a Dutch representative in Geneva's claim that "we believe that by improving protection in the region, it will be easier for us to deal with those arriving in the Netherlands, or in Europe, and therefore get a better grip on the 'mixed flows'".[78]

However, so far the proposals themselves are almost non-existent. When he was asked to clarify the details of the proposals, the Dutch Foreign Minister, Bernard Bot, said that the policies would "Try to create in the regions, safe havens where we can receive these people who otherwise would migrate". He justified the policy primarily in terms of the need to avoid

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[70] European Commission (2004), Communication on *Improving Access To Durable Solutions: On the Managed Entry in the EU of Persons in Need of International Protection and the Enhancement of the Protection Capacity of the Regions of Origin*, COM (2004) 410 final, 4/6/04.

[71] *Ibid*, para. 42.

[72] *Ibid*, para. 44.

[73] *Ibid*, para. 38.

[74] Van Selm, J (2004a), 'Access To Durable Solutions', Policy Brief 2, Dutch Presidency Conference on Asylum, Migration and Frontiers, September, www.migrationpolicy.org

[75] Closing statement to the Dutch Presidency Conference on Asylum, Migration and Frontiers, Amsterdam, September 2004. On file with the author.

[76] Liesbeth Bos of the Dutch Justice Ministry presented the justification for the proposals at a pre-conference workshop at the International Association for the Study of Forced Migration (IASFM) in Sao Paulo, Brazil on 9 January 2005.

[77] *Ibid*.

[78] Interview with representative of the Dutch Government (anonymity requested), Geneva, 16/9/04 (interview on cassette with the author).

the EU being "indundated", admitting in terms of motivation that "we are no choirboys". However, he was unable to give any example of where this could be applied other than to suggest that it might have been useful had it been in place during the humanitarian crises in Darfur and the Ivory Coast.[79]

Similarly, in interview, the Dutch diplomat responsible for negotiations in Geneva admitted that there had been no bilateral contact with potential host states. The only definition that she was able to give of what 'protection in the region' might mean was: "It means that we would support any activity that would make it possible for refugees to get access to protection in countries close to their home…what more can I say?".[80] Both she and Liesbeth Bos argue that this lack of detail is because the Dutch are attempting to pursue the approach through a multilateral EU and UNHCR framework in the first instance. Consequently, the proposals remain vague and have been developed in abstraction from consultation with 'the regions'.

The Danish Approach
In 2003 the Danish International Development Agency, DANIDA, launched a bilateral initiative known as '*Naeromraadestrategien*', which imperfectly translates as 'near region activities'. According to the Danish Government, "it aims to promote durable solutions for refugees by integrating refugees in development programmes through a combination of multilateral and bilateral activities in close cooperation with the Governments of the host countries". It agreed a new US$35m budget line with the Foreign Ministry to run from 2003-5. DANIDA built on its existing presence in fifteen 'Programme Operation Countries' to select a number of case studies on which to focus. Its criteria for choosing the states were, firstly, DANIDA presence; secondly, the presence of a substantial refugee population; thirdly, host government support. The initial cases chosen were Zambia, Tanzania and Uganda as host states of first asylum and Somalia and Sri Lanka as states of origin.[81]

As with the Dutch policies, the Danish approach is in part motivated by a containment agenda, based upon the election of the right wing Fogh-Rasmussen coalition in 2001. The Deputy Permanent Representative in Geneva, Ole Neustrup, acknowledged that the domestic agenda has played a significant role, invoking the same trade-off with spontaneous arrival asylum inherent to Dutch justifications in claiming, "clearly, you can help more people for less money in the region than you can in Europe. That is a fact of life".[82] The merger of Minister for Immigration Bertel Haarder's portfolio with that of the Minister for Development, the massive restrictions imposed on spontaneous arrival asylum and the overall cuts in overseas development aid as a proportion of GNP all highlight the coalition's underlying containment agenda.

However, there are also some significant differences that contrast the approach with that of the Dutch. The first major difference concerns the internal government dynamics and the role of the civil service in the proposals. The Danish approach has been largely *'bottom-up' rather than 'top-down'* within government. In other words, rather than being led by politicians with civil servants trying to provide *post hoc* policy to fit the rhetoric, as has been the case with the Dutch/EU proposals, the Danish approach has been led to a large extent by the civil servants in

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[79] Dr Bernard Bot, Dutch Foreign Minister, response to question from the author, European Studies Seminar, St Antony's College, Oxford, 1/12/04.
[80] Interview with representative of the Dutch Government (anonymity requested), Geneva, 16/9/04 (interview on cassette with the author).
[81] Interview with Ole Neustrup, Minister Counsellor, Deputy Permanent Representative, Denmark, Geneva, 17/9/04; UNHCR (2004g), 'Convention Plus: Targeting Development Assistance To Achieve Durable Solutions For Refugees', FORUM/2004/3, 17/2/04.
[82] Interview with Sylvester Parker-Allotey, Deputy Permanent Representative, Ghana. Geneva, 16/9/04.

DANIDA. As Anita Bundegaard, the former Danish Development Minister, explained in interview, the development policies exist to a large extent *in spite of rather than because of* the right wing coalition. The basis of the ideas pre-dates the current Government and has been largely directed by DANIDA, with civil servants attempting to insulate them from growing political pressure.[83] The humanitarian influence of DANIDA is also illustrated by the fact that Minister Haarder was persuaded to propose the establishment of a UN Global Facility For Voluntary Repatriation.[84] The second significant difference in comparison to the Dutch approach is that *Naeromraadestrategien* has been predominantly *bilateral rather than multilateral*. It has therefore sought to actively incorporate dialogue with host governments into its approach. This is exemplified by the ministerial level meeting which Denmark jointly hosted with the Ugandan Government in Geneva on 5 October 2004 to promote DAR.[85]

The Geneva-Level Debate

The intention of the TDA strand as a whole is to incorporate refugees within development assistance programmes at both the national and global governance levels. Unlike the other two strands, the work has been less concentrated around debate within a core group of states. Its work has been led more directly by UNHCR and the two facilitating states (Denmark and Japan), which have attempted to generate donor and development agency interest. Denmark and Japan presented a discussion paper at the second Convention Plus Forum in February 2004 explaining their own bilateral experiences[86] and UNHCR produced an Issues Paper on TDA in June[87], which was discussed within an informal meeting of donors and development agencies in Geneva on 22 September. The Issues Paper highlights the protection deficiencies that result from the so-called 'gap' between humanitarianism and development and attempts to identify the means within existing structures to allow development actors to be involved in displacement issues at an earlier stage.

In contrast to the debate on the 4Rs, for which consensus between donors, hosts, countries of origin, and development agencies has been relatively easy to achieve,[88] discussions on DAR and DLI have proved difficult. This is because whereas repatriation is widely accepted as 'the most desirable durable solution', local integration, whether presented as interim or permanent, is far more likely to be resisted by host states concerned by the economic, political, environmental, and security implications of moving beyond encampment. Fostering the conditions in which those concerns can be adequately addressed and the use of 'warehousing' reduced is dependent upon achieving north-south international cooperation and inter-agency coordination. In this sense, successfully using DAR and DLI to overcome 'warehousing' represents a north-south international cooperation problem to which obstacles remain to be overcome.

Through Convention Plus, UNHCR has attempted to build upon the bilateral initiatives fostered by the facilitating states of the strand – Denmark and Japan. Denmark has agreed, for example, to provide development assistance for Sudanese refugees in northern Uganda in

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[83] Interview with Anita Bundegaard, Special Adviser on External Relations, DCI, UNHCR and former Danish Minister for Development, UNHCR, Geneva, 14/9/04.

[84] Interview with Jean-François Durieux, Principal Adviser, Head Convention Plus Unit, Sao Paulo, Brazil (IASFM Conference), 11/1/05.

[85] Attended by the author.

[86] UNHCR (2004g).

[87] UNHCR (2004h), 'Convention Plus Issues Paper on Targeting Development Assistance', Draft, UNHCR, June 2004.

[88] For instance, the World Bank's James Wolfensohn met with Ruud Lubbers in Washington in May 2004 to discuss overlaps between 4Rs and the Bank's 'Post-Conflict Fund' (established as early as 1997) and its new LICUS ('Low Income Countries Under Stress') Fund. As a result of successful inter-agency collaboration and commitment by donors, it has already been possible to apply the '4Rs' in cases such as Sri Lanka, Afghanistan, Sierra Leone, and Eritrea.

support of the host country's SRS and for its *Naeromraadestrategien* to be used to promote DAR. Meanwhile, Japan is exploring offering development assistance to pilot the use of self reliance for Somali refugees in Ethiopia.[89] However, few new projects have emerged. Ecuador has been mooted as a possible recipient for DAR at the Mexico City Conference to celebrate the 20th anniversary of the Cartagena Declaration in November 2004, where it was suggested that a UN inter-agency assessment of the border provinces might allow Colombian refugees to be included with development plans for the west of the country.[90] Beyond its catalytic role, UNHCR is also emerging as a potential applicant to the bilateral budget lines that are emerging, in order to channel funds to specific situations. For example, in September 2004 it received funding from the EC's B7-667/AENEAS line for a protection-capacity building project jointly submitted by the Department for International Protection (DIP) and the Convention Plus Unit (CPU). The one-year project focuses on Kenya and Tanzania as states with protracted refugee situations and Benin and Burkina Faso as emerging resettlement countries.[91]

However, the debates so far reveal the difficulties in applying such an approach more widely. The informal meeting of donors on the 22 September 2004 highlighted the lack of commitment to provide additional resources on the part of northern states and donors, while interviews with, and statements by, many southern states highlight suspicion of the motives behind the proposals and a reluctance to countenance any form of self-sufficiency or local integration. In the context of north-south polarisation the prospects for inter-agency collaboration are constrained. The obstacles to cooperation in the current debate can be explored in three broad areas: north, south and inter-agency partnerships.

North

The main hurdle has been the lack of willingness on the part of potential donor states to commit to providing additional development assistance (known as 'additionality'). As Jean-François Durieux remarked in interview, "the real stumbling block will be on additionality; absolute additionality cannot be guaranteed and this is potentially a serious blockage".[92] Yet, as the Danish Ambassador to UNOG observed, the key to promoting DAR or DLI is "creating the offer you [host states] can't refuse" through additional resources.[93] However, even the two leading states in the 'protection in regions of origin' debate, Denmark and the Netherlands, are reluctant to commit new money. As Neustrup said in relation to the Danish position, "additionality is a difficult word for us because now, as you know, we have a right wing Government. They have decided to cut down on our overall development assistance levels. That means you cannot just find additional funds; you have to take them from somewhere."[94] Similarly, a representative of the Netherlands confirmed that a Dutch commitment to additionality will not be possible: "it would be much more along political lines that we would try to influence the debate than by providing extra money".[95] Yet, as the Norwegian Ambassador argued at the meeting on 22 September 2004, additionality is crucial because

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[89] UNHCR (2004i), 'Progress Report: Convention Plus', 3rd Convention Plus Forum, FORUM/2004/5, 1/10/04.

[90] Interview with Jean-François Durieux, Principal Adviser, Head Convention Plus Unit, Sao Paulo, Brazil (IASFM Conference), 11/1/05.

[91] Interview with Ninette Kelley, The Convention Plus Unit, UNHCR, Geneva, 18/9/04; 'Project Description: Strengthening Protection Capacity Project', On file with the author.

[92] Interview with Jean-François Durieux, Principal Adviser, Head Convention Plus Unit, 7/9/04, UNHCR, Geneva.

[93] Comments by the Danish Ambassador, Informal Meeting On Issues Involved In Targeting Development Assistance, Palais des Nations, Room VIII, Geneva, 22/9/04.

[94] Interview with Ole Neustrup, Minister Counsellor, Deputy Permanent Representative, Denmark, Danish Mission, Geneva, 17/9/04.

[95] Interview with representative of the Dutch Government (anonymity requested), Geneva, 16/9/04 (interview on cassette with the author).

developing states will otherwise be unwilling to allocate long-term funds to areas that would otherwise be covered by humanitarian assistance.[96]

The inability to commit to provide new resources for the initiative stems from a disjuncture between the Geneva-based process and the capitals of potential donor states. Mikael Lindvall of Sweden stressed that his state's position was to "wait and see"[97] what emerges and "join when we see progress in terms of practical work".[98] This can in turn be attributed in large part to the absence of 'joined-up government' on a national level. As a result of the lack of cross-departmental coordination on refugee issues, many Geneva diplomats have not been given a clear mandate or received a coherent response from government. The separation of development issues from refugee issues at a national level is exemplified by the responses of the UK and Swedish governments. In the UK context, for example, the British Foreign and Commonwealth Office (FCO) representative, John Webster, has not even been under instructions in relation to the TDA debate because of the absence of dialogue between the FCO, Department for International Development (DFID) and the Home Office on the issue.[99] Lindvall commented that there were similar divisions in the Swedish government, with the Foreign Ministry supportive of the principles underlying TDA, but the regional bureaux of the Swedish International Development Agency (SIDA) remain unconvinced.[100] The difficulty for DFID and SIDA, in particular, has been in identifying how committing resources to the initiative would contribute to their own specific poverty alleviation mandates. Jeremy Stickings of DFID suggested that it was extremely difficult to 'sell' TDA to the Africa Desk in London without a clear idea of how it will fit in with this mandate.[101]

South

The majority of host states in which mass influxes have led to protracted refugee situations – Iran, Pakistan, Nepal, Thailand, Tanzania, and Kenya, for example – have explicitly stated their reluctance to consider self-sufficiency or local integration. Indeed, in interviews with their representatives they were largely impassive to the notion of moving beyond encampment. The Vice-President and Home Affairs Minister of Kenya argued in the ExCom General Debate that:

> We are aware of the concerns which have been raised relating to the policy of encampment. It has been argued that this policy denies refugees the right to move freely and to engage in productive activities. While there may be a case for a review of this policy, it must be borne in mind that the reality on the ground in certain countries like mine is that encampment cannot be avoided. The sheer numbers of refugees, the long and porous borders, with similar ethnic groups living across borders, security concerns etc. are some of the factors that make it absolutely essential to encamp refugees. It is only through encampment that refugee programs can be effectively managed and the most vulnerable groups protected.[102]

Beyond the common reiteration of the need for encampment as a "necessary evil",[103] there were a number of other common positions revealed in interview. Firstly, southern state representatives contested the idea that refugees could be 'agents of development' rather than 'burdens'. The Iranian representative, for example, claimed "We do not accept the idea of

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[96] Comments by the Norweigian Ambassador, Informal Meeting On Issues Involved In Targeting Development Assistance, Palais des Nations, Room VIII, Geneva, 22/9/04.
[97] Interview with Mikael Lindvall, First Secretary, Humanitarian Affairs, Swedish Mission, Geneva, 17/9/04.
[98] Comments by Mikael Lindvall, Informal Meeting On Issues Involved In Targeting Development Assistance, Palais des Nations, Room VIII, Geneva, 22/9/04.
[99] Interview with John Webster, Second Secretary, UK Mission, Geneva, 7/10/04.
[100] Interview with Mikael Lindvall, First Secretary, Humanitarian Affairs, Swedish Mission, Geneva, 17/9/04.
[101] Interview with Jeremy Stickings, Senior Social Development Adviser, DFID, Geneva, 7/10/04.
[102] Statement of Mr Moody Awori MP, Vice-President and Home Affairs Minister of Kenya ExCom, Geneva, 4/10/04.
[103] Interview with Nadhavanthra Krishnamra, First Secretary, Thailand, Geneva, 6/10/04.

accepting refugees as agents of development. How, when refugees need protection and assistance, can you call them agents of development? Particularly in protracted situations?".[104] The Thai representative argued that mobilising refugees in development planning would require major planning to adjust, and that the current proposals by UNHCR were unrealistically ambitious in that respect. He also emphasised the problem posed by competition for resources with local populations, both for employment and natural resources. Secondly, TDA was commonly suspected to be motivated by 'burden-shifting'. The Tanzanian perspective strongly exemplifies this position. In interview, the Minister for Home Affairs, Omar Mapuri, pointed to Tanzania's experience since the late 1970s of using local integration:

> We have had a bitter experience in this…It provided income generating activities and open markets to them. But immediately once we introduced that, then the international community washed its hands. So they left the whole burden with us. We fully provided education, health services, water and all other social services to these settlements. And when we invite the international community to come in they say 'we are preoccupied with the asylum-seekers'. True, we understand that and we have not been complaining about it. But, of late, Zambia and Uganda came with a similar arrangement and it is being treated as something new [laughter]. For the first time in the world the international community is experiencing self-reliance to help refugees.[105]

Indeed, suspicion about the motives underlying the policies was heightened by the exclusion of the southern states from the meeting on the 22 September 2004. An African Group statement to the Convention Plus Forum emphasised this, stating that "we wish to caution that the work in this strand should be transparent and also include the participation of refugee-hosting countries".[106] Thirdly, there was widespread scepticism regarding the supposed distinction between the concepts of self-reliance and local integration. As the Thai representative put it, "We fear that it may be just – to put it frankly – an indirect route to local integration, which it should not be".[107] The majority of host state representatives simply talked about the proposals as though they constituted *permanent* local integration. Fourthly, while UNHCR has, in the words of the Danish Ambassador, tried to "create some success stories so we can create some momentum",[108] a number of states argue that the examples of Zambia and Uganda are unique and have limited wider applicability. Peter Kimanthi, the Deputy Secretary to the Department For Refugee Affairs in Nairobi, suggested that whether self-sufficiency is viable "will all depend on individual countries". He claimed that in contrast to Uganda and Zambia, only about 20% of Kenya's total land is arable.[109]

Inter-Agency Partnerships
Development governance is contingent on prior inter-state agreement and in the absence of consensus between donor and host, UNHCR has found it difficult to achieve concrete partnerships with development agencies. Ewen Macleod of UNHCR's Afghanistan Comprehensive Solutions Unit argues this has been the problem in Pakistan where attempts by UNHCR to incorporate the United Nations Development Programme (UNDP) have failed because of Pakistan's unwillingness to move beyond a humanitarian paradigm. As he put it: "The first step is changing the policy paradigm at government level. In parallel, of course, we have had discussions with development agencies and donors, but invariably the refrain is 'ah,

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[104] Interview with Sayed Mohammed Sadati Nejad, Third Secretary, Iranian Permanent Mission, Geneva, 5/10/04.
[105] Interview with The Hon. Omar Mapuri, MP, Minister for Home Affairs, Tanzania, Geneva, 7/10/04.
[106] Statement delivered on behalf of the African Group by Mr Sylvester Parker Allotey, Deputy Permanent Representative of the Ghanian Mission, Convention Plus Forum, 1/10/04. On file with the author.
[107] Interview with Nadhavanthra Krishnamra, First Secretary, Thailand, Palais des Nations, Geneva 6/10/04.
[108] Comments by the Danish Ambassador, Informal Meeting On Issues Involved In Targeting Development Assistance, Palais des Nations, Room VIII, Geneva, 22/9/04.
[109] Interview with Peter Kimanthi, Deputy Secretary. Dept. For Refugee Affairs, Min. of Home Affairs, Kenya, Geneva, 8/10/04.

we need the Government of Pakistan to come forward and say we require this'".[110] This is particularly the case from a UNDP perspective. Betsy Lippman, for example, explained in interview that the organisation's involvement relies upon a project being premised upon "recipient state ownership" and also donor involvement.[111] At the meeting on the 22 September 2004 she therefore argued that the key to making DAR and DLI viable is first " to convince governments and provide more convincing studies to show to governments that refugees are not just burdens but a potential asset".[112]

Meanwhile, the position of the World Bank is more problematic. Although it has more autonomy and a far larger budget than UNDP, host-state TDA, unlike the 4Rs, does not fit within its existing programs or budget lines. While the 4Rs is linked to the Bank's agenda on post-conflict transition, refugee protection is less of a priority. The Bank's representative stated at the 22 September meeting that it will only become involved with displacement issues "where they constitute a binding constraint on economic and social development".[113] This is in line with the Bank's mandate of dealing directly with recipient governments on behalf of the interests of its shareholders.[114] In the case of both the UNDP and World Bank, agency involvement is therefore contingent on first achieving inter-state agreement.

Beyond Polarisation?

Therefore, in the context of the Convention Plus strand on TDA, there have been divergences in interests between northern donor states and southern host states. Although a number of European states have been keen to promote the concept of 'protection in regions of origin', this has been largely motivated by a containment agenda and even the states leading the debate have been reluctant to commit additional financial resources. So far, the UK's and the Netherlands' interest in regional protection have been largely rhetorical and there has been an absence of dialogue with southern states. As the debacle of Tanzania's public rejection of the approach by the UK and the African Group's statement about southern exclusion from the 22 September 2004 meeting illustrate, this failure to talk to 'the regions' has alienated southern governments.

Although Denmark and Japan have been active in leading debate at the Geneva level and have attempted to develop the application of DAR in relation to Uganda and Ethiopia respectively, other northern states have adopted a 'wait and see' attitude, lacking sufficient policy coherence between Geneva and the capital or between development, home affairs and foreign affairs departments to fully engage with the TDA debate.

Meanwhile, other than Zambia and Uganda, southern states have generally been reluctant to countenance interim local integration or self-sufficiency, suspicious that it may be a form of burden-shifting. Interviews with state diplomats revealed that southern states were not persuaded by the claims that refugees could become 'agents of development', that the Zambia or Ugandan cases had wider applicability, that a distinction could be drawn between the concepts of self-reliance and permanent local integration, or that the proposals were motivated

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[110] Interview with Ewen Macleod, Senior Policy Advisor, Development and Technical Cooperation, Afghanistan Comprehensive Solutions Unit, CASWANAME, UNHCR, Geneva, 21/9/04.
[111] Interview with Betsy Lippman, Senior Field Advisor, Bureau For Crisis Prevention and Recovery, UNDP, Geneva, 6/10/04.
[112] Betsy Lippman, UNDP, comments at the Informal Meeting On Issues Involved In Targeting Development Assistance, Palais des Nations, Room VIII, Geneva, 22/9/04.
[113] World Bank representative comments to the Informal Meeting On Issues Involved In Targeting Development Assistance, Palais des Nations, Room VIII, Geneva, 22/9/04.
[114] Sindzingre, A (2004), 'The Evolution of the Concept of Poverty in Multilateral Financial Institutions: the case of the World Bank', in Boas, M and McNeill, D (eds), *Global Institutions and Development: Framing the World?* (Routledge: London), p. 175.

by sincere responsibility-sharing. In other words, the majority of host states in 'regions of origin' were deeply suspicious of the motives of northern states. In the absence of agreement between donors and hosts, inter-agency collaboration has proved equally elusive. The achievements in relation to country of origin-related TDA have consequently not been replicated with respect to host states.

Given this current impasse, the remainder of the paper explores the lessons for north-south cooperation on TDA that can be derived from, firstly, historical analysis and, secondly, theoretical reflection. The next two Sections assess the insights available from analysing the relevant historical precedents for host-state focused TDA. In particular, the debates on 'refugee aid and development' (RAD) which took place in the context of the two International Conferences on Assistance to Refugees in Africa (ICARA I and II) are shown to offer insights for international cooperation which may help to overcome the current obstacles to effective protection in the region of origin.

SECTION 2: 'REFUGEE AID AND DEVELOPMENT' IN THE CONTEXT OF ICARA

Within the context of Convention Plus there have been attempts to analyse past relevant experiences. In particular, these have focused on the lessons from the Indo-Chinese Comprehensive Plan of Action (CPA) and the International Conference on Central American Refugees (CIREFCA), both of 1989. These cases provide insightful past precedents for the application of the generic agreements to situation-specific agreements such as the CPA for Somalis and the 'Afghanistan Plus' initiative. The 1989 precedents are referred to throughout the Convention Plus issues papers and are explicitly used as models for the emerging Convention Plus CPAs.[115] Conspicuously absent from the debate has been any reference to the relevance of and lessons that can be derived from the two International Conferences on Assistance to Refugees in Africa (ICARA I and II) of 1981 and 1984, which fed into the High Commissioner, Poul Hartling's, 'refugee aid and development strategy'. In many ways this imbalanced focus on past precedents is understandable because while the CPAs were largely seen as a success, the ICARA conferences had little lasting legacy and disappointed many of the African states and donor states.[116]

Interviews with major stakeholders in the current debate suggest that there has been little awareness of the ICARA precedents. However, there is an existing body of literature on 'refugee aid and development' (RAD) which emerged in the context of ICARA and which speaks to many of the questions currently being raised in the current debate on host-state-related TDA.[117] This Section draws upon that literature and supplements it through archival research at UNHCR in order to analyse the international relations of the process in the 1980s and the reasons why it resulted in a failure to achieve north-south cooperation.

An analysis of the ICARA process seems of relevance for the current debate on targeting development assistance. Although the focus of ICARA was exclusively on Africa, and Convention Plus is a global multilateral process, the TDA strand debate is currently similarly Afro-centric in its focus and pilots. Moreover, ICARA II's main theme was the search for durable solutions through improved burden-sharing between donor states and African refugee-hosting states, just as is that of Convention Plus. ICARA II addressed the issue of attempting to promote local integration through improving the protection capacity of host states. Like the 'first asylum country'-focused aspects of the TDA debate, it did so by focusing on 'self-sufficiency', 'capacity building' through infrastructural development projects, and building partnerships between UNHCR and development agencies such as UNDP. It even spoke to the issue of 'additionality', showed an awareness of the transition 'gap', and had a '3Rs' ('relief, rehabilitation and resettlement') where TDA speaks of a 4Rs. While the 'Zambia Initiative' is the current local integration 'champion', Tanzania was deployed as ICARA II's success model for its achievements in promoting self-sufficiency. Where the current process is attempting to set-out a 'generic agreement', ICARA II established a 'Final Declaration and Program of Action'. In other words, ICARA had just about all of the elements and language of the current TDA debate (at least in terms of the elements that deal with host states).

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[115] In, for example, 'Statement by Mr Ruud Lubbers, United Nations High Commissioner for Refugee, at the First Meeting of the High Commissioner's Forum', 27 June 2003, www.unhcr.ch
[116] Loescher (2001), p. 228.
[117] See, for example, Stein, B (1987), 'ICARA II: Burden-Sharing and Durable Solutions' in Rogge, R (ed), *Refugees: A Third World Dilemma*, (Rowman and Littlefield); Gorman, R (1986), 'Beyond ICARA II: Implementing Refugee-Related Development Assistance', *International Migration Review*, 8:3; Gorman, R (1987), *Coping With Africa's Refugee Burden: A Time For Solutions*, (Martinus Nijhoff: Hague); Cuenod, J (1989), 'Refugees: Development or Relief' in Loescher, G and Monahan, L (eds), *Refugees and International Relations*, (Oxford: Oxford); UNHCR 11, 391.78/215); Gorman, R (1993a), 'Linking Refugee Aid and Development in Africa', in Gorman, R (ed), *Refugee Aid and Development: Theory and Practice*, (Greenwood: London).

However, it is important to note that there were also striking differences in the aims, time frame and political context of the ICARA conferences. Identifying similarities need not therefore point to the inevitability of failure. Nevertheless, there are sufficient parallels to merit an analysis of the similarities and differences. If the lessons of the earlier precedents can be constructively applied, the chances of success in the current process may be improved.

Although ICARA focused upon two one-off conferences, Stein regards ICARA to have ultimately encompassed a "process" spanning a 5-year period, incorporating the 1979 Arusha Conference, a 1980 International Conference on Refugees in Sudan, the 1981 and 1984 ICARAs, and their follow-up known as 'Refugee Aid and Development'.[118] By 1979 the majority of Africa's 3 million spontaneously settled rural refugees were *de facto* locally integrated and supported by the state's own resources and infrastructure. Broadly speaking, the process represents an African-led initiative to seek assistance to help reception states cope with the impact on their economic and social infrastructures of hosting (and having hosted) large rural refugee populations. The initiative led to a multilateral process in which the concept of refugee-related development assistance evolved and was applied as a burden-sharing tool to support refugee settlements and self-reliance activities.

The Arusha Conference

The Arusha Conference on the Situation of Refugees in Africa (7-17 May 1979) was a pan-African conference at which the majority of African states collectively acknowledged their responsibilities as host countries of first asylum and local settlement, reasserting their commitment to the 1969 Organisation of African Unity (OAU) Refugee Convention. However, at the same time, they showed an awareness of the disproportionate burden that they held for refugee hosting in relation to the rest of the international community. The conference advanced a new concept of burden-sharing, calling upon donors to commit to bearing a share of the social and economic infrastructural costs of refugee settlement. The recommendations of the conference also alluded to "the objective of getting refugees out of charity situations into a position of integrated development and self-reliance", advocating training schemes and the promotion of self-employment opportunities for refugees, for example.[119]

ICARA I

ICARA I was therefore, to a large extent, an African-led initiative in which the relatively newly independent African states came to the international community in a spirit of pan-Africanism to call for new burden-sharing. The conference, held 9-10 April 1981, had three stated objectives: 1) to "focus attention on the plight of refugees in Africa"; 2) to "mobilize additional resources to assist both refugees and returnees"; 3) to "aid countries of asylum in bearing the burden imposed upon them by the large number of refugees".[120] Its focus was therefore largely on burden-sharing and it was primarily a pledging conference, setting out few ideas, principles or guidelines. Funding commitments were also relatively short-term in focus.

Bearing in mind the neglect of increasingly protracted rural and border settlements, much of the focus was on meeting basic needs such as food provision. For example, the UNHCR's Chief of West and Central African operations argued that the priority for the funds falling within UNHCR's mandate should focus on "immediate needs" such as shelter, clothing and

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[118] Stein, B (1997), 'Regional Efforts to Address Refugee Problems', Paper presented at the International Studies Association (ISA), Toronto, 21 March.
[119] UNHCR (1984), 'Recommendations From The Pan-African Conference on the Situation of Refugees in Africa', Recommendations 10 (1) and 10 (3c), in particular, set-out the notion of development for integration and self-reliance.
[120] UN General Assembly Resolution 35/42 of 25 November 1980.

blankets[121]; meanwhile $175m of the $560m initially pledged at the conference was earmarked for food aid.[122] The Secretary-General, Kurt Waldheim, proclaimed in his Concluding Statement that the conference had been a comparative success. He claimed, in relation to the conference objectives: "We have made major strides on all three fronts". In commenting on the $560m in conference pledges, he went on, "one may conclude, therefore, that the immediate priority requirements will be met and that a solid base has been laid for the development of the necessary support to accommodate the long-term needs involved".[123] In the immediate aftermath, numerous African representatives from capitals wrote to congratulate the High Commissioner on the initiative.[124]

It was only later that the extent to which these pledges had been earmarked by states became increasingly apparent. By September 1981, the Steering Committee in charge of post-ICARA Coordination noted that further specifications by donors left only $144m not earmarked, leaving UNHCR with an estimated $40m available for the high priority projects that did not fall into its regular or specific programmes. Consequently, a ceiling of $2m per country was fixed and this was focused on humanitarian assistance needs such as food, water, shelter and the delivery of medical services.[125] In Loescher's words, "almost all of the $560m offered by donor states was earmarked for projects and allocated to most favoured nations. Very few funds went to especially hard hit nations like Ethiopia and other countries in the Horn of Africa".[126] Consequently, when the UN General Assembly reflected on the achievements of ICARA I, it regretted "that, in spite of efforts made, the assistance provided to an increasing number of African refugees is still very inadequate".[127]

ICARA I therefore ultimately failed to satisfy host states in Africa by failing to meet their expectations for additional resources. In the words of Ambassador Skalli of Morocco (the Chair of the Geneva African Group), "Although ICARA I had succeeded in certain respects, it had not raised the additional resources hoped for".[128] This brought calls for "additionality", by Egypt, for example, which, wary of the substitution of other development resources destined to states' citizens, stressed "the need to increase the developmental assistance to asylum countries".[129] Equally, the legacy of ICARA I failed to satisfy northern donor states, particularly the United States, who after seeing little results from its $285m pledge, remained on the fringes of ICARA II. The concerns of northern donors were largely that financial commitments had not translated into durable solutions for refugees but had either been squandered on short-term assistance or had been used by African states simply to fund out-

[121] Mr Bwakiri, Acting Chief West and Central Africa Region, to Mr Asomani, Officer-in-Charge of Post-ICARA Coordination, Memorandum SACO/1153, 'Note on Selecting Priority Projects, Falling Within/Outside UNHCR's Mandate', 27/7/81 (Fonds UNHCR 11, 391.62/374).

[122] UN Middle East Information Centre, 'ICARA: Press Release' 66/1981, 28/4/81, (Fonds UNHCR 11, 391.62/306A).

[123] Concluding Statement by the Secretary-General to ICARA, 10/4/81, Report to the UN on ICARA, 21/4/81, (Fonds 11, UNHCR, 391.62/300A).

[124] The Foreign Minister of Cameroon, for example, proclaimed the $560m pledged "une premiere manifestation significative de solidarite internationale", Correspondence Foreign Minister of Cameroon to High Commissioner, 11/5/81, (Fonds UNHCR 11, 391.62/318A).

[125] '3rd Draft of Steering Committee of Post-ICARA Coordination Meeting', held 15/9/81, New York, HCR/NY/572, (Fonds UNHCR 11, 391.62/460).

[126] Loescher (2001), p. 227.

[127] UN General Assembly Resolution 36/124 of 14 December 1981, cited in Milner, J (2004), 'Golden Age? What Golden Age? A Critical History of African Asylum Policy', Paper Presented at the Centre for Refugee Studies, York University, 28/1/04.

[128] 'Meeting on ICARA II with African Missions', 5/10/83, HCR/ETH/610, (Fonds 11, UNHCR, 391.78/373).

[129] *Ibid.*

dated development projects that offered little benefit to refugees.[130] Gorman diagnoses the failure of ICARA I to ultimately meet its third goal of addressing refugee-related development needs as a consequence of its failure to systematically involve UN development agencies in the conference planning and project proposal preparations.[131]

ICARA I did, however, have an intellectual legacy. While its focus had mainly been on basic needs, much the rhetoric of the conference and many of the projects submitted by states focused on building infrastructural capacity in order to facilitate the hosting of refugee populations. This represented the starting point for UNHCR's 'refugee aid and development strategy' (RAD). For example, the General Assembly resolution establishing ICARA I identifies the need "to strengthen the capacity of countries of asylum to provide adequately for the refugees while they remain in their countries, as well as to assist the countries of origin in the rehabilitation of genuine voluntary returnees".[132] A number of project submissions focused on this kind of capacity-building with a view to facilitating self-sufficiency and local integration. In the case of Lesotho, the submission prepared for the conference notes:

> The Lesotho Government Policy…is to integrate them into the community as soon as possible. Integration in this case means that the relief for the people should not be handled separately from the national development objectives; therefore the Government has considered the creation of conditions where self-development is possible. [133]

The submission goes on to propose credit schemes, workshop facilities and the expansion of education facilities at the National University of Lesotho, for example.[134] In reviewing the government submissions, David Lambo, Head of UNHCR's Southern African Regional Section, similarly placed emphasis on capacity building as part of a shift towards local integration and "self-help" as opposed to the dependency of many rural settlements. He drew attention to the need to support, for example, educational and agricultural projects to benefit the Barundi refugees in Tanzania.[135] Self-sufficiency through capacity building was also a major theme in the conference speeches. For example, the Secretary-General emphasised the need to "promote self-sufficiency of refugees through various local integration programmes".[136] Meanwhile, Siaka Stevens, as Chair of the OAU, claimed:

> The assistance of the world community…should aim at helping them [refugees] to help themselves, particularly in cases where repatriation could no longer be envisaged. Refugees should not be assisted in ways which would create overdependence. Rather, they should be guided and enabled to become self-supporting as quickly as possible.[137]

ICARA II

Reflecting the limitations of ICARA I, ICARA II drew on many of the underdeveloped ideas that had been implicit in the first conference. ICARA II was seen by donor states as needing to

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[130] Evident from the comments of European states at the informal meetings of ExCom representatives. For example, 'Note for the file: Summary of Statements Relating to ICARA II', 27/5/83, (Fonds UNHCR 11, 391.78/215).

[131] Gorman (1993a), p. 63.

[132] UN General Assembly Resolution 35/42 of 25 November 1980, Preambular paragraph 8.

[133] 'Lesotho Government Assistance Proposals For Submission to the Conference', 19/12/80, (Fonds UNHCR 11, 391.62/113).

[134] *Ibid*.

[135] Lambo, D, Chief, Southern African Regional Section writing to the Deputy High Commissioner, 19/12/80, (Fonds UNHCR 11, 391.62/154A).

[136] Concluding Statement by the Secretary-General to ICARA, 10/4/81, 'Report of the UN ICARA', (Fonds UNHCR 11, 991.62/300A).

[137] Statement by Dr Siaka Stevens, President of Sierra Leone (and Chair of OAU), ICARA, 9/4/81, (Fonds UNHCR, 11, 391.62/316).

be, in the words of the Austrian Ambassador, more of a "think tank" than a "pledging conference".[138] The second conference (held in Geneva, 9-11 July 1984) benefited from far greater planning time than its predecessor, with Soren Jessen-Petersen being appointed the Head of an ICARA Unit, which coordinated the Steering Committee and Technical Teams from 1983. He noted that the need for the second conference was the failure of the first in terms of capacity building: "It fell short of meeting the expectations of the African Governments for support towards strengthening their institutional capacity to receive refugees…Hence, resolution 37/197 calling for the convening of ICARA II".[139] The objectives of the conference were set-out as to: 1) "thoroughly review the results of ICARA I and the state of progress of projects submitted to it"; 2) "consider the continuing need for assistance with a view to providing, as necessary, additional assistance to refugees/returnees in Africa for the implementation of programmes for their relief, rehabilitation and resettlement"; 3) "consider the impact imposed on national economies of the African countries concerned and to provide them with required assistance to strengthen their social and economic infrastructure to cope with the burden of dealing with large numbers of refugees and returnees".[140]

The central theme was "Time for Solutions", which the High Commissioner explained represented "a joint responsibility for all participants…I am thinking particularly of the relationship between relief and development aid, and the primacy of durable solutions".[141] This reflected the 1983 ExCom resolution on durable solutions which "recognized the importance and timeliness of ICARA II in connection with the pursuit of durable solutions to refugee problems in Africa".

Consequently, where ICARA I had ultimately focused on short-term relief, ICARA II was intended to direct funds towards durable solutions and acknowledged that this would require a greater developmental emphasis. ExCom noted that "Given the economic and social fragility of those African countries receiving refugees, UNHCR's work needs to be complemented by efforts of a more developmental nature".[142] This acknowledgement led UNHCR to attempt to build partnerships with development agencies. For example, the Steering Committee for ICARA II included UNDP "because of the development aspect".[143] This reflected a growing awareness of the need to address the now famous transition 'gap' between relief and development. UNICEF's report in the aftermath of ICARA I, for example, noted that:

> It was also apparent that during the first emergency phase, donors wished to see their commitments applied for humanitarian purposes only. A number expressed the view that the longer-term aspects of the refugee problem and the strengthening of infrastructure should be considered as part of the international agencies involved with development in co-operation with the Governments concerned.[144]

By mid-1983 consideration of the 'gap' was emerging in UNHCR's thinking. In representing the organisation at a Symposium on African Refugees in Tokyo, Dessalegne Chefeke noted that while the "most ideal solution" for refugees was voluntary repatriation, "there are,

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[138] Note For the File: Summary of Statements Relating to ICARA II Made at Informal Meetings of ExCom Representatives, 27/5/83, (Fonds UNHCR 11, 391.78/215).
[139] Memorandum Mr Jessen-Petersen to Mr Moussalli, 'Talking Points on ICARA II', 23/11/83, (Fonds UNHCR 11, 391.78/399).
[140] UN General Assembly Resolution 37/197, 18 December 1982, Operational Paragraph 5 (a) to (c).
[141] High Commissioner's Opening Remarks at the 3rd Steering Committee Meeting on ICARA II, 14/11/83, Jessen-Petersen's summary of the debate, (Fonds UNHCR 11, 391.78/398A).
[142] 'For the Information of ExCom: ICARA II', Geneva, 21-23 May 1984, (Fonds UNHCR 11, 391.78/307).
[143] Memorandum Mr Jessen-Petersen to Mr Moussalli, 'Talking Points on ICARA II', 23/11/83, (Fonds UNHCR 11, 391.78/399).
[144] UNICEF document for Executive Board on Cooperation with African Countries, E/ICFF/P/L.2094, (Fonds UNHCR 11, 391.62/319), paragraph 29.

unfortunately, also situations where voluntary repatriation is most unlikely" and these require "local integration" and "self-sufficiency". He argued that "ICARA II will try to bridge the gap between the humanitarian aid to refugees and development aid to the countries concerned", claiming "the process leading to refugee integration is not simply a succession of phases i.e. relief, self-reliance and development. These phases overlap".[145]

In preparation for the conference, the ICARA Unit invited submissions from African states under the heading of 'Proposals for Development Assistance to Areas with Refugee Concentrations' in which states were to focus on, firstly, government policy in regard to refugees (including efforts to reach durable solutions); secondly, the impact of refugees on the national economy; thirdly, overall plans designed to deal with refugee problems *particularly through development projects*. In outlining the "additional resources sought", they were required to provide a "statement of refugee-related development projects which are already underway".[146]

During this process, Tanzania's prior experience of incorporating refugees in national development projects as a means of achieving self-sufficiency and local integration was championed as the pioneering example of success.[147] The Tanzanian model of success was particularly used as a means of encouraging involvement from UNDP. For example, in a letter from the UNHCR Representative for Dar es Salaam to UNDP's Resident Representative, an enclosed background paper set-out some key illustrations of the success of local integration through self-sufficiency. It looked at the self-sufficiency achieved by Burundi refugees in Katumba, Ulyankula and Mishamo, and by self-settled Zaireans in Kigoma, showing how "with the assistance of settlement and project personnel the refugees themselves are responsible for land clearance and for building their own homes, as well as for various community projects designed to foster a community spirit of self-reliance and cooperation". It argued that the government's encouragement of refugee agriculture and the construction of infrastructure such as roads, water systems, education, and health facilities had promoted this integration, and called upon UNDP to contribute through ICARA II to strengthening the process.[148]

After receiving project submissions from states, the UN Technical Team for ICARA II conducted a series of visits to the 14 concerned states. Its aim was to compile reports on the states' 'infrastructural burden of dealing with large numbers of refugees' and to assess and prioritise project submissions "that would enhance the capacity of the country to support refugees". All the visits lasted between 3 and 10 days, involved meetings between UNHCR, UNDP, donor countries, host states, and NGOs, and reviewed the current situation and policy while describing and prioritising projects. The projects in the report all focused on infrastructural development initiatives planned and 'owned' by the host governments, with the explicit intention of providing 'development' facilities such as health, education, road access, agricultural training and equipment, and other forms of vocational training that would better

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[145] Dessalegne Chefeke, Keynote Address to Symposium on African Refugees, Tokyo, 24/5/83, (Fonds UNHCR 11, 391.68/234).

[146] 'ICARA II: Guidelines for Country Submissions on the Impact of Refugee Problems on National Economies and Possible Development Assistance Required to Alleviate These Problems', YZF 306-03, 15/3/83, (Fonds UNHCR 11, 391.78/91).

[147] For example, paragraphs 12 and 13 of the 'Report of the UN Technical Team for ICARA II on Tanzania' note "The deep-rooted and internationally well-known humanitarian concern of the Government of the United Republic of Tanzania towards refugees", 29/8/83, (Fonds UNHCR 11, 391.78/45).

[148] Letter from Abdellah Saied, UNHCR Representative to Dar es Salaam to Mr D. Outtara, Resident Representative of UNDP re. Proposed Development Assistance projects fro ICARA II, 7/6/83, (Fonds UNHCR 11, 391.78/227A).

provide a social and economic link between the refugee populations and the state's own citizens.[149]

When the conference met in July 1984, it aimed to raise $392m to meet 128 aid schemes in the 14 African states over a period of 3 years and the Chair, Leo Tindemans, proclaimed the event a success.[150] Although only $81m was pledged at the conference, the consensus reached in Geneva was seen as a starting point and not an "end unto itself" In particular, there was optimism that the Final Declaration and Program of Action set-out generic principles that could be built upon. These were the ideas of: firstly, the need for ongoing assistance; secondly, acknowledgment of Africa's disproportionate refugee burden; thirdly, the desirability of 'additionality'; fourthly, the need to institutionally mainstream the process within development planning.[151]

However, the cause of failure was once again primarily a north-south polarisation in expectations and interests, and a lack of commitment on the part of both donors and recipient states. Stein suggests that there was a north-south division in the understanding of the purpose of the conference. While the African states wished to focus on burden-sharing, the donor states wished to focus on the durable solutions focus reflected by the conference theme, 'A Time for Solutions'. He suggests that while donors did not reject the notion of expanded burden-sharing *per se*, an increased economic commitment needed to be directly linked to expanded access to durable solutions other than voluntary repatriation. In other words, they wanted 'results' rather than "an open-ended claim on their resources".[152] It is in part for this reason that the donor response was less than overwhelming. Most donors had regarded ICARA I as a major commitment and were highly suspicious of African motives for convening a second conference.[153] Similarly, with the exception of those states that had already been relative 'champions' of local integration, there was a lack of additional willingness on the part of African states to provide local integration. Most African states preferred voluntary repatriation which was consequently highlighted as the "ideal durable solution" throughout the conference. A later UNHCR evaluation revealed that "the African countries tried to win funds for development projects under the guise of refugee emergency relief. They were more interested in being compensated for the burden of hosting refugees than they were in using these funds to promote local integration".[154]

The severe drought and consequent famine of 1985 which affected much of Sub-Saharan Africa also diverted donor attention and resources away from ICARA and towards emergency relief. Once the initial momentum was lost, ICARA was largely displaced by short-term humanitarian concerns. In the absence of additional resources, achieving concrete partnerships with development agencies became increasingly difficult. Despite unprecedented commitment from UNDP in coordinating project planning and implementation, the absence of state commitment created insufficient momentum to move beyond the "piecemeal" institutional coordination set-out by ICARA II. For example, despite UNDP's active involvement in negotiation, their representative, Orlando Olcese, made clear that the organisation's role was limited by the level of state commitment "present UNDP resources do not allow for any additionality. Host governments are not willing to allow use of present UNDP resources for refugees".[155]

[149] All the reports of the UN Technical Team are in UNHCR archives, (Fonds UNHCR 11, 391.78.9.)
[150] 'Press Clippings on ICARA II', 26/7/84, (Fonds UNHCR 11, 391.78/1019C).
[151] Gorman (1987), pp. 36-40.
[152] Stein (1997).
[153] Gorman (1987), p. 67.
[154] Loescher, (2001), p. 228; UNHCR (1994), *Returnee Aid and Development* (UNHCR: Geneva).
[155] ICARA II Briefing, Refugee Policy Group Meeting of OAU Secretariat and Voluntary Agencies on Assistance to Refugees in Africa, 22/3/83, (Fonds UNHCR 11, 391.78/200B).

The Legacy of ICARA

In the aftermath of the conference failure, the concept of 'refugee aid and development' died and was not carried forward after Hartling's departure in 1985. In the 1990s the refugee aid and development debate transmuted into the relief-development debate of the 1990s, which focused, in particular, on using small-scale Quick Impact Projects (QIPs) to facilitate repatriation.[156] However, although the 1990s saw much energy expended on the relief to development 'gap', it has been only in the last few years that TDA has really been put firmly on the agenda again.

In summary, therefore, the ICARA process resulted in north-south polarisation because of a failure to reach meaningful consensus on the concept of 'additionality'. African states wanted additional resources, while northern states were unwilling to provide significant unearmarked assistance without a guarantee that this would translate into 'durable solutions'. In the absence of a firm commitment to provide new resources or north-south agreement on unambiguous general principles, the prospects for mainstreaming either the concepts or the resulting inter-agency partnerships collapsed when new humanitarian and political priorities emerged amongst northern states in the context of the Ethiopian famine and the emerging *détente* in the Cold War. The next Section explores the implications that this precedent has for the current debates.

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[156] See, for example, Stepputat, F (2004b), 'Dynamics of Return and Sustainable Reintegration in a "Mobile Livelihoods'-Perspective', *DIIS Working Paper* no. 2004/10, p. 17; Crisp, J (2001), 'Mind the Gap! UNHCR, Humanitarian Assistance and The Development Process', *International Migration Review*, 35:1 (2001), pp. 180-3.

SECTION 3: LESSONS FROM COMPARATIVE ANALYSIS

As the previous Section highlights, the idea of targeting development assistance to host states in order to enhance protection capacity is not new. A cursory analysis has already demonstrated the significant degree of overlap in aims and methods between the past and current debates. However, in order to draw direct lessons for international cooperation in the current context, a more explicit analysis is required. This Section therefore assesses the similarities and differences between the two processes and consequently evaluates the significant lessons that result from comparative analysis.

Similarities

Section 2 has already drawn attention to the commonalities in discourse between the TDA debate and the ICARA process. The degree of overlap is hardly surprising given that both focus on incorporating refugees in Africa within a development framework. This section aims to briefly make explicit the similarities that are evident from an exploration of the circumstances and content of the two initiatives. It shows the areas in which tangible parallels can be identified. These fall into the areas of: aims, mechanism, means of political facilitation, political context, and debate.

> *Aims*. The central problems requiring solution identified by both ICARA II and the TDA strand are the absence of durable solutions and international burden-sharing. Both initiatives seek to supplant dependency and marginalisation with self-sufficiency and integration. The explicit aim present in both is consequently to improve the capacity of host states, predominantly in Africa, to provide refugee protection. In ICARA II this was clearly the intention of northern donors. Likewise, the aspects of the TDA strand that target host countries of first asylum (i.e. the use of DAR and DLI) acknowledge the long-term economic and social impact of protracted refugee situations on host countries. DAR aims to facilitate "self-reliance" in preparation for one of the durable solutions; DLI emphasises permanent local integration.[157]

> *Mechanism*. The primary mechanism by which the stakeholders to the debate intend to meet this aim is, in both cases, the targeting of development assistance to improve the infrastructural or protection capacity of states of first asylum. This is the basis on which the notion of 'protection in regions of origin' is being developed on a pilot basis by Denmark and the EC and it was also the purpose of building 'infrastructural capacity' in both ICARA I and II. Within this context, a related mechanism present in both cases is the incorporation of refugees in national development plans. In both ICARA and TDA, there is an acknowledgement that through extending the benefits of development to refugees and local populations, potential sources of tension can be overcome to facilitate integration.[158]

> *Means of political facilitation*. Firstly, both processes have a notion of 'leverage' in which increased economic burden-sharing is intended to increase the willingness of states to consider the viability of local integration as a durable solution. This notion is explicit throughout Convention Plus, in which burden-sharing by northern states is identified as bringing 'leverage' in securing durable solutions from the south in a mutually beneficial partnership.[159] This type of linkage is implicit in ICARA II in the desire of northern donors to secure durable solutions through financial burden-sharing. Secondly, there have been

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[157] UNHCR (2004h), 'Convention Plus: Issues Paper on Targeting Development Assistance', June 2004, www.unhcr.ch, paragraph 5.
[158] Ibid, paragraph 21; evident from the UN Technical team for ICARA reports.
[159] For example, UNHCR (2003c), 'Convention Plus: Framework of Understandings on Resettlement' paper, Forum/CG/RES/04, 3/11/03, www.unhcr.ch , refers to resettlement as a "catalyst": "a means to leverage the other two durable solutions".

attempts to secure partnerships with development agencies. In the case of ICARA, UNDP was cooperative at a technical and negotiative level; however, more concrete commitments in terms of resources or institutional reform were elusive as a consequence of being contingent upon host state agreement. The work on TDA has similarly involved seeking such partnerships. Thirdly, the deployment of successful 'champions' has been used as a means both to encourage southern participation in local integration and self-sufficiency programmes, and also to attract donors and development agency partnerships. In the early 1980s Tanzania was the model; now it is the 'Zambia Initiative'.

Political context. In many ways, the two periods represent contrasting historical junctures. However, what the early 1980s period of the Cold War and the post-9/11 era[160] have in common is the possibility they offer for UNHCR to create 'opportunities from constraints'.[161] While the Cold War constrained multilateralism as a result of global bipolarity, the post 9/11 era has in some senses similarly undermined the prospect for international cooperation, particularly in international security. Yet, both eras created a motive on the part of states to be engaged in refugee and asylum debates at the multilateral level, albeit for reasons of perceived national interest and security. In the case of ICARA, highly political references to the Cold War context abound, with thinly veiled references to national liberation struggles and the proxy wars in Africa. Loescher, in particular, has shown how the desire to avoid refugee camps becoming major sites for socialist guerrilla group recruitment, for example, provided an incentive for states to contribute to refugee protection in Africa.[162] Similarly, the post 9/11 era and the perception of the political unsustainability of the current asylum system, particularly in a European context, have created new, albeit non-humanitarian, motives for engagement in regions of origin.

Debate. In both the ICARA negotiations and the TDA discussions so far, similar points of polarisation have emerged between north and south. The south's primary concerns have been, firstly, 'additionality' and, secondly, a reluctance for local integration to become long-term burden-shifting on behalf of northern donors. In both cases the reticence of potential northern donors to fully commit has been led, in part, by a suspicion that new resources will not necessarily translate into durable solutions. Both debates were also characterised by the same difficulties in achieving inter-agency partnerships. The World Bank's position is largely unchanged. For example, Gorman shows that during the 1980s the Bank was willing to address refugees insofar as it was "to address the refugee-related strains on the regional infrastructure".[163] As is the case now, the Bank therefore emphasised refugees as a burden rather than as potential agents of development.[164] The UNDP's role in the current debate likewise seems largely unchanged. While in both cases it has shown willingness to engage in principle, it has been constrained by a mandate of coordination in which it is largely passive to inter-state interests and agreement.

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[160] The 'post 9/11 era' is not used to imply direct causal connection between the attacks on the World Trade Centres and the current changes that are taking place in the global refugee regime. However, it represents a shorthand means of representing a number of global changes that have taken place in the context of the renewed emphasis of security in light of the 'War on Terror'.

[161] For example, in interview, Jean-François Durieux, suggested that the CPU needed to ask "what are the opportunities at hand? That is the real question…there are incentives and also obstacles in the current state of affairs…it is about seizing an opportunity", 7/9/04, UNHCR, Geneva.

[162] Leoscher, G (1993), *Beyond Charity: International Cooperation and The Global Refugee Crisis* (Oxford: Oxford); Loescher, G (1986), *Calculated Kindness: Refugees and America's Half-Open Door* (MacMillan: London).

[163] Gorman, R (1993b), 'Introduction: Refugee Aid and Development in a Global Context', in Gorman, R (ed), *Refugee Aid and Development: Theory and Practice*, (Greenwood: London), p. 9.

[164] Jacobsen (2002), pp. 577-596.

Differences

Although the similarities are great and the ICARA process was largely a failure, it would be *non sequitor* to argue that international cooperation on the TDA strand of Convention Plus need necessarily fail. This is particularly the case because there are also significant differences between the two processes. Many of these differences relate to important distinctions in the basis of the multilateral processes. They imply that there may be a different set of incentives and therefore opportunities available for international cooperation. These broadly centre upon: firstly, the motives of northern states; secondly, the capacity, bargaining power and degree of consensus among African states; and thirdly, the nature of UNHCR's role in the process. These can be analysed in turn.

The North

> *Motives*. In the early 1980s, states in the north were only beginning to be affected by the emergence of south-north spontaneous arrival asylum flows and people smugglers. Where these did occur, as in the case of the 'boat people' from Indo-China and Haiti, they were in marked contrast to the plight of African refugees, largely without the means to flee regions of origin. With no 'spillover' of the consequences of their neglect, donor states in the north were in a position to remain relatively passive in the face of what could be regarded as a collective action failure. The contemporary context of the 'protection in the regions' debate is, however, directly related to 'spillover'. Those states leading the debate, such as Denmark and the Netherlands, acknowledge the link between the domestic asylum and immigration context and their engagement in the debate on TDA.[165] Although the motives may be more self-interested than altruistic, they represent potentially strong new incentives for states to engage in the TDA debate on the basis of their own perceived national interest.[166]

The South

> *State capacity*. While it is important to nuance the difference between different states' circumstances in making generalisations about 'the African state', it would appear that, on the whole, African states' economic and political willingness and ability to engage in local integration has been reduced since the 1980s. The self-sufficiency initiatives of the 1970s and 1980s occurred prior to structural adjustment and democratisation, at a point at which African socialism and pan-African solidarity afforded states the possibility to make social and infrastructural facilities available to citizens and non-citizens alike. To take the example of Tanzania, where Julius Nyerere's *ujamaa* offered citizens access to health, education and land, the fact that citizens now have to pay for such facilities makes it politically infeasible to countenance local integration on these terms.[167] During the 1970s and early 1980s many African states also had specific reasons to value the hosting of refugees. The so-called 'Front Line States' in Southern Africa viewed hosting as a means to support national liberation wars.[168] In the Great Lakes region, Tanzania in particular, embraced hosting as a mean to attract assistance and promote development. In the Horn of Africa, the regional political complex meant that the Sudanese Government viewed hosting Eritrean refugees and a means to discredit the Ethiopian state.[169] Now, however, refugees are widely perceived by African states to be an unequivocal burden. Encampment until

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[165] Interviews with state representatives to UNOG, Geneva, September and October 2004.

[166] The extent of the empirical correlation between protracted refugee situations and spontaneous arrival asylum is, however, empirically uncertain and there has been insufficient research on this relationship.

[167] For an analysis of the shift that has taken place, particularly in Tanzania, see Rutinwa (1999), p. 18.

[168] See, in particular, Zolberg, A, Suhrke, A and Aguayo, S (1989), *Escape From Violence: Conflict and the Refugee Crisis in the Developing World*, (Oxford: Oxford).

[169] *Ibid.*

repatriation is therefore privileged as the only viable solution. Only Uganda, Zambia and Guinea seem openly prepared to countenance self-sufficiency under the *status quo*.

Bargaining power. The much changed perspective of African states is in part attributable to the availability of encampment as a viable political strategy. During the 1970s and early 1980s, UNHCR had almost no field presence in Africa and rural self-settlement was the norm for refugee hosting. Although the erosion of protection capacity since then is largely attributable to other factors such as structural adjustment and democratisation, the development of UNHCR's care and maintenance function and permanent presence in camp management has allowed states the option to abdicate economic and moral responsibility for refugee protection to UNHCR.[170] Given the choice between bearing the economic and political costs of local integration, on the one hand, and letting the international community run 'warehouses' in the border areas, on the other hand, the cost-benefit analysis of most Governments is weighted in favour of the latter. The ready availability of an alternative default method of protection means that whereas at ICARA it was African states *asking* for support for having hosted refugees, this time African states are *being asked* to adapt their method of protection. Structurally, the perverse incentives of the current regime allow them to say 'no'.

Southern solidarity. The ICARA process arose in the spirit of pan-Africanism from the consensus established by the Arusha Conference in 1979. In the aftermath of Portuguese decolonisation and the Rhodesian wars of independence, the OAU was in a position to inspire unity in collective bargaining. The north-south debates on the New International Economic Order created a context in which there was a sense of southern empowerment at the multilateral level. The south-south coalition exemplified by groups such as the G-77 and the Non-Aligned Movement illustrate the relative bargaining power held by the global south in the context of ICARA.[171] That ICARA was an African-led initiative is in part a reflection of this context. In the contemporary debates on Convention Plus, the positions of states such as Uganda and Zambia differ markedly from those of Tanzania or Kenya, for example, on DAR and DLI. Furthermore, the process is widely regarded as northern-led. A consequence of this and reduced state capacity is that whereas the ICARA process attracted high-level involvement from across Africa, few African capitals are committed to the current process and the Geneva African Group statements on Convention Plus are more a reflection of uneasy compromise amongst a small number of committed but over-stretched diplomats. This means that capitals are largely alienated from the multilateral process, creating even greater incentives to fall back on the default option of 'warehousing'.

UNHCR and the Process

Breadth of issues. Firstly, while ICARA II focused exclusively on the aspects now known as DAR and DLI which target host countries of first asylum, the TDA debate also encompasses an attempt to target countries of origin through the so-called 4Rs. By engaging in post-conflict reconstruction, UNHCR's approach potentially facilitates repatriation by tackling 'root causes'. This more holistic context is likely to be more conducive to host state cooperation as it raises the prospect that the application of DAR and DLI may also be seen as intended to prepare refugees for return. Secondly, because the TDA debate is taking place within the context of Convention Plus, it entails wider linkages than did the ICARA process. In approaching the refugee debate within a more holistic

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[170] See, for example, Suhrke, A and Suma, M (eds) (2002), *Eroding Local Capacity: Humanitarian Action in Africa* (Nordika Afrikaininstitut: Uppsala), for an analysis of the role that UNHCR and external humanitarian actors have played in undermining domestic initiative and protection capacity.

[171] See, for example, Mortimer, R (1984), *The Third World Coalition in International Politics* (Westview: London).

context in which the three durable solutions are all seen as inter-linked, the degree to which states of first asylum identify themselves as the unique source of durable solution is likely to be reduced.[172] As will be explained in Section 4, issue-linkage has long been recognised in regime theory as a means to increase incentives for overcoming obstacles to international cooperation by intertwining accepted interests and norms with areas of collective action failure.[173]

Bilateral facilitation v multilateral coordination. In the case of the ICARA process, UNHCR attempted to assume centre stage in the coordination, prioritisation, allocation, and review of the infrastructural development programmes. The programmes were 'owned' and submitted by the African states and the role of northern states was largely as passive donors. In contrast, the role assumed by UNHCR in the current TDA debate is more based on the facilitation of bilateral initiatives by northern donors and there is less emphasis on direct multilateral coordination. Indeed, in relation to the current process, Bundegaard has argued that "The bilateral initiatives will stay that way. We can't and probably shouldn't change that. But what we would like to see and what the Convention Plus is all about is to put it in the context of a multilateral dialogue".[174] The advantage of bilateral facilitation is it enables donor states to target development assistance according to their own methods, existing national development priorities and strategic interests. This flexibility is likely to enhance incentives for provision, particularly bearing in mind the motives outlined above. It means that rather than appealing to states to overcome a collective action failure by contributing to a global public good, the basis of their contribution will be grounded in their own perceived interest and desire to accrue perceived private benefits.[175] If this leads to improved access to refugee protection through durable solutions, this motivation may ultimately be unimportant. However, the risk is that it will increase selectivity if states simply target development assistance as an implicit containment tool.

Lessons for International Cooperation on TDA

The significance of this comparative analysis is in the lessons that can be drawn from it to improve the prospects for international cooperation in the targeting of development assistance to improve access to interim protection and durable solutions for refugees. There are broadly six significant lessons from the shortcomings of the ICARA process that need to be applied to the TDA strand if it is going to successfully achieve a sustainable level of commitment from both north and south. These are: firstly, the need to establish a clear 'link' between increased burden-sharing and durable solutions; secondly, the need for a clear conceptual understanding of 'additionality'; thirdly, the need to overcome perverse structural incentives; fourthly, the need to avoid the danger of selectivity; fifthly, the need for momentum; sixthly, the need to overcome the obstacles to inter-agency partnerships with development agencies. These can be dealt with in turn.

The 'link' between burden-sharing and durable solutions. ICARA's failure to overcome north-south polarisation and achieve increased international cooperation owes a great deal to its failure to establish a clear connection between the northern donors' commitment to providing increased assistance and African states' provision of durable solutions. Ultimately, there was insufficient trust that the other side of the partnership would maintain

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[172] Such 'inter-linkages' have been referred to throughout Convention Plus. See, for example, UNHCR (2004k),'Progress Report: Convention Plus', Forum/2004/2, 20/2/04, www.unhcr.ch

[173] Haas, E (1980), 'Why Collaborate? Issue-Linkages and International Regimes', in Kratochwil, F and Mansfield, E (eds) (1994), *International Organization: A Reader*, (Harper Collins: New York), pp. 364-384.

[174] Interview with Anita Bundegaard, Special Adviser on External Relations, DCI, UNHCR and former Danish Minister for Development, UNHCR, Geneva, 14/9/04.

[175] For an analysis of the importance of this distinction see Betts (2003), 'Public Goods Theory and the Provision of Refugee Protection', *Journal of Refugee Studies*, Vol. 16:3, pp. 274-296.

its side of the bargain and follow through on its commitment. African states wanted 'additionality' rather than the diversion of development resources currently benefiting their own citizens. They also wanted to see a genuine commitment to burden-sharing rather than the promotion of local integration as a method of burden-shifting. Meanwhile, donor states were concerned that resources would simply go into ongoing relief or, worse, be misused in a way than did nothing to contribute to the search for durable solutions. ICARA II became polarised by the donor community's focus on durable solutions and African states' focus on burden-sharing. Both groups were myopic in their failure to build bridges to the other.

Overcoming these problems relies upon creating general and clear principles that link burden-sharing in the form of development assistance directly to the achievement of durable solutions. Achieving such an outcome is extremely delicate and depends upon commitment from both sides of the dialogue. Ensuring that resources are used to facilitate durable solutions will require monitoring, criteria for evaluation and support. However, while the appropriate and efficient use of any additional assistance should be expected and be supportively guided, explicit conditionality (particularly that linked to migration criteria) should be avoided as it is only likely to further alienate southern states. If resources are committed before this link is adequately made, as occurred in ICARA I, failure to bring 'results' in terms of durable solutions may once again alienate the donor community. This highlights the importance of clear general guidelines in the form of a generic agreement.

Clarity in the concept of 'additionality'. In order to build the confidence of southern states in facilitating local integration, donor states need to demonstrate a willingness to commit to 'additionality'. Otherwise 'champions' such as Zambia and Uganda will simply be seen as competing away development resources from other southern states and from local non-refugee populations. Precisely what constitutes 'additionality' is, however, extremely controversial, just as it was at ICARA II. In the current debate, many major humanitarian and development donor states, such as Norway, are concerned that 'additionality' should consider factors such as the level of provision prior to new commitments and the role of earmarking.[176] This definitional controversy was likewise present in the ICARA II debate. Gorman argues that a reason for ICARA II's failure was that it was based on a flawed compromise between north and south. Donors committed to the principal of 'additionality' on condition that African states accepted that resources be channelled through existing development channels. The lack of clear budget lines and centralised administrative structure created from the process meant that, in the absence of concrete political will, the project dissipated. Agreements, budget lines and administrative structures therefore need to be highly visible if mainstreaming is to bring sustainability. Again, this is where a special agreement may provide structural clarity as well as normative guidance.

Overcoming perverse incentives. At the time of ICARA, encampment was less of an obviously attractive option for host states. Although the shift towards encampment is largely attributable to the erosion of protection capacity since the 1980s, UNHCR's subsequent development of an extensive camp management industry, does little to favour alternative solutions. Insofar as the choice to engage in self-sufficiency is a relational choice to be evaluated by host states in comparison to the alternative of encampment, the current allocation of resources by the 'international community' is likely to favour the latter option. This is because UNHCR and other Inter-Governmental Organisations (IGOs) and NGOs will take responsibility for protection, care and maintenance within camps but rarely outside of camps. This stacks most Governments' cost-benefit analysis in favour of the *status quo* of 'warehousing'. Providing a mechanism for international support for host

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[176] Interviews with state representatives to UNOG, Geneva, September 2004; the Informal Meeting on Issues Involved in Targeting Development Assistance for Refugee Solutions', Palais des Nations, 22/9/04.

country expenses incurred as a result of refugee protection outside of camps would be one means to overcome such perverse incentives. The U.S. Committee for Refugees and Immigrants, for example, advocates donor reimbursement for host country expenses with UNHCR acting as an intermediary.[177]

The danger of selectivity. Both the Cold War and the post 9/11 asylum political contexts offered states incentives to engage with protracted refugee situations in Africa. Yet both have done so for not entirely humanitarian reasons. Consequently, in the predominantly earmarked contributions to ICARA I and in the relatively selective engagement of the pilot schemes for TDA, the choice of states to which resources have been directed has, at least in part, been motivated by perceptions of national interest. While the contexts of the Cold War and the post 9/11 asylum and immigration debate are very different, they have both created circumstances conducive to a highly selective allocation of assistance to refugees. In the ICARA I context earmarked contributions were directed towards strategic interests in the proxy wars of Africa. In the current TDA debate there is a likelihood that assistance will be targeted at states from which there are currently high levels of secondary movements to donor states. This may become significant if it leaves gaps in the provision of protection to refugees in protracted situations of less strategic significance, just as occurred in the Horn of Africa in ICARA I. This is particularly possible given that the bilateral nature of the TDA strand means that, from an international cooperation perspective, it addresses itself not towards overcoming collective action failure in a global public goods context but rather towards appealing to specific national interests in a private state-specific benefits context.[178] Even the success of the 'Zambia Initiative' has shown that "flexible budgeting" has been necessary to allow donors to choose how their bilateral aid is allocated via UNDP.[179]

Momentum. As Loescher's book on the history of UNHCR highlights, the organisation's development and choice of initiatives have been highly contingent upon the personality of the High Commissioner. Each High Commissioner has brought his or her own unique perspective on refugee protection. The problem with this has been the absence of continuity in many initiatives. The early 1980s experiment in 'refugee aid and development strategy' was no exception to this pattern, vanishing when Poul Hartling left the organisation.[180] Ruud Lubbers has similarly brought a 'vision' to UNHCR, the legacy of which includes the Convention Plus initiative. This legacy potentially represents a profound reorientation for the benefit of refugee protection. However, the question remains whether the momentum of initiatives such as TDA can be sustained beyond the tenure of Lubbers and the Convention Plus Unit (CPU). For this to occur it requires both genuine mainstreaming through new normative commitments and leadership. At the moment many state representatives, particularly from donor states, are adopting a 'wait and see' attitude towards the idea of TDA, despite acknowledging that the notion of protection in the region is one that appeals to their governments. This 'wait and see' attitude in part reflects a disconnect in the debate between state mission representatives in Geneva and the state capital. The disparity in the High Commissioner turnover cycles and the speed at which state capitals are willing to commit to processes, in particular, means that mainstreaming and consolidation of basic principles are urgently needed if a legacy is to be built upon.

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[177] U.S. Committee for Refugees and Immigrants (2004), 'Moving Forward: Identifying Specific Measures to End Refugee Warehousing', UNHCR Pre-Excom Consultations, September 29, 2004.
[178] Betts (2003).
[179] Interview with Sajjad Malik, Senior Rural Development Officer, Reintegration and Local Settlement Section, UNHCR, Geneva, 23/9/04.
[180] Loescher (2001).

Sustaining the process requires leadership. UNDP was granted a considerable role in ICARA II and was largely unable to provide the necessary "aggressive stewardship" to sustain the process.[181] Donor states such as the USA provided largely one-off 'no-year' funds that were not renewed.[182] Given UNDP's mandate, it is arguably more constrained than UNHCR in assuming a position of advocacy and leadership. Although states and NGOs will continue to emphasise that UNHCR must not exceed it mandate, this does not preclude ensuring an ongoing facilitation and coordination capacity. Political momentum must also come from donor states. The 'wait and see' attitude that characterised the aftermath of ICARA II meant that once attention was consumed by the more visible drought and famine emergency of 1985, ICARA was quickly marginalised and forgotten. The current global focus on the humanitarian crisis in the aftermath of the 26th of December 2004 Tsunami is analogous in scale and level of global attention to the 1985 Sub-Saharan African famine. It is important that, unlike in 1985, this should have complementary rather than detrimental consequences for global commitment to overseas development aid.

Achieving inter-agency development partnerships. Just as UNHCR has tried to do in the current TDA debate, the ICARA Unit developed inter-agency cooperation with development actors at the level of headquarters negotiation and dialogue. For example, UNDP became an extremely active partner in ICARA II. However, bringing change in operational practice and the allocation of resources proved far more elusive. Ultimately, UNDP could not make substantive practical changes because it was politically constrained by both recipient and donor states. Recipients would not countenance any diversion of existing overseas development aid (ODA) and donors were reluctant to commit to 'additionality'. In the absence of inter-state agreement, nurturing inter-agency partnerships proved unsustainable and futile.

This stumbling block is again present in the contemporary debate. While humanitarian governance entails a degree of supra-nationalism, ODA is largely an inter-state practice partially mediated by multilateral agencies. The difficulty of achieving concrete 'on the ground' partnerships between UNHCR and major development actors has been exemplified in the Convention Plus-linked work of the Afghanistan Comprehensive Solutions Unit, for example. Having highlighted the need to adopt development-oriented strategies in order to achieve comprehensive solutions, they have found potential partnerships with development actors thwarted by regional state actors' own reticence to alter the current allocation of ODA. This in turn constrains intergovernmental development actors.[183] The work on Afghanistan has, however, pointed to alternative means to achieve collaboration outside of conventional bilateral practice – for example through an international symposium along the lines of the Pakistan Development Forum.[184] The reason this is more acceptable to governments is that it implies a clear commitment to 'additionality' rather than diversion. If host states can be persuaded that there may be opportunities for attracting additional resources, as in the case of Zambia and Uganda, they may allow their development partners to engage in work to promote local integration. The 'Zambia Initiative' highlights that partnerships are possible provided that a clear willingness to participate is shown by host states, donors, refugees and local populations. This experience exemplifies that the key to

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[181] Gorman (1993a), p. 68.
[182] *Ibid*, pp. 68-79.
[183] Given Afghanistan's current ineligibility for ODA.
[184] Interview with Salvatore Lombardo, Head of Unit and Ewen Macleod, Senior Policy Advisor Afghanistan Comprehensive Solutions Unit, CASWANAME, UNHCR, Geneva, 21/9/04.

this success is demonstrating that refugees can be an asset rather than a constraint to development.[185]

However, it is also important to note that the basis of development governance has changed since the early 1980s. Whereas UNDP played a central role during the 1980s, now the World Bank represents the dominant actor. While the Bank has more autonomy from governments and a larger budget, its mandate and role pose greater obstacles to inter-agency partnership than is the case with UNDP. Firstly, the World Bank's priorities are largely a consequence of its Board and its major share-holding state's views. As Nustad argues, the Bank is highly ideological and its willingness to fund new projects is contingent upon them falling within its existing ideational structures.[186] Indeed, the 4Rs represented a desirable funding opportunity for the Bank because it falls within the boundaries of its post-1997 Post-Conflict Unit's remit. DAR and DLI, on the other hand, do not fall directly into a pre-existing priority area. The only obvious means to overcome this is by appealing to its broad poverty-alleviation mandate[187] by finding a means to incorporate these aspects of displacement in the Poverty Reduction Strategy Papers (PRSPs). Secondly, unlike UNDP, the Bank is unwilling to be involved in general advocacy outside of a defined project negotiated directly with a recipient state. Where UNDP can use its field presence to provide advice and support to a recipient state,[188] as it has attempted to do both now and during ICARA II, the Bank has no permanent field presence. This means its role prior to host-state agreement is even more constrained than that of UNDP.

Conclusion

Comparative analysis reveals a high degree of similarity between the RAD debates and the current TDA debate. However, there are also important differences, which offer both new opportunities and constraints. It is important to tease out the most significant of these. In summary, the principle new opportunity that arises from the current circumstances is the motivation, albeit largely self-interested, for northern states to be involved in 'regions of origin', which was absent in the early 1980s prior to south-north migratory flows. The most salient new constraint in comparison to the RAD debate, however, lies in African states' reduced capacity and willingness to consider self-sufficiency in the aftermath of structural adjustment, democratisation and the demise of African socialism. Consequently, the principal lesson that comes from comparison is the need for clear leadership and sustained dialogue to create new, predictable and transparent budget lines, which *link* southern interests in burden-sharing to northern interests in durable solutions.

UNHCR's role in the current debate is different in comparison to during the ICARA period. Firstly, it is focusing on bilateral facilitation rather than trying to be involved in direct coordination. This enables it to appeal to northern states' own perceived national interests and priorities. Secondly, through Convention Plus, UNHCR has placed the TDA debate in a broader context than previously. In light of this Section's comparative analysis, the next two Sections examine the theoretical literature relevant to international cooperation in order to explore how the concepts implicit to UNHCR's current strategy might be adapted to promote more favourable outcomes than was the case during the ICARA process.

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[185] Interview with Sajjad Malik, Senior Rural Development Officer, Reintegration and Local Settlement Section, UNHCR, Geneva, 23/9/04.
[186] Nustad, K (2004), 'The Development Discourse in the Multilateral System', in Boas, M and McNeill, D (eds), *Global Institutions and Development*, (Routledge: London), pp. 13-24.
[187] Stiglitz, J (2002), *Globalization and Its Discontents* (Penguin: London), p. 23.
[188] St Clair, A (2004), 'The Role of Ideas in the United Nations Development Programme', Boas, M and McNeill, D (eds), *Global Institutions and Development*, (Routledge: London), pp. 178-192.

SECTION 4: INTERNATIONAL COOPERATION AND THE GLOBAL REFUGEE REGIME

The Justification For Exploring 'Regime Theory'

The 'refugee problem' is, by definition, an international issue. Refugees are defined in international law by having crossed borders and the refugee regime is grounded in inter-state agreement.[189] States commit to admit refugees on to their territory and to respect their rights in return for other states reciprocating in some way. Where this is not perceived to be the case, a state's commitment to protection may be undermined.[190] In recognition of this, the Preamble to the 1951 Convention includes the consideration "that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem…cannot therefore be achieved without international co-operation".[191] The right to seek asylum is therefore premised upon international cooperation.

However, there has been very little analysis of international cooperation in the refugee regime from an approach grounded in international relations theory. Conspicuously absent from the literature has been a systematic attempt to offer either an explanatory or interpretivist basis for understanding *when*, *how*, *why* and *under what conditions* states are likely to reach agreement on refugee issues. Regime theory represents the body of literature in international relations that is most relevant to explaining the conditions under which effective and sustainable inter-state cooperation is likely to emerge.[192] Skran has used regime theory as a means to analyse the *emergence* of the refugee regime in the inter-war years.[193] Indeed, The 1951 Convention, its 1967 protocol and the Statute of UNHCR, in particular, have often been defined as collectively constituting the basis of the 'refugee regime'.

However, regime theory has far broader implications for the refugee regime than simply examining its emergence; it can offer insights into the institutional conditions necessary to overcome collective action failure, for example. In issue-areas such as the environment,[194] human rights[195] and trade[196]it has been used to explore how principles, norms, rules, and decision-making procedures have *facilitated* the creation of agreements between states.[197] The basic function of regimes is to establish "rule-based cooperation"[198] by prescribing and

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[189] Goodwin-Gill, G (1996), *The Refugee In International Law* (Clarendon: Oxford), p. 291.

[190] Van Selm. J (2004b), 'The Strategic Use of Resettlement', *Refuge*, Vol. 22:1, pp. 23-30; Gibney, M (2004), *The Ethics and Politics of Asylum*, pp. 246-254.

[191] The 1951 Convention relating to the Status of Refugees, Preamble, Paragraph 4, www.unhcr.ch

[192] International cooperation is commonly defined in mainstream international relations as occurring "when actors adjust their behaviour to the actual or anticipated preferences of others through a process of policy coordination". Keohane, R (1984), *After Hegemony* (Princeton: Princeton), p. 57.

[193] Skran, C (1995), *Refugees in Inter-war Europe: The Emergence of a Regime* (Clarendon: Oxford), pp. 65-100.

[194] Young, O (1989), *International Cooperation: Building Regimes for Natural Resources and the Environment* (Cornell: Ithaca); Young, O (ed) (1997), *Global Governance: Drawing Insights From the Environmental Experience*, (MIT: Cambridge) ; Keohane, R Haas, P and Levy, M (eds) (1993), *Institutions for the Earth: Sources of Effective International Protection* (MIT: Cambridge).

[195] Risse, T, Ropp, S and Sikkink, K (eds) (1999), *The Power of Human Rights: International Norms and Domestic Change*, (Cambridge: Cambridge); Dunne, T and Wheeler, N (eds) (1999), *Human Rights in Global Politics*, (Cambridge: Cambridge).

[196] Yarbrough, B and Yarbrough, R (1987), 'Cooperation and the Liberalization of International Trade: After Hegemony, What?', *International Organization*, Vol. 41, pp. 1-26; Krasner, S (1976), 'State Power and the Structure of international Trade', *World Politics*, Vol. 28, pp. 317-47.

[197] Krasner defines international regimes as "principles, norms, rules, and decision-making procedures around which actor expectations converge in a given issue-area". Krasner, S (1983) 'Structural Causes and Regime Consequences' in S. Krasner (ed), *International Regimes,* (Cornell: Ithaca), p. 1.

[198] Hasenclever, A *et al* (1997), *Theories of International Regimes*, (Cambridge: Cambridge), p. 1.

proscribing the behaviour of states.[199] Regimes represent the institutional conditions that "help to bring agreement about".[200]

It is these insights which are highly significant in the context of understanding and possibly overcoming the impasse in north-south cooperation. Indeed, while Hathaway's Reformulation Project set-out proposals for the normative, legal and institutional structures that would be conducive to equitable multilateral burden-sharing, it did not fully engage with the political and theoretical question of how to achieve the necessary institutional bargaining to facilitate regime adaptation in order to implement its ideals. This may be amongst the reasons why it was dismissed by states at UNHCR's ExCom in 1998. It is in this connection that an engagement with regime theory may offer insights into how to realise the Reformulation Project's vision of achieving sustainable north-south responsibility-sharing.

Since 1998, regime theory has been implicitly and selectively drawn upon by authors engaged in the burden-sharing debate. Authors such as Suhrke and Thielemann, in particular, have employed some of the concepts of regime theory to explore the question of burden-sharing. Yet these insights have been *ad hoc* excursions into the literature, rather than systematic attempts to explore the insights that can be derived for international cooperation. Although their work is a constructive starting point, it represents only a very small section of what might be available from a more thorough survey of the literature on international cooperation within so-called 'regime theory'. In particular, their approach draws heavily on 'rationalist' approaches to overcoming collective action failure within a public goods framework, to the detriment of exploring the complementary insights of alternative approaches to regime theory.

This Section therefore explores the potential application of regime theory to the global refugee regime, and locates the existing relevant forced migration literature within that wider theory. It identifies two main areas of the theory that reflect diverging assumptions and methodologies: firstly, 'rationalist' approaches, characterised by their basis in economics, and 'cognitivist' approaches, characterised by their basis in sociology. These can be explored in turn.

The Rationalist Mainstream ('Economic' Approaches)

Rationalist approaches to international cooperation can be characterised by their view of states as self-interested, utility maximising, atomistic actors that behave analogously to *homo oeconomicus* in economic theory. This overall meta-theoretical stance is conventionally subdivided into two approaches: realism and liberal institutionalism. For Hasenclever *et al*, these can be characterised by the former's focus on 'power' and the latter's emphasis on 'interests'.[201] The main theoretical distinction between them is in the assumption by realists that states are primarily concerned with relative gains and by liberal institutionalists that they are primarily concerned with absolute gains. This difference is commonly regarded to imply radically divergent positions on the prospects for international cooperation: the former implying that states are more likely to act competitively and the latter that they will favour cooperative outcomes where these are mutually beneficial. In reality, however, the two perspectives have much in common.

All rationalist perspectives share similar basic assumptions. Firstly, they begin from the premise that the international system is characterised by 'anarchy' in the sense that, in the absence of a central global authority, states must resort to 'self-help'. Secondly, they assume that states are rational atomistic actors, whose preferences and behaviour are exogenously

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[199] Keohane (1984), p. 59.
[200] *Ibid*, p. 33.
[201] Hasenclever *et al* (1997), p. 6.

determined.[202] Furthermore, despite their divergent assumptions about the implications of 'anarchy' for cooperation, there has been a growing synthesis between the two schools of thought. In particular, both realists and liberal institutionalists have acknowledged that relative and absolute gains simply apply in different contexts and in relation to different issue-areas. Grieco, for example, has conceded that although states are primarily concerned with distributive outcomes in areas such as defence and security, they may be more concerned with absolute gains in areas such as trade.[203]

In this connection, mainstream regime theory identifies achieving international cooperation as being largely synonymous with overcoming 'collective action failure'. According to Olson, this exists when there is a disjuncture between individual rationality and group rationality.[204] The Olsonian argument implies that where it would otherwise be in the collective interests of the community to provide a given good, while states continue to act independently the benefit derived by any one state from contributing is insufficient to justify unilateral provision. States are therefore likely to 'free-ride' on the provision of others and overall contributions will be sub-optimal in relation to how the states would have chosen to behave collectively. This is commonly illustrated by Prisoner's Dilemma.[205] Mainstream liberal institutionalism has identified the role of regimes as trying to identify the institutional means to overcome this Dilemma, which Keohane analogously regards to be a form of international 'market failure'.[206]

Indeed Suhrke has applied this analysis to argue that refugee protection represents an international public good, exhibiting the properties of non-excludability and non-rivalry. She argues that, given that all states benefit irrespective of who provides asylum, "the anticipated benefit will invite free riders" and lead to sub-optimal provision. On this basis, she argues that the prospects for cooperation and burden-sharing are extremely poor and are likely to be characterised by Prisoner's Dilemma. Instead, the regime will inevitably be characterised by burden-shifting and free-riding.[207] However, despite explicitly drawing on Keohane's *After Hegemony*, she does not take in account the insights it, amongst other works, offers for developing institutional arrangements favourable to cooperation.

However, even within a narrow view of states as 'black-boxed' self-interested actors, the literature presents a number of means to appeal to and direct state interests towards sustainable agreement, most of which have only been considered tangentially in relation to forced migration. Milner, for example, presents a list of hypotheses relating to what the rationalist mainstream identifies as institutional factors that may contribute to overcoming collective action failure. These include the allegedly positive roles of asymmetric power relations, repeated interaction over time, linkages, reduced transaction costs, and the reduced costs of information and monitoring.[208] These insights can be broken down into three areas that might be of particular relevance to improving cooperative outcomes: firstly, *hegemony and leadership*; secondly, *practical facilitation*; thirdly, *issue linkages*. They are explored in turn.

Hegemony and Leadership
Hegemonic Stability Theorem (HST) is the most pervasive realist contribution to regime theory. In its most extreme form, it implies that the leadership required to maintain a regime

[202] Waltz, K (1979), *Theory of International Politics* (Random House: London); Keohane (1984).

[203] Grieco, J (1990), *Cooperation Among Nations: Europe, America and Non-Tariff Barriers* (Cornell: Ithaca), p. 47.

[204] Olson, M (1965), *The Logic of Collective Action,* (Harvard: London).

[205] See, for example, Balaam, D and Veseth, M (2001), *Introduction To International Political Economy* (Prentice Hall: London), pp. 172-3.

[206] Keohane (1984).

[207] Suhrke (1998), pp. 399-403.

[208] Milner, H (1992), 'International Theories of Cooperation Among Nations: Strengths and Weaknesses', *World Politics*, Vol. 44:3, pp. 466-469.

depends upon one state being powerful enough to be able and willing to maintain the rules governing the issue-area.[209] Hasenclever *et al* describe two circumstances in which a hegemon will provide an international public good where there would otherwise be collective action failure: the 'benevolent leadership model' and the 'coercive leadership model'.[210] The former draws upon the notion of "exploitation of the big by the small"[211] to show that where the dominant power places a higher absolute valuation on the public good than the smaller powers, it will provide that non-excludable good irrespective of free-riding, and may still generate a net relative benefit despite unilaterally bearing the full cost burden.[212] Meanwhile, the latter suggests that the hegemon can coercively induce provision from others by establishing a *de facto* "tax" through mobilising its dominance.[213]

Suhrke's analysis of the history of burden-sharing in forced migration leads her to conclude that hegemony is a significant factor in encouraging cooperation. She suggests that the two examples of successful multilateral cooperation – refugee resettlement in Europe after the Second World War and the resettlement of Vietnamese refugees after 1975 – had their own underlying and, implicitly, realist logic. Both depended on hegemonic power. In the former case, she argues that participating states shared a sense of values and obligation towards victims of the war, creating an "instrumental-communitarian" interest in resettlement. Although not explicitly stated, this argument can be incorporated within the notion of 'benevolent leadership model'. The United States, for example, unilaterally established the International Refugee Organization and resettled over 30% of the refugees, while Australia and Israel were also major contributors. This high level of commitment, Suhrke argues, stemmed from the states' sufficiently high valuation of the need to provide protection such that they were prepared to resettle outside of an institutional framework, irrespective of the non-excludability of the benefits. In the latter case, Suhrke explicitly makes the case that 'coercive hegemony' was required, with states needing "to be persuaded or pressured by the hegemon", which was again the United States. Her argument, then, essentially reduces to the hypothesis that multilateral cooperation is only possible where either a benevolent or coercive hegemon is present.[214]

However, as Young argues, hegemony should not be seen as coterminous with leadership. He explains that in institutional bargaining processes, whether in relation to regime formation or regime adaptation, the role of individuals may be equally crucial, arguing that regime formation depends on "*individuals* who endeavour to solve or circumvent collective action problems".[215] In relation to the environmental regime, he shows that individual leadership is significant both on a structural level and on an intellectual level. The former relates to the role of talented and committed state or international organisation representatives in 'converting' structural power and the latter to the role of academics or civil servants.[216] In either case, he suggests that the negotiative ingenuity of "entrepreneurs" or "brokers" may be more crucial than structural power *per se*. Indeed, Skran explicitly shows that the formation of the refugee regime in the inter-war years was a negotiated and non-hegemonic process.[217] Although there was no global superpower at the time, she suggests that France or the UK may have been in a position to adopt the role of a hegemon. Yet, "the primary source of leadership came from the

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[209] Keohane, R and Nye, J (1989), *Power and Interdependence,* (Harper Collins: London), p. 44.
[210] Hasenclever *et al* (1997), pp. 88-90.
[211] Olson (1965), p. 29.
[212] Olson, M and Zeckhauser, R (1966), 'An Economic Theory of Alliances', *Review of Economics and Statistics,* Vol. 48, pp. 266-79.
[213] See, for example, Calleo, D (1987), *Beyond American Hegemony,* (Columbia: New York), p. 104.
[214] Suhrke (1998), p. 413.
[215] Young, O (1991), 'Political Leadership and Regime Formation' in *International Organization,* Vol. 45:3, p. 285.
[216] Young (1989), p. 373.
[217] Skran (1995), p. 279.

refugee agencies of the League of Nations and from particular individuals". Most notably, she highlights the crucial role played by Fridtjof Nansen and Philip Noel-Baker.[218]

Practical Facilitation

In attempting to overcome collective action failure, functionalist-contractualists propose a number of theoretical ways in which regimes contribute to cooperation. Most of these are ultimately concerned with reducing the costs and risks associated with cooperation through practical facilitation. Firstly, Keohane argues that the main *function* of regimes is to reduce the transaction and informational costs inherent to the 'market failure' that prevents states undertaking action that would be collectively optimal.[219] By coordinating effectively, the costs of achieving certain outcomes may be reduced, so making a given action more likely to fall within the range of a state's 'cost-benefit calculus'. Secondly, Axelrod and Keohane explore how, within an institutional framework, Prisoner's Dilemma may be overcome through what they call the "the shadow of the future". In other words, the suspicion of 'free-riding' or 'cheating' inherent to Prisoner's Dilemma may be overcome if interactions on a given issue are sustained over a period of time.[220] This will be the case particularly where effective monitoring mechanisms have been developed and states have reputational concerns to uphold.

Ucarer suggests that the absence of such mechanisms from the refugee regime is one of the principle reasons why burden-sharing is so limited: "no concrete and automatic mechanism (or clearly defined set of rules) is in place to exhibit solidarity". In particular, he argues that other mechanisms to facilitate north-south solidarity by "sharing people" or by "sharing resources" are under-developed.[221] Schuck is one of the few authors to have proposed a mechanism to facilitate burden-sharing. He suggests the idea of creating a market in tradable protection quotas as a means to realise the Reformulation Project's idea of allowing 'common but differentiated responsibility-sharing' *given* the existence of self-interested state actors.[222] This idea is implicitly based on Keohane's view of the role of institutions as being to overcome 'market failure' by recreating market-based incentives. However, it has been strongly criticised on legal, ethical and practical grounds.[223]

Linkages

One of the potentially richest yet least explored areas of mainstream regime theory is the concept of 'issue linkage'. Starting from the premise that regimes and cooperation represent convergences of 'interests' between states, collaboration requires defining areas of potential joint gain. Achieving balanced agreements, however, may be particularly difficult in narrow areas in which negotiations are lop-sided, particularly if there are asymmetric power relations in negotiations. Moving beyond the functionalist-contractualist approach of Keohane, Martin argues that collective action failure may not always be characterised by Prisoner's Dilemma.[224] Instead, other situation-structures may create different collaboration or coordination problems. One of these is the idea of *suasion games*. This situation will arise when, in a two actor model, there is one player who is privileged and must be persuaded to participate, while the other has

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[218] *Ibid*, pp. 95-100; pp. 287-292.

[219] Keohane (1984).

[220] Axelrod, R and Keohane, R (1986), 'Achieving Cooperation Under Anarchy: Strategies and Instituations', in Oye, K (ed), *Cooperation Under Anarchy* (Princeton: Princeton).

[221] Ucarer, E (2002), 'The European Union and Norm Diffusion in Refugee Protection: Shirking. Shifting, or Sharing?', presented at *UACES Workshop on EU Burden-Sharing*, LSE, 12 January, p. 6

[222] Schuck, P (1997), 'Refugee Burden-Sharing: A Modest Proposal', *Yale Journal of International Law*, 22, pp. 243-97.

[223] Anker, D, Fitzpatrick, J and Shacknove, A (1998), 'Crisis and Cure: A Reply to Hathaway/Neve and Schuck', *Harvard Human Rights Journal*, Vol. 11, pp. 295-310.

[224] Martin, L (1993), 'The Rational State Choice of Multilateralism' in Ruggie, J (ed), *Multilateralism Matters: The Theory and Praxis of an Institutional Form* (Columbia: New York).

little choice but to cooperate.[225] In other words, it may occur when the stronger actor has little to gain and the weaker actor little to lose in the specific area, undermining the prospects for cooperation.[226] As Conybeare's analysis of the global trade regime illustrates, this problem is particularly likely to occur in the context of north-south relations. He uses the example of the prospects for a weak state using a retaliatory tariff against a strong state. This, he suggests, would only make the small state worse off, highlighting the extent to which a weaker actor or group of actors might be forced to accept only very small gains *or* scupper the prospects for cooperation entirely.[227]

The concept of 'linkages' represents a means to tackle this imbalance. It begins by asking how it is that issues subject to inter-state negotiation are grouped in packages called 'issue-areas' that potentially define the boundaries of negotiations within a given regime. This is significant because the way in which different issues are "clustered" or "nested" under the regime can facilitate side-payments that may make cooperative outcomes more likely.[228] Haas argues that either new knowledge and ideas or the clustering of issue-areas within negotiations may generate a perception that two areas previously perceived to be distinct are inextricably linked, expanding the scope for side-payments. This may raise the prospects for cooperation by offering solutions that are perceived to be more equitable in *both* of the previously distinct issue-areas.[229] To extend Conybeare's example, if north-south trade negotiations were 'linked' with the environment or human rights, for example, the prospects for overcoming collective action failure might be increased in both areas for both sets of actors.

While the relevance of this concept to the broad area of north-south relations is self-evident, there are particular insights available to the refugee regime. For example, Keeley's observation that there are multiple and overlapping refugee *regimes* might be built upon. His argument is that there are legal, organisational and normative regimes.[230] However, one might equally identify different areas of the regime in terms of EU asylum policy, humanitarian assistance, post-conflict reconstruction, for example, all of which are areas associated with the 'refugee regime' but are in many ways disjointed. This is the argument made by Ucarer, who claims that regimes such as the human rights regime are based on 'nested' and inter-linked sub-regimes. As he puts it, "a good example of this dynamic is the asylum issue-area in the EU which…is nested within the global refugee protection regime".[231] Given the argument that rather than being a purely public good, as Suhrke implies, certain areas of refugee protection may offer non-excludable benefits while others cater to excludable state-specific interests,[232] there may be the potential to 'link' states' interests in one sub-regime to another area in order to direct interests towards overcoming collective action failure.

Cognitivism ('Sociological' Approaches)

Rationalist approaches have been widely criticised for their unrealistic and limiting assumptions that allow the world to be viewed in simplified game theoretical terms. In particular, rationalist ontology takes states as unitary 'black boxes' whose interests and

[225] *Ibid.*
[226] Hasenclever *et al* (1997), p. 51
[227] Conybeare, J (1984), 'Public Goods, Prisoner's Dilemma and the International Political Economy', *International Studies Quarterly*, Vol. 28, pp. 5-22.
[228] Keohane (1984), p. 91.
[229] Haas, B (1980), p. 370
[230] Keeley, C (2001), 'The International Refugee Regime(s): the end of the Cold War matters', *International Migration Review*, Vol. 35, pp. 303-14.
[231] Ucarer, E (2002), 'The European Union and Norm Diffusion in Refugee Protection: Shirking. Shifting, or Sharing?', p. 3.
[232] For elaboration of this argument see Betts (2003), pp. 274-296 ; Betts, A (2005), 'What Does "Efficiency" Mean In The Context of the Global Refugee Regime?', *COMPAS Working Paper* 05-09, pp. 12-22.

preferences are exogenously given and are antecedent to interaction. As Haggard and Simmons explain, this blinds such approaches to important aspects of *how* 'interests' emerge within normative, epistemic or interactive contexts.[233] Cognitive approaches therefore attempt to explore the areas that are bracketed by rationalism. Their ontological starting point is that, rather than being exogenously given, interests are mutually constituted by states' identities, which are themselves subject to change as a result of the intersubjective influence of norms, rules and institutions.[234] They introduce the idea that knowledge, ideas and perception may play a role in the prospects for international cooperation. These approaches broadly divide into constructivist and Critical Theory-based perspectives.

Constructivist approaches to regime theory draw heavily on the work of Wendt, who argues that norms and rules constitute actors intersubjectively. Consequently, with respect to regimes, he argues that it is necessary to ask not only why cooperation takes place, as rationalists do, but also what conditions make cooperation possible. He argues that rather than interests *causing* the norms and rules that may be called 'regimes', the two are mutually constitutive.[235] Kratochwil and Ruggie suggest that insofar as regimes represent "social institutions around which expectations converge in international issue-areas", those expectations can, in turn, be considered to be the consequence of intersubjective and ideational learning.[236] Critical Theorists draw on the insights of Habermas to argue that there is a role for 'communicative action' within the process of defining the creation and evolution of inter-state norms. Kratochwil highlights that regimes are the product of on-going country re-interpretation.[237] In this process, discourses between states define what is legitimate and what types of action are to be privileged.[238] For some authors this leaves open the possibility that persuasion and argument can strongly influence state perspectives and contribute to changing norms and therefore state actions.[239] A number of important areas of insight for international cooperation in the refugee regime can be drawn from cognitivist approaches. In particular, these focus on the roles of: firstly, *norms*; secondly, *epistemic communities*; thirdly, *transnational actors*. These are explained in turn.

Norms

Norms can be defined as "collective expectations about proper behaviour for a given identity".[240] Rather than simply being a product of state interest, they are therefore recognised by constructivists as being constitutive of states' self-perception. As Checkel explains, "international norms carry social content and are independent of power distillations: they provide states with understandings of interests" once they are internalised.[241] Within the human

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[233] Haggard, S and Simmons, B (1987), 'Theories of International Regimes', *International Organization*, Vol. 41, pp. 511-512.

[234] Hall, R and Biersteker, T (2002) (eds), *The Emergence of Private Authority in Global Governance* (Cambridge: Cambridge); Kratochwil, F (1989), *Rules, Norms, Decisions: On the Conditions of Practical and Legal Reasoning in International Relations and Domestic Affairs* (Cambridge: Cambridge); Weldes, J (1999), *Constructing National Interests: The United States and the Cuban Missile Crisis* (Minnesota: Minneapolis).

[235] Wendt, A (1991), 'Bridging the Theory/Meta-Theory Gap in International Relations', *Review of International Studies*, Vol. 17, p. 390.

[236] Kratochwil, F and Ruggie, J (1986), 'International Organization: A State of the Art on an Art of the State', in Kratochwil, F and Mansfield, E (eds) (1994), *International Organization: A Reader*, (Harper Collins: New York), pp. 4-15.

[237] Kratochwil (1989), *Rules, Norms, Decisions*.

[238] Weldes, J (1999), *Constructing National Interests,* pp. 98-107.

[239] Risse, T (2000), '"Let's Argue!": Communicative Action in World Politics', *International Organization*, Vol. 54:1, pp. 1-39; Crawford, N (2002), *Argument and Change in World Politics* (Cambridge: Cambridge).

[240] Jepperson, R, Wendt, A and Katzenstein, P (1996), 'Norms, Identity and Culture in National Security' in Katzenstein, P (ed) *The Culture of National Security: Norms and Identity in World Politics* (Columbia: New York), p. 54

[241] Checkel, J (1999) 'Norms, Institutions, and National Identity in Contemporary Europe', *International Studies Quarterly*, Vol. 43, pp. 83-114.

rights regime, for example, Risse, Ropp and Sikkink have explored the process by which what were initially only principled ideas have become institutionalised as 'norms' at the global level and in turn internalised by states, often significantly influencing behaviour.[242] In terms of the prospects for international cooperation, this literature highlights both the constraints to and opportunities for agency that may be inherent to pre-existing structures.[243]

Ucarer emphasises the central role of norms in the refugee regime. He suggests that UNHCR, in particular, has developed, codified and legitimated norms in a number of areas.[244] The norms inherent to the regime are explored in detail by Lavenex and Noll, for example, and mainly reflect legal norms.[245] Drawing on Skran's analysis,[246] Ucarer argues that the regime is characterised by three main norms: asylum, assistance and burden-sharing, with the latter being the weakest of these norms due to the absence of related institutional structures. Furthermore, he argues that norms are of particular salience in relation to asylum because the 1951 Convention is subject to such a high degree of state discretion in interpretation and application that a state's decision to provide asylum is based on how it weighs-up the competing notions of sovereignty and humanitarianism. He suggests that only norms prevent national interests from overriding humanitarian concerns. Meanwhile, Thielemann has argued that norm-based approaches contribute to a more nuanced understanding of state "solidarity" towards refugees than do exclusively interest-based accounts. In the context of EU burden-sharing, for example, he shows that the number of Kosovars accepted under the Humanitarian Evacuation Program correlates with the extent to which norms of solidarity, represented by proxies such as states' commitments to overseas development aid and asylum recognition, were present.[247]

Epistemic Communities

Haas defines the term 'epistemic community' as "a community of experts sharing a belief in a common set of cause-and-effect relationships as well as common values to which policies governing these relationships will be applied".[248] In exploring their role in regime formation and adaptation he takes the case study of the Mediterranean Action Plan for regulating marine pollution. He argues that a 'group of experts' comprising ecologists and marine scientists were integral to the formation of the regime by influencing states and the United Nations Environmental Programme (UNEP). The academic community's interpretation of facts and causal relationships played such a significant role in government learning that it was instrumental to the formation and structure of the regime.[249]

Haas' analysis highlights the significant role that academics and think tanks might play within the formation of state conceptions of 'problems', 'solutions' and the relationship between means and ends in a context such as the refugee regime. Indeed, the links between academic ideas and state action appear to be growing in the context of forced migration. For example, the creation of UNHCR's Evaluation and Policy Analysis Unit (EPAU) has created a link between the organisation and external critique. The International Association for the Study of Forced

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[242] Risse, T and Sikkink, K (1999), 'The Socialization of international Human Rights Norms Into Domestic Practices: Introduction' in Risse, T, Ropp, S and Sikkink, K (eds), *The Power of Human Rights: International Norms and Domestic Change* (Cambridge: Cambridge)

[243] Wendt, A (1992), 'Anarchy is What States Make of It: the Social Construction of World Politics', *International Organization*, Vol. 46:2, p. 417.

[244] Ucarer (2002).

[245] Lavenex, S (2001), *The Europeanisation of Refugee Policies: Between Human Rights and Internal Security*, (Ashgate: Aldershot), pp. 28-67 and Noll, G (2000), *Negotiating Asylum* (Maartinus Nijhof: Hague).

[246] Skran (1995), p. 68

[247] Thielemann (2003), p. 263-265.

[248] Haas, P (1989), 'Do Regimes Matter? Epistemic Communities and Mediterranean Pollution Control', in Kratochwil, F and Mansfield, E (eds) (1994), *International Organization: A Reader*, (Harper Collins: New York), p. 131-2.

[249] *Ibid*, pp. 128-139.

Migration (IASFM)'s biennial conference has become a forum at which states and UNHCR representatives come to listen to the input of academia. Meanwhile, think tanks and academic departments are increasingly being offered consultancy contracts that feed directly into new government thinking on areas relevant to forced migration. The precise role this has in shaping state perceptions remains to be explored.

Transnational Actors

Risse and Sikkink define trans-national advocacy networks as "actors working internationally on an issue who are bound together by shared values, a common discourse, and dense exchange of information and services".[250] They explore how, in the human rights regime, NGOs and social movements have joined up with INGOs to influence international organisations and states. This builds on Keck and Sikkink's analysis of how advocacy networks in areas such as human rights and environmental protection operate across national frontiers to bring pressure on states "from above" and "from below" in what they call the "boomerang effect".[251] Within the refugee regime, NGOs are playing a growing advocacy role beyond the service provision role that they have adopted since the 1980s. Ruud Lubbers, for example, remarked on the scale of participation in the Non-Governmental Consultations to UNHCR's Executive Committee (ExCom): "this event has grown over the years and 2004 is no exception, with more than 300 people participating from 221 NGOs".[252] Actors such an the International Council of Voluntary Agencies (ICVA), Amnesty International, the U.S. Committee for Refugees and Immigrants, and the Kenyan Refugee Consortium play a particularly prominent role in influencing the terms of debate. As with epistemic communities, the extent to which this influences the prospects for inter-state cooperation requires further exploration.

Insights for Facilitating Institutional Bargaining in the Refugee Regime

Although regime theory is often viewed as relating to the *ab initio* creation of the norms, principles, rules, and decision-making procedures of an issue-area of global governance,[253] it has adapted to consider how change in these areas can occur over time from within a regime.[254] In other words, it has become increasingly relevant to identifying the structural conditions under which adaptation is most likely and the role that agency can play within these structures to improve the prospects for cooperative outcomes.[255] These insights therefore have particular salience for an institutional bargaining process such as Convention Plus, which is directed towards achieving new multilateral agreements to supplement or qualify existing areas of the refugee regime.

Hasenclever *et al* reflect on the prospects for synthesis between rationalist and cognitivist approaches and conclude that because of their disparate epistemological and ontological bases, they are irreconcilable at a meta-theoretical level. However, they concede that both offer insights in specific contexts and that both have heuristic value.[256] In other words, power, interests and norms all play their part. Although cognitivist approaches have more realistic assumptions, especially in the post-Cold War era and when applied to 'soft security' areas such

[250] Risse and Sikkink (1999), p.18.
[251] Keck, M and Sikkink' K (1998), *Activists Beyond Borders. Transnational Advocacy Networks in International Politics,* (Cornell: Ithaca), Section 1.
[252] Ruud Lubbers' preface to UNHCR's 'Programme of Consultations with Non-Governmental Organisations', 55th ExCom, 28-30 September 2004.
[253] E.g. Skran (1995).
[254] Rosenau, J (1992),'Government, Order and Change in World Politics', in E. Czempiel and J. Rosenau (eds), *Governance Without Government,* (Cambridge: Cambridge), pp. 1-29.
[255] Checkel, J (1999) 'Norms, Institutions, and National Identity in Contemporary Europe', *International Studies Quarterly*, Vol. 43, pp. 83-114; Wendt, A (1992), 'Anarchy is What States Make of It: the Social Construction of World Politics', *International Organization*, Vol. 46:2, pp. 391-425.
[256] Hasenclever *et al* (1997), pp. 211-224.

as human rights, rationalist approaches offer insights into how to achieve cooperation under certain conditions and *given* certain *perceived* state interests. Although interests in relation to forced migration are not fixed or exogenous as rationalist models assume, but rather are perceived and constructed, once one acknowledges that they are not infinitely malleable in the short-run, rationalist approaches nevertheless allow a basis to overcome very real problems of collective action failure in the context of institutional bargaining. Yet, in order to offer a complete picture, rationalist approaches need to incorporate the insights of cognitivism and pay attention to domestic factors which are too often ignored by both sides of the debate.[257]

Given the paper's primary concern with deriving lessons for cooperation in a specific area and in relation to a specific problem, epistemological reconciliation is taken to be far less important than deriving broad insights from across the theoretical spectrum. The relevance of the different approaches can only be judged in relation to empirical application. In light of the empirical analysis of current and past attempts to foster international cooperation on targeting development assistance to facilitate self-sufficiency and local integration in host states of first asylum, the next Section applies this theoretical outline to evaluate the aspects of regime theory that offer the greatest potential for improving cooperative outcomes in north-south responsibility-sharing.

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[257] Haggard and Simmons (1987), pp. 491-517; Milner (1992), p. 493.

SECTION 5: TOWARDS A FRAMEWORK FOR NORTH-SOUTH RESPONSIBILITY-SHARING

As the empirical section of this paper showed, there are obstacles to achieving international cooperation on targeting development assistance to host states of first asylum as a means to facilitate interim or permanent local integration. The most notable cause of failure in the 1980s was the inability to achieve the 'link' between African states' interest in burden-sharing and donor states' concern to achieve durable solutions. This undermined the prospects for the general principles agreed upon in ICARA II to translate into sustainable and transparent 'additional' budget lines, which may in turn have allowed the concept of 'refugee-related development aid' to be mainstreamed across the UN-system.

The obstacles in the contemporary debate are similarly based on north-south polarisation, with northern states generally unwilling to consider 'additionality' and southern state representatives often facing severe political and economic constraints in relation to moving beyond encampment. However, in many ways the new interconnectedness between north and south represents a major change in context since the 1980s. In particular, the 'spillover' of south-north migration has created new incentives for northern engagement that were not previously present. This Section applies the theoretical framework outlined in Section 4 to explore ways in which the north-south impasse set-out in Sections 1-3 may be overcome. In order to do this, it analyses the concepts underpinning the debate on TDA in the context of Convention Plus. These are assessed in the five principal areas that Section 4 identified as potentially conducive to cooperative outcomes within an existing regime structure: *linkages*, *practical facilitation*, *leadership*, *norms*, and *transnational actors* (including NGOs and epistemic communities).

Linkages

All of the strands of Convention Plus appeal, individually and collectively, to state interests. The concept of *strategic* resettlement is intended to allow states to contribute to resettlement where it accords with their own specific strategic concerns. The irregular secondary movement (ISM) strand aims to improve protection capacities in regions of origin by appealing directly to northern state interests in limiting onward secondary movements. Meanwhile, the bilateral focus of TDA is intended to allow states to target assistance in accordance with their existing priorities and structures, and in relation to their own priorities. This appeal to state-specific interests is an acknowledgement that the provision of refugee protection does not exclusively constitute a pure public good characterised by collective action failure, as Suhrke has argued. Rather, it suggests that aspects of protection can be based on appeal to states' own interests. Indeed, this is exemplified in other areas of the regime. For example, the selective use of earmarked contributions to UNHCR, the selective use of in-country protection and the selective use of asylum based on criteria such as diaspora and colonial links all highlight how state-specific interests have been the basis of the provision of a significant proportion of the provision of refugee protection by states.[258] Allowing states to integrate protection with other priorities and 'specialise' accordingly may, if carefully managed, mean that incentives to increase levels of protection can exist outside of the highly institutionalised structures implied by Suhrke.[259]

However, there is an additional dimension to this argument. 'Interests' are not exogenously determined nor based simply on a rationalist cost-benefit analysis. Rather, they are perceived and constructed, and subject to sub-state, inter-state and supra-state influences which channel

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[258] Dubernet, C (2001), *The International Containment of Displace Persons* (Ashgate: Aldershot); Betts (2003), pp. 290-291.
[259] Betts (2005).

and adapt priorities and perceptions. The 'linkages' literature examined in Section 4 has generally been used in rationalist and game theoretic terms. In particular, it has been used to highlight how 'exchange' across issue-areas can be used to improve the prospects for cooperative outcomes in so-called 'suasion games'. However, Haas's seminal work in the area was grounded in perception rather than game theory. His argument was that defining "areas of joint gain" and "convergences of interest" across issue-areas is based on knowledge and the perception of interdependence across issue-areas. The association and packaging of what constitutes an issue-area is not, for Haas, based on objective truth, but rather occurs when ideas about 'problems', 'solutions' and causal connections "succeed in dominating the policy-making process". He demonstrates this in relation to the way in which the United Nations Law of the Seas (UNLOS) was defined and negotiated in the late 1970s.[260]

Combining Conybeare's game theoretic analysis of north-south trade relations with Haas' original intention that linkages be regarded in constructivist terms, highlights, firstly, how interests in the refugee regime may be 'linked' to issue-areas in another regime such as security or development and, secondly, how different sub-areas of the refugee regime, such as asylum and relief, may be 'linked' in order to improve the prospects for consensus. This logic is implicitly present throughout Convention Plus. Asked whether anything was specifically new about the initiative's generic strands or its situation-specific CPAs, Durieux suggested that "Neither process is really new but the fact that we are using them in parallel, and we try to establish linkages between the two may be the novelty".[261] In relations to northern states, there are broadly three ways in which the 'link' between TDA and state national interest can be made: *containment*, *security* or *development*. These can be explained in turn.

Firstly, the principal means by which Convention Plus attempts to 'link' increasing protection capacity in regions of origin to northern state interests is by appealing to a *containment* agenda. As the High Commissioner said at the opening of the first Forum,

> The Convention Plus initiative is an attempt to bind what has in the past been only an occasional and *ad hoc* comprehensive approach to solving refugee crises into a more concerted and dynamic framework that produces measurable results that are in everyone's interests. These would include a reduction in the numbers of refugees and asylum seekers – not by trying simply to deter them from arriving in a particular country or region, but rather by solving the crises that caused them to move in the first place.[262]

This appeal to an association between protection in regions of origin and resolving the causes of onward movement has been particularly prevalent in the relationship between the ISM strand and the TDA strand. Within the ISM strand building protection capacities has been identified with reducing spontaneous arrival asylum claims. There is evidence, at a rhetorical level at least, that states are 'buying into' this association. In justifying the Dutch approach to protection in the region, a Government representative claimed,

> At times, secondary movements are caused by the fact that there is not effective protection in the country of first asylum...Nationally, we've been spending a lot of money on dealing with asylum claims – very often for people who turn-out to be genuine refugees. If in some way we can free money from that pot for better protection in the region, we think that in the end that would benefit many parties.[263]

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[260] Haas (1980), pp. 364-384.
[261] Interview with Jean-François Durieux, Principal Adviser, Head Convention Plus Unit UNHCR, Geneva, 7/9/04.
[262] Statement by Ruud Lubbers, 'Lubbers Launches Forum On Convention Plus Initiative', 27/6/04, www.unhcr.ch
[263] Interview with a representative of the Dutch Government (anonymity requested), Geneva, 16/9/04 (interview on cassette with the author).

However, there are risks to making the link in this way. As Crisp observed, the extent of the correlation between spontaneous arrival asylum and protracted refugee situations is empirically uncertain. It may be that the two systems cater to different groups of asylum applicants.[264] Insofar as the perception is sustainable though, this may not matter. Yet, long-term commitment and funding might ultimately be compromised if support was exclusively premised upon a containment link and if capacity building did not in turn result in the anticipated decline in spontaneous arrivals.

Secondly, the link may be made on the basis of interests in *security*. Indeed protracted refugee situations have long been associated with security implications for host states.[265] However, in the context of the 'War on Terror', they are increasingly being recognised as a potential breeding ground for international terrorism. In the context of confinement, insecurity and the presence of former combatants, refugee camps in Palestine, Pakistan and Kenya, for example, have been cited as potential sources of Islamic terrorism.[266] The association with security might therefore create a means to attract donor commitment. However, it also poses the dilemma of potentially reinforcing a discourse of securitisation in relation to refugees and asylum seekers.

A third, and more desirable though less powerful, linkage concerns the association with *development*. In particular, locating TDA within the context of states' pre-existing commitments to the UN Millennium Development Goals may offer a means to attract resources. Lubbers has already implicitly invoked this association:

> I would like to highlight the relevance of the Millennium Development Goals (MDGs) to our work…the eighth goal of the MDGs, which calls for a global partnership for development, is in line with the Convention Plus process since it promotes the contributions of refugees to development and the targeting of a fair share of development assistance to refugees and refugee-hosting communities.[267]

In relation to southern states, the key linkage that is being fostered by UNHCR also concerns that between local integration and the interest in receiving increased levels of development assistance. Durieux said that the CPU is "trying to convince states in the south that local integration is in their interests…hence the linkage with the development aid strand".[268] He claims that this appeal to interests rests upon showing that refugees can be productive agents of development, that increased levels of development aid can be attracted without undermining humanitarian assistance, and that TDA may ultimately prepare refugees for return. Attempts to create this linkage are also implicit to the European Commission's *Communication on Durable Solutions*. For example, it suggests that improving protection capacities in regions of origin will be undertaken within the framework of the EU's Regional Strategy and Country Papers, claiming that "synergies with the various components of the strategy (in particular good governance, judiciary reform, institution building, democratisation and human rights etc.) will be fully exploited" in order to "add genuine leverage to partnership arrangements with the third countries involved".[269] Yet, the credibility of the appeal to the link to increased development assistance is contingent upon first ensuring that 'additionality' is attained from northern

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[264] Interview with Jeff Crisp, Director of Policy and Research, Global Commission on International Migration, Geneva, 20/9/04.

[265] Milner (2000).

[266] Singer, P (2005), 'Terrorists Must Be Denied Child Recruits', *Financial Times*, 20/1/05, p.13

[267] Ruud Lubbers, Opening Statement, 2nd Convention Plus Forum, 12/3/04, www.unhcr.ch

[268] Interview with Jean-François Durieux, Head of the Convention Plus Unit (CPU), Geneva, 7/9/04.

[269] European Commission (2004), Paragraphs 51 and 52.

donors. As Lindvall put it, "northern states are very much in the drivers' seat".[270] Consequently, it is linkages in the north that are most crucial.

Practical Facilitation

Yet, appeal to interests is not a sufficient condition for action; feasibility is also required. As Section 4 highlights, much of mainstream liberal institutionalism identifies regimes as serving a *functionalist* role in overcoming the obstacles to 'rational' collaboration that would otherwise lead to collectively optimum outcomes. In other words, for authors such as Keohane, institutions need to facilitate interest convergence and collective action. As Ucarer argues, if one hopes to increase burden-sharing in the global refugee regime, this requires the existence of practical channels to make such action feasible, which currently do not exist.[271] In terms of north-south responsibility-sharing, there have historically been few formal or institutional channels through which states can coordinate resettlement or targeted assistance. Indeed, these have tended to be *ad hoc* and applied exclusively in 'comprehensive approaches' such as the Indo-Chinese CPA. Convention Plus points to two areas in which practical facilitation is required: firstly, at a *negotiative* level and, secondly, at a *transactional* level. These can be explained in turn.

Negotiative
In the first instance, north-south cooperation requires a forum in which negotiation can take place. At the moment, in spite of the potential for interest convergence, there is an absence of communication between north and south. The Netherlands for instance, despite, their proposals for 'protection in the region', has not even entered into dialogue with southern states. Similarly, the TDA negotiations within Convention Plus have begun within an exclusively northern donor context. If trust, credibility and sustainability are to emerge, a higher degree of interaction is required. Indeed, Chimni has drawn upon Habermasian discourse ethics to propose a "dialogical model" of *sustained* north-south interaction to overcome unilateralism.[272] In many ways ICARA II broke down because it focused on a one-off event with little chance to build interaction over time. The dialogical approach of Convention Plus, although only a starting point, offers some insight into the utility of such an approach. In particular, the resettlement strand represents the first time that southern host states have been openly involved in UNHCR-resettlement country negotiations.[273] Although the ultimate resettlement agreement was largely a reiteration of generally accepted principles, the process itself and the trust that it created point to the importance of sustained interaction.[274] Given southern states' limited mission capacity in Geneva, the Regional Experts Meeting on Durable Solutions in West Africa, organised under the auspices of the CPU and to be held in Accra highlights the importance of 'taking the process to the global south'.[275]

Transactional
In the second instance, clear and transparent budget lines need to be created. ICARA highlights how *ad hoc* funding arrangements will dissipate when new short-term priorities emerge. If the momentum of the TDA process begun by Convention Plus is to be sustained, it requires that the principles and means of targeting assistance be mainstreamed within global governance

[270] Interview with Mikael Lindvall, First Secretary, Humanitarian Affairs, Swedish Mission, Geneva, 17/9/04.
[271] Ucarer (2002).
[272] Chimni, B.S. (2001), 'Reforming the International Refugee Regime: A Dialogical Model', *Journal of Refugee Studies*, Vol. 14:2, pp. 151-165.
[273] Interview with Bill Lundy, Counsellor, Permanent Mission of Canada, Geneva, 13/9/04.
[274] Interview with Sayed Mohammed Sadati Nejad, Third Secretary, Iranian Permanent Mission, Palais des Nations, Geneva, 5/10/04, 3pm; Interview with Nadhavanthra Krishnamra, First Secretary, Thailand, Geneva, 6/10/04.
[275] Interview with Jean-François Durieux, Principal Adviser, Head Convention Plus Unit, Sao Paulo, Brazil (IASFM Conference), 11/1/05.

structures. Identifiable channels for delivering and monitoring assistance are required for there to be sufficient trust by southern states that funding will be sustained and by northern states that access to durable solutions will be sustained. Analagous to Axelrod's notion of 'tit-for-tat' in Prisoner's Dilemma,[276] clarity in principles and practice may help overcome the tendency towards 'free-riding' more inherent to *ad hoc* arrangements, until such time as burden-sharing norms are internalised within national structures.

In terms of transactional coordination, one key debate concerns whether the mechanism of allocation should be *common pool* or *bilateral allocation*. Kanbur, Sandler and Morrison explore ways of fostering cooperation on development assistance that provides global public goods with trans-boundary effects such as mitigating environmental problems, tackling organised crime or controlling disease. They claim that, given the non-excludable nature of many of the benefits that derive from the provision of these goods, there is a disincentive for states to individually provide overseas development aid.[277] However, they further argue that often these goods are not perfectly pure public goods but that many states derive excludable state-specific subsidiary benefits. Given the presence of these state-specific interests, they argue that one means of overcoming collective action failure is to create a coordination mechanism that ties these interests to the wider and under-provided global public benefits. To achieve this they propose the notion of collective pooling, like that used in the Global Fund For HIV/AIDS, Malaria and Tuberculosis.

Indeed, this is broadly the concept underlying the U.S. Committee for Refugees and Immigrants' (USCRI) proposal for a fund coordinated by UNHCR to compensate states of first asylum for the costs of interim local integration.[278] From a northern perspective, common pooling has the benefit of guiding individual state interests towards areas in which there is a collective interest but where there is likely to be free-riding in the absence of coordination. Meanwhile, from a southern perspective, the advantage of this mechanism is that it might contribute to overcoming the selectivity that plagued ICARA I's allocation of resources. However, the disadvantage of common pooling is that it may diminish the level of state-specific interests derived from contributing and so dilute the incentives to provide. Where there is an absence of trust in such a mechanism, beginning with bilateral facilitation may be more realistic. The central pooling role adopted by UNHCR during ICARA I and II may be one of the reasons why so little provision was ultimately forthcoming. Indeed, Sajjad Malik, the Senior Rural Development Officer at UNHCR, claims that one of the advantages of the Zambia Initiative has been its "flexible funding mechanism", with states able to contribute in accordance with their own priorities.[279] However, it is important that this does not detract from having clear principles and budget lines that establish the 'rules of the game', as was crucially absent in ICARA II.

Leadership

In both the ICARA and Convention Plus negotiations, there has been no 'hegemon' in the sense implied by Suhrke.[280] Although the United States made a major financial contribution at ICARA I, its lack of support for ICARA II was one of the reasons for failure. In Convention Plus, although there has been no 'coercive' or 'benevolent' hegemon in accordance with the realist models linked to Hegemonic Stability Theorem (which were explained in Section 4), a

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[276] Axelrod, R (1984), *The Evolution of Cooperation*, (New York: Basic).
[277] Kanbur, R Sandler, T and Morrison, K (1999), *The Future of Development Assistance: Common Pools and International Public Goods*, (ODC: Washington D.C.).
[278] U.S. Committee for Refugees and Immigrants (2004), 'Moving Forward: Identifying Specific Measures to End Refugee Warehousing', September, www.refugees.org
[279] Interview with Sajjad Malik, Senior Rural Development Officer, Reintegration and Local Settlement Section (RLSS), Geneva, 23/9/04.
[280] Suhrke (1998).

different type of hegemony is identifiable. Chimni draws on a Gramscian concept of hegemony to argue that in the refugee regime, knowledge production within a UNHCR context is often defined by a narrow set of major donors.[281] Indeed, a number of actors have led the process and had greater bargaining power within negotiations than the majority of states. As most stakeholders to the debates acknowledge, the process has, to a large extent, been ideationally driven by the UK-Denmark-Netherlands axis which has formulated its ideas either bilaterally, via the European Commission or through the Intergovernmental Consultations on Immigration, Refugee and Asylum Policy (IGC). Indeed, to a degree, Convention Plus has been a response to the concerns and initiatives of these states. This is reflected in, for example, the launch of Convention Plus taking place at the EU Justice and Home Affairs meeting in Copenhagen as well as the close contact between the High Commissioner and high level representatives of the key states during the early stages of the initiative.

However, UNHCR has not been a passive barometer of these donor interests and donor state 'power' has not entirely determined outcomes. Far more significant has been the role of *individual* leadership, just as Skran observed in her analysis of the formation of the regime in the inter-war years. The importance of individuals has been evident at both an IGO and a state level. From a UNHCR perspective, the role of Jean- François Durieux in leading the CPU has been crucial. As Manisha Thomas of ICVA, an NGO often highly critical of UNHCR, explained, the idea of Convention Plus began as an empty sound bite but "the only reason it has become anything more coherent is that you've got Jean-François and people in the CPU that actually understand refugee protection and are more creative and see ways of moving things forward".[282] With respect to TDA, the role of Anita Bundegaard, the former Danish Development Minister brought into UNHCR to develop these concepts, has also been important. These individuals have been highly significant in negotiating and building confidence between disparate state interests and developing concepts that might allow a convergence of interests.

As Young predicts in his work on the environmental regime, the role of state representatives has also been central. The level of participation in the Geneva process and the degree of consensus reached has often depended more on the skills and commitment of diplomats than structural power or exogenously defined 'interests'. Although most southern state diplomats complained about the capacity constraints they faced with respect to Geneva-level negotiations, the Ghanian deputy representative, Sylvester Parker-Allotey, and South African First Secretary, Laura Joyce, have played a central role in building consensus amongst the African Group members in spite of capacity constraints and enormously divergent concerns. This, for example, contributed to the proposal to host a Regional Experts Meeting on Durable Solutions in West Africa in Accra in May 2005.[283]

Elsewhere in the process, the framework of understanding on resettlement was based largely on the individual negotiating skill of the Canadian chair, Bill Lundy. Even states with long-standing concerns about resettlement, such as Thailand, were thereby satisfied by the process. With respect to TDA, the role played by the Danish Government in leading the debate and undertaking pilot projects has been highly influenced by individuals. At a Copenhagen level, it has been in spite of rather than because of the Right Wing Coalition that DANIDA civil servants have maintained pilots such as support for the Ugandan Self Reliance Strategy. Meanwhile, at a Geneva level, the Danish Ambassador and Deputy Representative have led much of the TDA advocacy campaign on UNHCR's behalf. Although the tangible gains from

[281] Chimni, B.S. (1998), 'The Geopolitics of Refugee Studies: A View from the South', *Journal of Refugee Studies*, Vol. 11:4, pp. 350-374.
[282] Interview with Manisha Thomas, Policy Officer, ICVA, 8/9/04, Geneva.
[283] Interview with Jean-François Durieux, Principal Adviser, Head Convention Plus Unit, Sao Paulo, Brazil (IASFM Conference), 11/1/05.

Convention Plus's two and a half year mandate are limited, the identifiable achievements of the initiative – for example, the Multilateral Framework of Understanding on Resettlement, the growth in dialogical trust between north and south, and the pilots in TDA – therefore owe a great deal to individual leadership rather than state 'power' or hegemony.

Norms

If interests are to translate into sustained cooperation over time, established behavioural norms must emerge over time. As Ucarer argues, there is currently no accepted norm of 'burden-sharing'.[284] Resettlement and additional contributions beyond *non-refoulement* are largely discretionary acts. The Convention Plus process illustrates a number of conceptual ways in which norms concerning TDA might be created and internalised over time. The idea of a *'generic agreement'* inherent to Convention Plus has no legal status and the need for such an agreement in TDA is highly contested. However, having clarity of concepts and a framework of consensus may at least allow norms to emerge and disseminate over time.

As Goodwin-Gill observes, "Where there is law and principle, so there is strength and the capacity to oppose. Where there are merely policies and guidelines, everything, including protection, is negotiable".[285] However, norms need not be seen as coterminous with law. Crawford argues that a 'norm' simply represents "dominant practice and behaviour" that is constituted through normative belief. Through numerous case studies, she demonstrates how normative beliefs and thereby norms have adapted over time through changed perception.[286] General principles can be a starting point for this process that may ultimately lead to a clear legal framework. A mutually shared understanding of 'the rules of the game' may therefore offer a basis for beginning to change behaviour. ICARA II's Final Declaration and Programme of Action failed to establish guiding norms not because it was not legally binding but because it was characterised by ambiguity rather than clarity. In particular, it failed to clearly define the status of 'additionality', transferring the polarisation of negotiations into an ambiguous compromise that resources *should* be additional.

The current debate on 'protection in regions of origin' is illustrative of a changing normative structure in which belief structures are emerging within northern government that 'proactive' external refugee policies may be more beneficial than 'reactive' domestic asylum policies. Indeed, there are signs that this normative shift, which Crisp identifies as a 'new asylum paradigm',[287] may in turn be altering behavioural practices as well as beliefs about causal relationships. For example, although one of the major obstacles to overcoming protracted refugee situations through TDA is the absence of coordination between 'development' and 'migration' at a national and global governance level, there are signs of a gradual cognitive and behavioural shift. At a national level, the Refugee Studies Centre report commissioned by DFID in 2004 highlights a growing awareness in the UK context that refugee issues are not simply a Home Office concern but need to be integrated across government. At a global level, Betsy Lippman of UNDP argued in interview that UNDP's involvement with the 4Rs in Sierra Leone and Sri Lanka has begun to change the idea within the organisation that "refugees are UNHCR's". Having been involved with the TDA debate and been persuaded of its significance, she is actively advocating within UNDP for improved coordination.[288] Such a normative change can be promoted through dialogue, practice and establishing general principles.

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[284] Ucarer (2002), p. 4.
[285] Goodwin-Gill (1996), p. 240
[286] Crawford (2002), p.41.
[287] Crisp (2003b).
[288] Interview with Betsy Lippman, Senior Field Advisor, Bureau For Crisis Prevention and Recovery, UNDP, Geneva, 6/10/04.

Transnational Actors

Both advocacy networks and epistemic communities, often working together, have significantly contributed to defining the terms of debate on building protection capacities in regions of origin. Their role can be illustrated at the EU level, the Geneva level and in a southern context. At an *EU level*, the embryonic Dutch-led debate on 'protection in regions of origin' is being guided by the input of the Migration Policy Institute and, in particular, the work of Van Selm. As was shown in Section 1, the initially vague Dutch ideas have become increasingly defined since the Dutch Government jointly hosted a seminar in Amsterdam from 31 August -3 September 2004 with the Migration Policy Institute. Here, it was Van Selm who set out the vision on behalf of the Dutch Government. She has also facilitated links between the Dutch Justice Ministry and the academic community through using her role as President of IASFM. This, for example, allowed the Dutch to present and receive feedback on their proposals in a pre-conference workshop at the organisation's biennial conference.

At the *Geneva level*, NGOs such as Amnesty International and the International Council of Voluntary Associations (ICVA) have played a central role in influencing the direction of Convention Plus. For example, Amnesty played a central role in mobilising the arguments in Noll's paper on the 'UK Proposals', *Visions of the Exceptional*,[289] to extricate the emerging Convention Plus initiative from association with the British ideas for extraterritorial processing. Moreover, in direct relation to north-south responsibility-sharing, representatives of ICVA, Amnesty and the International Catholic Migration Commission (ICMC) all pointed to the close relationship in negotiations that has emerged between NGOs and many southern states, particularly the African Group. Manisha Thomas of ICVA, for example, justified this close collaboration: "because African states see that this [Convention Plus] is pandering to European states…and with the small staffing of African missions here… you don't necessarily have people with expertise on the issues or they don't know the arguments to make. So lots of NGOs have been working quite closely with them to feed them the information that they need to pipe back".[290] A number of African state representatives also confirmed that they have closely aligned with the main NGOs in order to increase their capacity and bargaining power.[291]

In terms of incorporating the perspective of the *global south*, it is the U.S. Committee for Refugees and Immigrants' (USCRI) campaign of refugee 'warehousing' that has had the most impact on the terms of the debate on overcoming protracted situations. USCRI has formed a coalition of support incorporating a wide range of NGOs and prominent academics from both north and south who have contributed to making the case against 'warehousing'. The campaign has raised awareness of protracted refugee situations and has attracted prominent political support.[292] Most significantly, it has changed the discourse of the debate with 'warehousing' (and its connotations) now being widely used as a synonym for 'protracted situations'. USCRI, in coalition with a number of other groups[293], will host a The North-South Civil Society Summit on Refugee Warehousing scheduled for 25-26 September, 2005 in order to build on the achievements of the campaign and establish a clear basis for collective transnational advocacy.[294] The influence that non-state actors have had and potentially have in shaping the

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[289] Noll, G (2003), *Visions of the Exceptional: Legal and Theoretical Issues Raised by Transit Processing Centres and Protection Zones*, Working Paper, http://www.jur.lu.se/forsake/Noll.nsf
[290] Interview with Manisha Thomas, Policy Officer, ICVA, 8/9/04 Geneva.
[291] Interview with Sylvester Parker-Allotey, Deputy Permanent Representative, Ghana Mission, Geneva, 16/9/04.
[292] *International Herald Tribune*, 'End Refugee Warehousing', 29/9/04, p. 6.
[293] Collaborating institutions are the Dutch Council for Refugees, Frontiers (Ruwad), Refuge Consortium of Kenya, Refugee Council USA (of which USCRI is a member), Thai Catholic Commission on Migration, and World Council of Churches.
[294] Correspondence with Merrill Smith, Editor, *World Refugee Survey*. On file with the author.

terms of the debate on protracted refugee situations highlights the limitations of any purely state-centric perspective in analysing the refugee regime. These examples highlight that the perspectives of such actors exist not only alongside those of states but can be *constitutive of* states' policies and perceived interests. North-south collaboration on a civil society level may thereby be a route to collaboration on an inter-state level.

Conclusion

Building on the theoretical outline in Section 4, this Section has highlighted that the prospects for north-south cooperation on refugee issues are neither contingent on hegemonic power, as Suhrke implies, nor can they be exclusively explained with recourse to rationalist approaches to international relations. While a rationalist framework highlights a number of tools such as side-payments, joint-products, transactional structures, and hegemony that may facilitate inter-state agreement *given* exogenously defined interests, it excludes analysis of *how* perceived interests are constructed and may be reconstructed at a domestic level and an inter-state level. In this connection, cognitivist approaches offer a complementary explanation of interest formation and highlight the role that norms, *perceived* linkages and transnational actors may play in discursively framing and channelling state approaches to institutional bargaining and regime adaptation.

Although the relatively brief mandate of the CPU has limited its substantive achievements, the gains that it has made can be attributed to the role of individual leadership, not only in relation to state and IGO representatives, but also the under-explored influence of epistemic and advocacy networks. In particular, Convention Plus' implicit focus on perceptual linkages highlights a potential means to channel state interests in other areas into norms of refugee protection. Globalisation and growing north-south interdependence have created a northern interest in the related areas of containment, security and development. Creating a perceived association between development and security, on the one hand, and the need to overcome protracted refugee situations, on the other, may offer a means to create the 'link' between burden-sharing and durable solutions which was crucially absent from ICARA II. If these interests could be channelled into a sustainable donor commitment to TDA, southern states would be given renewed incentives to cooperate where in ICARA II they were alienated by the absence of an unambiguous commitment to 'additionality'. The conclusion draws together and summarises the arguments that have been made throughout the paper and, crucially, highlights which insights from this Section are most relevant to the future role that UNHCR can play in promoting north-south cooperation.

CONCLUSION

Targeting development assistance to first states of asylum is probably the most significant contemporary issue in the global governance of forced migration. This is because, firstly, given the increasing constraints on spontaneous arrival asylum in both north and south, opening-up political, economic and social 'space' for protection in host states in the developing world may be the most viable means to safeguard sustainable refugee protection. Secondly, given that the majority of the world's refugees are currently in protracted refugee situations in host states of first asylum, targeted assistance may contribute to overcoming the worst human consequences of confinement. If resources were made available for self-sufficiency and local integration in projects that equally benefited host communities, rather than exclusively directed to 'camp management', host state insistence on 'warehousing' might diminish. Refugees might then be empowered to become 'agents of development' rather than 'burdens' on host states.

However, although UNHCR has attempted to promote the idea of host-state-focused TDA through its concepts of DAR and DLI, piloted in Uganda and Zambia respectively, there remain many obstacles to their widespread application. The current debates on TDA within the context of Convention Plus have so far been characterised by north-south polarisation. Northern states have been reluctant to commit the new and additional resources required to make the project viable on a large scale. In the absence of 'joined-up government' on refugee issues, UNHCR has found it difficult to persuade these states that refugee issues can be viewed in a development context rather than simply a migration context. Meanwhile, host states have been reluctant to consider interim or permanent local integration given, firstly, the international community's financial support for camp management but not for self-sufficiency and, secondly, the fear of local tensions (and electoral consequences) if the scale of 'additionality' is not sufficient to extend project benefits to the wider community. Without donor-recipient consensus, the pursuit of partnerships with global development agencies has had only limited success.

Yet there are past precedents for the current debates that have largely been ignored by the stakeholders to the contemporary process. In particular, ICARA I and II of 1981 and 1984, which accompanied the so-called 'refugee aid and development' debates, represent multilateral attempts to promote refugee self-sufficiency and local integration in Africa. These past precedents exhibit striking similarities with the aims, methods, context, and even language of the contemporary process. Given the failure of the ICARA process and RAD debates to have any lasting legacy, comparative analysis offers important lessons for the prospects of achieving international cooperation on TDA. Ultimately, ICARA's failure was the result of its inability to create a clear 'link' between southern concern to attract 'additional' resources and northern concern that burden-sharing translate into durable solutions. In the absence of a clear and transparent agreement on these principles, few additional resources were forthcoming and ICARA II's Final Declaration and Program of Action became devoid of meaning once new humanitarian priorities claimed the attention of states and the term of Poul Hartling came to an end.

The shortcomings of ICARA need not, however, imply that the current process will similarly dissipate as a result of the focus on the 26th of December 2004 Tsunami or the end of Ruud Lubbers' term as High Commissioner. This is in part because there are also notable differences between the two processes. Perhaps most strikingly, globalisation and the increased global interconnectedness that has emerged *since* the 1980s has created new incentives for northern state involvement in refugees' regions of origin. In particular, in contrast to the early 1980s, there is now far more south-north migration, which has generated a perception that a failure to engage with processes in the global south can have 'spillover' consequences for northern states. This new logic has been explicitly evident in the development of EU approaches to

'protection in regions of origin', led by the Netherlands and Denmark, in particular. Where, during the ICARA period, there was little basis on which northern states could be attracted to the idea of RAD, other than through tenuously-linked Cold War interests, now there is a basis on which UNHCR can attempt to attract the 'additionality' that may unblock the process. As UNHCR acknowledges, though, the presence of such interests in developing an *external* refugee policy presents both opportunities and potential risks.

A central question, then, is how these new interests can be appropriately channelled towards overcoming the obstacles to north-south responsibility-sharing that were present during ICARA II without undermining existing protection standards. However, there has so far been very little academic literature written from an international relations theory perspective that has attempted to explore the circumstances and mechanisms which might be conducive to promoting north-south cooperation. The existing work on burden-sharing in forced migration has been from a rather narrow theoretical perspective, limiting itself almost exclusively to liberal institutionalist approaches to regime theory, which conceptualise the provision of refugee protection as global public good for which collective action failure and free-riding will inevitably result in the absence of formal institutional coordination. Even from within that limited approach, authors such as Suhrke have failed to fully explore the means by which cooperation can be promoted, and have drawn prematurely pessimistic conclusions about the prospects for cooperation.

A more complete survey of the regime theory literature highlights a number of insights that may be applicable to promoting north-south cooperation in the context of the refugee regime. State interests in the refugee regime are not exogenously given and cannot be adequately conceptualised in game theoretic terms. Rather, they are constructed, directed and prioritised within sub-state and inter-state processes. Significantly, they are based on perceptions that, to some degree, can be remoulded and channelled outside of a narrow rationalist perspective based on 'power' and 'interests'. This does not imply that the ideas underlying liberal institutionalist approaches are redundant but rather that they must be integrated with cognitivist perspectives that incorporate the role of knowledge, norms and transnational actors beyond the state. The application of the regime theory literature to forced migration implies that there are five main areas that are significant in terms of promoting cooperation: leadership, practical facilitation, linkages, norms, and transnational actors. If deployed appropriately these insights may facilitate inter-state cooperation in the context of a pre-existing regime.

A number of these approaches are implicit to UNHCR's Convention Plus and have the potential to be expanded further. Although the two and a half year mandate of the CPU has limited its substantive achievements, many of the concepts that implicitly underlie it can be found within regime theory and, if adapted, may offer insights into a framework for north-south responsibility-sharing. In light of the comparative analysis of the current process with the ICARA process, unlocking the impasse on host state-related TDA must begin with northern donors who, in the words of Lindvall, are "in the driver's seat". Only once a commitment to offer sustainable 'additionality' is attained will southern states countenance self-sufficiency or local integration, or will development agencies be amenable to concrete partnerships. Given the contemporary juncture, the analysis of regime theory implies that there may be three related steps available to UNHCR to encourage northern states to commit to TDA: firstly, appealing to *state-specific interests*; secondly, channelling these perceived interests through *'linkages'*; thirdly guiding these perceived and inter-linked interests into *norms* through appropriate leadership and practical facilitation. Each of these is already, to some extent, implicit in the logic of Convention Plus, but is unlikely to be fully exploited during its overly restricted

mandate. These particular insights from regime theory, elaborated in Sections 4 and 5, have direct relevance for the instrumental role[295] that UNHCR can play in promoting cooperation.[296]

Interests

While Suhrke assumes that the provision of refugee protection is a purely public good for which the benefits of provision are non-excludable irrespective of who provides, the history of refugee protection highlights how resettlement, earmarked contributions to UNHCR and even the principle of *non-refoulement* have been applied in accordance with individual states' own perceived priorities and strategic interests. In other words refugee protection can, under certain circumstances, offer subsidiary benefits (joint products) that contribute to a state's motivation to contribute to global protection within a particular context and for specific reasons. Whereas ICARA I and II appealed to the logic of common pooling, with UNHCR taking a role in centrally coordinating the process, the current process is focused upon bilateral coordination. By allowing states to contribute according to their pre-existing priorities, domestic structures and perceived interests, the incentives for contributing will be greater. The logic of 'flexible funding' and bilateral facilitation have successfully underpinned contributions to the Zambia Initiative and Ugandan SRS. Clearly, there are risks to such an approach. Firstly, it may lead to a short-run level of selectivity in which certain groups and regions are initially excluded. However, once the benefits of TDA are highlighted to states, it may ultimately be less selectively applied. Secondly, it is crucial that if bilateral facilitation is used that it must be based on clear and multilaterally established principles so that northern and southern states can be aware of the 'rules of the game'. Where these were ambiguous in the Final Declaration of ICARA II, the absence of clarity undermined trust.

Linkages

Significantly, however, interests are not exogenously determined; they can be constructed, reconstructed and channelled through leadership. The concept of 'linkages' is often neglected in regime theory and has been absent from analysis of the refugee regime. Yet it has implicitly underpinned Convention Plus and has important implications in the context of north-south cooperation. If issue-areas identified with a perceived national interest can be channelled, via bargaining processes or knowledge structures, into being associated with other issue-areas, then it may be possible to direct pre-existing national interests towards positive outcomes in regimes or sub-regimes that were previously regarded to be unrelated to the area of interest. For example, Convention Plus has attempted to 'link' its ultimate goal of providing durable solutions to protracted refugee situations with three pre-existing interest areas, in particular: *containment, security* and *development* in order to attract 'additionality'. Although the northern containment agenda is the most compelling of these interests, it also poses the risk of de-legitimating spontaneous arrival asylum in the north. The uncertainty of the empirical correlation between protracted refugee situations and onward secondary movements also means that the association may not be sustainable. The alternatives of appealing to interests in security and prior state commitments to the MDGs may ultimately be more fruitful associations. Fostering these perceived linkages may also help to generate an awareness of the need to create 'joined-up' policy-making at the level of both national and global governance, allowing forced migration to be more appropriately seen in its broader developmental and political context.

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[295] The framework outlined in Section 5 comprises insights which can be regarded as contributing to both *understanding* cooperation and *instrumentally achieving* cooperation. The *interests-linkages-norms approach* highlights insights that have direct instrumental relevance to UNCHR as an institutional mediator.
[296] These could be used by, for example, a new specialist Department for Global Solutions with a mandate to engage in the search for durable solutions through promoting international cooperation.

Norms

Irrespective of which 'linkage' one prioritises, all three are premised upon appealing to the growing northern awareness of the inter-connectedness of north and south and the need to address issues that may otherwise 'spillover' and affect the north. This agenda has been highlighted and criticised extensively by Duffield. However, at no point does he explain why it is necessarily a bad thing for northern states to be motivated in this way if the outcomes are ultimately directed to positive ends.[297] In a similar form of characterisation to Duffield's label of "global liberal governance", which he identifies strongly with the containment and securitisation agenda of contemporary humanitarian and developmental interventions in the global south, Chimni draws a dichotomy between the concepts of "the liberal alliance containment agenda" and the "distributive developmental approach". He argues that the former is based on external intervention towards the goal of securitising external 'threats', while the latter is motivated by a focus on root causes that is motivated by ethical principles of global distributive justice.[298] This, however, is a false dichotomy; the former may offer the best strategic means to move towards ultimately achieving the latter.

Creating initial perceived 'linkages' to pre-existing interests offers a means to attract the necessary commitment and 'additionality' in the absence of a direct and pervasive desire on the part of donor states to commit to TDA. Over time, appealing to and channelling these interests into improving access to durable solutions may, in turn, help to construct new norms of refugee protection. Although a 'generic agreement' as proposed by the CPU may have no legal status, it is important to establish the type of clear and guiding principles that were absent from ICARA II. If a multilateral framework of understanding can be established alongside a concrete donor commitment to 'additionality', it may be possible to persuade southern states that there is a sustainable northern commitment to engage in burden-sharing rather than burden-shifting. Given clear guidelines, behavioural norms and cognitive normative beliefs relating to the role of TDA may become structurally embedded in state practice over time.

However, creating the basis for norms to emerge in the long run relies upon dialogue. While the resettlement strand of Convention Plus created a healthy and relatively equitable dialogue between north and south, the debate on 'protection in regions of origin', has notably excluded southern governments. This has led to alienation. The Tanzanian Government's press release rejecting the approach by the UK to accept Somali refugees highlights how money alone is an insufficient guarantee of north-south cooperation. A permanent UNHCR Forum for north-south dialogue, based on that used in the Convention Plus context, may be the starting point for norms to emerge from sustained confidence-building.

This *interest-linkage-norms* approach implicit to Convention Plus, but unrealistic over a two and a half year mandate, clearly poses risks and opportunities. Analysis of the contemporary process highlights that outcomes are dependent not only on the rationalist parameters of pre-defined 'interests' and 'power' but on *individual* leadership and the role of state, IGO, NGO, and academic actors in channelling and reconstructing perceptions.

In conclusion, therefore, given that the overwhelming majority of the world's refugees are in the global south, often in protracted refugee situations, new approaches to north-south responsibility-sharing are urgently needed. Attempts to initiate north-south cooperation, in general, and on TDA, in particular, have often been characterised by political impasse. Yet, international cooperation failure is not an inevitable outcome of 'collective action failure' or

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[297] Duffield (2001).
[298] Chimni, B.S. (2002), 'Aid, Relief, and Containment: The First Asylum Country and Beyond', in Van Hear, N and Sorensen, N (eds), *The Migration-Development Nexus*, (IOM: Geneva), pp. 51-66.

Prisoner's Dilemma, as Suhrke suggests, but is highly contingent on a number of factors which are 'cognitive' as well as 'rationalist' in nature. If host-state-focused TDA is to successfully overcome protracted refugee situations, its approach needs to be informed both by historical analysis of precedents such as ICARA and by a full understanding of the regime theory literature relevant to international cooperation. UNHCR, along with other actors, can and should play a role in promoting sustained north-south cooperation and dialogue. Only then can the opportunities and challenges offered by the northern states' focus on 'protection in regions of origin' be channelled into creating new norms of refugee protection. Ironically, it may be the growing recognition of complex interdependence between north and south, often identified as a structural cause of displacement,[299] which holds the key to channelling donor interests into a commitment to improved protection standards in host states in the developing world.

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[299] Castles (2003), pp. 11-20.

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APPENDIX: RESEARCH METHODS

Introduction
Most primary research in forced migration is anthropological or psychosocial in theoretical orientation, taking its research subject as the displaced. What little specialised research methods literature there is in forced migration studies is consequently a reflection of this focus.[1] In contrast, there has been little, if any, critical reflection on research methods available for analysing the policy-making process in the global refugee regime. This appendix therefore draws upon the wider literature on qualitative methods in the social sciences[2] and political science,[3] in particular, to explain the approach taken in this paper and the insights it offers for future political research in the issue-area.

The combination of techniques used in researching this paper is a reflection of its central research question, which seeks to explore the prospects for north-south cooperation in the refugee regime by analysing the current Convention Plus debate on targeting development assistance to host states in regions of origin. The paper is empirically based on research carried out in Geneva, as the principal venue of the current debate and the site of UNHCR's Headquarters. The aim of this fieldwork was to understand what has happened in the debate so far, the perspectives of its main stakeholders (northern states, southern states, UNHCR, NGOs) and the debate's historical context.

The methodology of the paper is qualitative and inter-disciplinary. Firstly, it is based on semi-structured interviews with around 30 UNHCR, NGO and state representatives engaged in the current Convention Plus debate. Secondly, it is grounded in participant observation, based on having attended meetings such as the Convention Plus Forum, UNHCR's Executive Committee and bilateral meetings relating to the targeting development assistance debate, primarily as an intern at the UK Permanent Mission to the United Nations Office in Geneva (UNOG). Thirdly, it is based on archive research on the past precedents for the current initiatives, carried out at UNHCR's Headquarters.

All of the fieldwork for this paper was carried-out during a single research trip to Geneva between 5 September and 9 October 2004. The choice of these dates is a reflection of the three methods of data collection that were used. During the period of the 7-17 September interviews were conducted with UN, NGO and state representatives, permanently resident in Geneva. The week of the 20-24 September was used for archive research. The trip was timed to culminate in UNHCR's annual Executive Committee (ExCom), which, including the Convention Plus Forum and the Pre-ExCom NGO consultations, lasted from 29 September until 8 October. The ExCom period was an opportunity not only to engage in relevant participant observation, but also to conduct further interviews with national political representatives who had flown into Geneva for the week's meetings. This appendix explores the paper's empirical and theoretical methodology in a number of areas, critically examining the research process in terms of: the three *data collection* methodologies, *ethics*, *ontology and epistemology*, and *dissemination*, before concluding by looking at the *implications* of this analysis for future research.

Interviews
A Semi-Structured and Non-Standardised Approach
The aim of carrying-out interviews was two-fold: firstly to establish what had taken place in the Convention Plus debates up until that point; secondly, to understand the views of the major stakeholders to those debates. In attempting to explore the prospects for and limitations of north-south cooperation, an appreciation of the basis of convergence or divergence between stakeholders was crucial. Given the

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[1] Jacobsen, K and Landau, L (2003), 'Researching Refugees: Some Methodological and Ethical Considerations in Social Science and Forced Migration', *New Issues in Refugee Research*, Working Paper No. 90 (UNHCR: Geneva); Rodgers, G (2004), '"Hanging Out" With Forced Migrants: Methodological and Ethical Challenges' in *Forced Migration Review*, Vol. 21.

[2] See, for example, Bryman, A (2001), *Social Research Methods* (Oxford: Oxford).

[3] Marsh, D and Stoker, G (eds) (2002), *Theory and Methods in Political Science* (Palgrave: Basingstoke); Hay, C (2002), *Political Analysis* (Palgrave: Basingstoke).

desire to understand interviewees' perspectives, interpretations and perceptions, as the representatives of the state or organisation on whose behalf they spoke, interviewing was qualitative.[4]

The approach taken was based on semi-structured interviews, which covered a series of topics but allowing sufficient leeway to adapt the interview according to the interviewee's responses.[5] The selection of specific UN, state or NGO representatives for interview was generally based on an awareness that either they, as individuals, or the state or organisation they represented, had a significant stake in the Convention Plus debates. Consequently, depending on what I already knew about their 'positioning' in the debates, there were generally specific themes that I hoped to cover, while wishing to balance this with an open-ended approach.

Rather than having a standardised questionnaire, the thematic focus varied depending on who I was talking to and their background. Generally, I prepared an *aide-memoire* for each specific interview, based on who I was speaking to and the relevant information I believed that they might have to offer. In order to balance flexibility with a sufficient focus so as to facilitate direction and avoid repetition, I generally divided the interview into two or three broad thematic areas, noting a list of 'probes' or areas of follow-up under each heading. The order in which I dealt with the themes was adaptable on the basis of the progression of the conversation, and I generally introduced each theme in sufficiently broad terms so as not to foreclose the terrain of discussion, returning to specific details through probing. The focus of the interviews was therefore partly tailored to what I knew about each stakeholder's previous involvement in the debates.

Sampling

The sampling technique used was, broadly speaking, a combination of non-random stratified sampling[6] and 'snowballing'. My overall aim was to interview a 'spread' of stakeholders to the debate, ensuring the representation of northern states, southern states, and UN and NGO representatives. Prior to departure, the contact details of relevant interviewees were compiled based on my previous contacts in Geneva, internet research, and by using the contacts list of the simultaneous Refugee Studies Centre-DFID project.[7] Most interviewees were reluctant to commit to dates and times much in advance and preferred that I contact them upon arrival in Geneva. Acquiring access to interviewees proved difficult, particularly at such a busy time in the UN calendar with UNHCR's Standing Committee and ExCom taking place during my trip. It was partly for this reason that I relied heavily upon 'snowballing', which can be defined as using interviewees to nominate potential informants on the basis of their own networks.[8] The disadvantage of such an approach is that it can lead to bias, with a sample being arbitrarily based on a set of inter-connected people.[9] However, in practice, it proved imperative to use the support of previous interviewees' recommendations in order to acquire access to further participants. As Cornelius argues in his work with Mexican immigrants, where there are 'gatekeepers' or other obstacles to access, an insider's introduction can prove extremely useful.[10] Many of my respondents were helpful in this regard.

There were individuals and groups, in particular, whose representatives I would have liked to interview, and approached, but was not able to for logistical or other reasons.[11] As King, Keohane and Verba explain, the danger with restrictions on access is that "the refusal to allow access may be correlated with

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[4] See, in particular, Rubin, H and Rubin, I (1995), Qualitative Interviewing (Sage: London); Mason, J (2004), *Qualitative Researching* (Sage: London), pp. 62-67; Foddy, W (2001), *Constructing Questions For Interviews and Questionnaires* (Cambridge: Cambridge), pp.126-152.
[5] Bryman (2001), p. 314.
[6] *Ibid*, pp. 323-327.
[7] Refugee Studies Centre (2005), *Developing DFID's Policy Approach To Refugees and Internally Displaced Persons*, Final Report, (Oxford: RSC).
[8] Devine, F (2002), 'Qualitative Methods', in Marsh, D and Stoker, G (eds) (2002), *Theory and Methods in Political Science* (Palgrave: Basingstoke), p. 205.
[9] Jacobsen and Landau (2003), p. 16.
[10] Cornelius, W (1982), 'Interviewing Undocumented Immigrants: Methodological Reflections Based on Fieldwork in Mexico and the U.S.', *International Migration Review*, Vol. 16:2, p. 396.
[11] These include representatives of the USA, Zambia, South Africa, Mexico, Japan, a representative of UNHCR's Africa Bureau, and a representative of the World Bank.

the dependent variable in which the scholar is interested", which may result in selection bias.[12] Indeed, this was the case insofar as many factors that may have been explanatory of the prospects for north-south cooperation were also reasons for a lack of access. For example, one of the most difficult groups to arrange to interview was southern state diplomats. With very little mission capacity, they were generally too busy to meet and rarely in the office to arrange a meeting. I also received no response from requests to speak to representatives of the European Commission and the secretariat of the Inter-Governmental Consultations on Asylum, Refugee and Migration Policies, the architects of some of the unilateral approaches to 'protection in regions of origin', possibly because of a desire to avert negative publicity. Ultimately, though, I did achieve a reasonable 'spread' of perspectives from the main stakeholder groups. I carried-out 30 interviews, varying between 25 minutes and two and a half hours in length. These represented 8 northern states,[13] 7 southern states,[14] 5 NGOs,[15] and 10 UN representatives, of which 7 were from UNHCR.[16]

Process

As Mason argues, qualitative interviewing requires the ability to 'think on one's feet' and respond quickly and coherently to the dynamics of an interview.[17] This involves both substantive and interactive preparation. With respect to substance, Arksey and Knight argue that the most important aspect is to understand the topic.[18] To achieve this, I read all of the online UNHCR publications that related to Convention Plus prior to departure, to ensure a sound grasp of the debate. This minimised the extent to which I asked trivial, banal or ill-informed questions that might alienate interviewees.

The majority of the interviews were taped and later transcribed in order to allow direct citation and enable me to concentrate more on interaction than on manual transcription. The only cases in which taping did not take place were when consent was not granted or impromptu meetings took place in which I spoke to someone and then later took notes on the conversation based on memory.[19] I also took brief notes alongside taping, as this enabled me to respond more actively to comments.[20] Three of the interviews were joint interviews with more than one respondent.[21] This was at the request of the interviewees. While Arksey and Knight suggest that this can fundamentally change the dynamics of an interview,[22] in reality it appeared to have little effect, although one interviewee (usually the one I had initially approached) generally dominated discussions with the other contributing only when they had more relevant knowledge.

A major problem which arose concerns the three main failures which Flick associates with what he calls 'the expert interview', in which a respondent "is integrated into the study not as a single case but as representing a group",[23] as is the case with state, NGO or UN representatives, for example. Firstly, I encountered the problem of 'the rhetoric interview'. Certain state representatives, in particular, had a rigid and descriptive idea of what they wanted to tell me, being largely unresponsive to questioning and unwilling to engage in genuinely interactive dialogue. Although a minority of interviews therefore simply became reiterations of previously made national statements, it was possible to acquire new analysis from most simply by posing counter-arguments as a method of probe. Secondly, I also encountered the problem of representatives who "change between the roles of expert and private

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[12] King, G Keohane, R and Verba, S (1994), *Designing Social Inquiry* (Princeton: Princeton), pp. 132-3.

[13] Australia, Canada, Denmark, Netherlands, Sweden, Switzerland, Turkey, and the UK.

[14] Ghana, Egypt, Kenya, Iran, Tanzania, Thailand, and Uganda.

[15] Amnesty International, ICMC, ICVA, JRS, USCRI.

[16] These spread across the CPU, External Relations, RLSS and the Afghanistan Comprehensive Solutions Unit; the other three were from the GCIM, OCHA and UNDP.

[17] Mason (2004), *Qualitative Researching* (Sage: London), pp. 67-75.

[18] Arksey, H and Knight, P (1999), *Interviewing For Social Sciences* (Sage: London), pp. 39-40.

[19] This took place, for example, when I spoke to the Deputy Prime Minister of Uganda at the High Commissioner's reception on 4/10/04.

[20] Bernard, H (2002), *Research Methods in Anthropology: Qualitative and Quantitative Approaches* (Altamira: Oxford), pp. 220-223.

[21] Mikael Lindvall and Ann Blomberg of Swedish Permanent Mission were interviewed together; Salvatore Lombardo and Ewen Macleod of the Afghanistan Comprehensive Solutions Unit were interviewed together; Mariette Grange of ICMC and Christine Bloch of JRS were interviewed together.

[22] Arksey and Knight (1999), p. 75.

[23] Flick, U (2002), *An Introduction To Qualitative Research* (Sage: London), pp. 89-90.

person". This occurred in particular when relatively humanitarian diplomats were forced to defend the positions of right wing governments that they clearly did not believe in. This dissonance, though, provided an interesting commentary on the debate in itself. Thirdly, interviewees sometimes proved not to be 'expert'. This occurred most notably in one case in which a diplomat had just been reassigned to Geneva with no previous experience of refugee or humanitarian issues.

Archives

I decided to use the archives at UNHCR[24] in order to explore the ICARA conferences of the 1980s. Based on preliminary reading of secondary literature, it occurred to me that there was a striking similarity between the contemporary TDA debates and the ICARA precedents. I therefore wanted to undertake a comparative analysis of the current debate with that of the 1980s in order to draw insights for the current process.

The use of the archives to supplement this analysis can be justified in three ways. Firstly, although books have been published on ICARA, Tosh, for example, argues for the importance of returning to the original sources in order to surmount the academic and political context in which previous secondary literature may have been compiled.[25] Secondly, one of the main restrictions placed on the UNHCR archives is that of a 20-year period before documents may be viewed. This meant that although previous examples of north-south international cooperation such as CIREFCA and the CPA could not be viewed, the documents relating to ICARA II (of 1984) had just become publicly available, presenting a potentially insightful opportunity. Thirdly, exploring the archival material was particularly fruitful from an international cooperation perspective because it contains, for example, the correspondence of state representatives with UNHCR and the details of private meetings within UNHCR. This allowed the international relations of the process to be 'unpacked' in the light of evidence that had not previously been available.

Although there is a high degree of 'selective survival'[26] and numerous restrictions apply to safeguard donor interests and employee confidentiality (UNHCR), the archives provide an episodic[27] but relatively complete record of UNHCR's activities since its institutional inception. They hold a range of documentary materials including official documents, letters, faxes, memos, and conference details from UNHCR's offices around the world. However, they do not exist as a single permanent entity, and are based on groups of records from different offices or collections of private papers, distributed throughout Headquarters.

This lack of permanent presence had a number of limitations for my research. In order to use the archives it is necessary to contact the archivist in advance and arrange an appointment. It is also necessary to pre-order material, reducing the flexibility one has while undertaking research. Moreover, a temporary 'research room' had to be commandeered in a designated part of the building with the constant threat that it would be lost "if Darfur kicks off".[28] Indeed, this epithet was borne out and there was some disruption to my use of the archives. Furthermore, given that no more than two to three researchers are apparently received each month, and two employees are required to be allocated to the handling of document requests and the supervision of researchers, the organisation is reluctant for researchers to spend more than around five consecutive days undertaking archive research.

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[24] 'Archives of the United Nations High Commissioner For Refugees', www.unhcr.ch
[25] Tosh, J (1988), *The Pursuit of History: Aims, Methods and New Directions* (Longman: London), pp. 54-7.
[26] 'Selective survival' occurs when certain documents are removed from the archive over time. See, for example, Cox, N (1996), 'National British Archives: Public Records', in Brivati, B, Buxton, J and Seldon, A (eds), *The Contemporary History Handbook* (Manchester: Manchester), Ch. 24. Selective survival has occurred at UNHCR particularly when the organisation moved to its new headquarters.
[27] McNabb distinguishes between a 'running record', which is a continuous documentary archive of an organisation and an 'episodic record', which holds documents relating only to specific events. Although the UNHCR archive purports to be relatively complete, in reality it holds 'fonds' only on certain aspects of its history. McNabb, D (2004), *Research Methods for Political Science: Quantitative and Qualitativ*e (M.E. Sharpe: London), pp. 451-459.
[28] Comment by Lee McDonald, UNHCR, Geneva, 22/9/04.

The approach used to analyse the material was simply based on content analysis[29] as a means to unearth similarities and differences in comparison to the process explored by my interview research. To cross-check the validity of the data, I used 'triangulation',[30] undertaking a literature review of the previous work on ICARA for the purposes of confirmation and completeness.[31] By using the UNHCR and UNOG libraries I was able to access some of these secondary sources outside of the archive opening hours, enabling me to cross-check as I went along.

Participant Observation
Some of the elements of participant observation were employed, mainly as a means to complement the paper's use of interviews by, firstly, allowing first-hand observation of relevant meetings and, secondly, improving access to interviewees. Although the approach did not conform to the anthropological ideal of integrating within a cultural context over a long period of time,[32] my attendance at relevant UN meetings, and the role I undertook while there, allowed me to take on elements of the insider-outsider paradox identified by Collins as the distinguishing feature of participant observation, combining viewing from the 'outside' with participating from the 'inside'.[33] Such methods have been adapted by previous work from the conventional anthropological study of indigenous societies to facilitate the study of organisations and institutions such as the UN.[34]

I was able to attend the 22 September informal donor meeting on TDA and the 1 October Convention Plus Forum as the guest of UNHCR. I then also attended ExCom from 4-8 October as part of the UK delegation. This, in turn, allowed me to attend meetings such as the 5 October meeting on Development Assistance to Refugees (DAR) jointly convened by Denmark and Uganda, which took place within the context of ExCom. Attending the three meetings relating to the Convention Plus debate on TDA in person gave me access to directly relevant material. Meanwhile, attending ExCom as part of the UK delegation offered specific advantages in relation to conducting interviews. Firstly, it improved my access to interviewees. With representatives from most states being present during the proceedings, I was able to conduct more interviews and to follow-up on points of clarification with previous interviewees. Secondly, it increased the level of insight available from discussions with members of the UK delegation. Bernard emphasises how participant observation can facilitate interviewing because presence can lead to trust, reducing reactivity and so increasing the reliability of data.[35] Indeed, during the five days of ExCom I had the opportunity to talk informally with representatives from DFID, the Home Office and the FCO, with my sustained presence contributing to a number of significant insights.

One of the difficulties I encountered, particularly as a member of the UK delegation, was in terms of how I was identified by others at ExCom. After previously identifying myself as an Oxford-based researcher when interviewing state and NGO representatives, my independence was questioned by many of my previous respondents when they saw me at ExCom as part of a government delegation.[36] Furthermore, having also been identified with UNHCR at the Convention Plus Forum, and been associated with NGOs through having attended the Pre-ExCom NGO Consultations, the external perception of my identity became an issue of both confusion and suspicion. Jenkins however, highlights how this is a common issue in participant observation, particularly where a researcher's previous identities and roles within a given community are also known.[37] The only means I found of overcoming this was by being honest and direct about the purpose and methods of my research.

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[29] McNabb (2004), p. 452

[30] This can be defined as "using other sources to validate the archival record". *Ibid*, p. 457.

[31] Arksey and Knight (1999), pp. 20-23; McNabb (2004), p. 457.

[32] Ellen, R (1984), *Ethnographic Research, A Guide To General Conduct* (Academic; London), p. 14; Bernard (2002), p. 322.

[33] Collins, H (1984), 'Researching Spoonbending: Concepts Practice of Participatory Fieldwork' , in Bell, C and Roberts, H (eds), Social *Researching: Politics, Problems, Practice* (Routledge: London), Section Three.

[34] Schwartzman, H (1993), *Ethnography in Organizations* (Sage: London).

[35] Bernard (2002), p. 333.

[36] For an analysis of the fragmented and multi-dimensional identity of the researcher, see Mullings, B (1999), 'Insider or Outsider or Neither: Some Dilemmas of Interviewing in a Cross-Cultural Setting', *Geoform*, Vol. 30, pp. 337-350.

[37] Jenkins, R (1984), 'Bringing It All Back Home: An Anthropologist in Belfast', in Bell, C and Roberts, H (eds), Social *Researching: Politics, Problems, Practice* (Routledge: London), pp. 151-2.

Ethics

The Social Research Association's guide to research ethics sets out the principal groups to whom a researcher has responsibilities: society, funders and employers, colleagues, and subjects.[38] As with any ethical issue, these obligations have to be balanced and tradeoffs carefully acknowledged in attempting to cause minimum harm, while maximising the benefits of the research. Although the immediate research subjects – state, UN and NGO representatives – are not identifiably vulnerable groups, there are still important considerations in two areas in particular that stem from the use of my material in particular: firstly, the issue of informed consent and, secondly, the politics of the research.

One of the guiding principles of research in the social sciences is the idea of informed consent, defined by Berg as "the knowing consent of individuals to participate in an exercise of their choice".[39] This extends to the right of the individual to consent to how the material is used and, where appropriate to have a right to 'confidentiality' or 'anonymity' in order to disguise their identity.[40] A number of interviewees explicitly labelled research material as 'off the record'. Very often there would be a second 'off the record' interview once I had stopped the tape recorder. The ethical dilemma I faced, particularly when this information was significant, was how to weigh these concerns up against the benefits, possibly ultimately to refugees, of that sensitive information being made public knowledge. One of the means by which I tried to reconcile this was through seeking alternative attribution for the 'off the record' information by following it up in a subsequent interviews with different respondents. This was the case, for example, in piecing together the events of June 2003 when the Swedish Minister Karlsson allegedly met with the High Commissioner concerning the UK Proposals on extraterritorial processing.

Another ethical issue I faced concerned the issue of the political use of the research and, in particular, the relationship between generating policy-relevant findings, on the one hand, and being co-opted in the service of political elites, on the other.[41] One of the implicit normative assumptions underlying my research is the idea that improving knowledge about the prospects for international cooperation between north and south can improve the welfare of refugees. Yet, if abused, much of the research could equally be used for alternative agendas such as facilitating containment or exclusion or even improving cooperation on issues such as transit processing. This became of significance when, as a result of becoming aware of the general ignorance of the ICARA precedents amongst stakeholders to the TDA debate, I published my provisional research findings as a UNHCR *New Issues* working paper. Such a contribution was motivated by a desire to facilitate UNHCR's ongoing work on TDA. The question it begged, though, was to what use a right wing government might put this research.

Ontology and Epistemology

What researchers can know about the world (ontology) and how they can know about it (epistemology) are significant questions because they shape approaches to theory and methodology.[42] From an ontological perspective, the key debate is between 'foundational' perspectives that regard there to be an objective world 'out there' and 'anti-foundationalists' who regard knowledge of the world to be socially constructed and based on subjectively and inter-subjectively defined perceptions. How researchers respond to this question is likely to determine their epistemological approach and, in particular, whether they are (very broadly) oriented towards empiricism, seeking to test pre-existing theories against observable empirical data, or interpretivism, seeking to understand the perspectives, narratives and beliefs that construct social meaning.[43]

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[38] The Social Research Association Ethical Guidelines (2004), www.the-sra.org.uk/ethics04.pdf
[39] Berg (2004), p. 65.
[40] Wilson, K (1992), 'Thinking About The Ethics of Fieldwork', in Devereux, S and Hoddinot, J (eds), Fieldwork in Developing Countries (Lynne Rienner: London), pp. 185-188
[41] Warwick, D (1993) 'Politics and Ethics of Field Research' in Bulmer, M and Warwick, D (eds), *Social Research in Developing Countries* (UCL: London), p. 316.
[42] Marsh, D and Furlong, P (2002), 'A Skin not a Sweater: Ontology and Epistemology in Political Science', in Marsh, D and Stoker, G (eds) (2002), *Theory and Methods in Political Science* (Palgrave: Basingstoke), p. 17.
[43] *Ibid*, pp. 17-42.

Awareness of epistemology has been central to debate within international relations, being represented by the notion of the 'inter-paradigm debate'.[44] However, it has been entirely missing from the so-called burden-sharing debate on international cooperation in the refugee regime, which has exclusively followed positivist approaches to international relations. In contrast, the general approach of this paper has been to regard state perceptions about refugees as socially constructed rather than intrinsic and to regard state policies and 'national interests' as the product of socially constructed perceptions. Following this ontological approach, the epistemology adopted by the paper has been influenced by interpretivism,[45] using qualitative research methods to *understand* north-south cooperation, and the perceptions and assumptions on which it is based, as much as to offer instrumental and causal explanations of how to achieve cooperation. Although positivist approaches may offer a heuristic stance for capturing aspects of international relations based on the assumption of holding certain factors constant, challenging rather than reifying some of those assumptions is also of importance for understanding the prospects for and obstacles to international cooperation.

Dissemination

My preliminary research comparing Convention Plus and ICARA, entitled 'International Cooperation and Targeting Development Assistance for Durable Solutions: Lessons From the 1980s', was published as a UNHCR *New Issues* working paper on 1 October 2004,[46]. My decision to publish so early was based on the observation that an awareness of the relevance of ICARA I and II had been missing from discussions up until that point and was required to improve the quality of debate. The early dissemination of preliminary results has enabled the research to have policy relevance by providing a real-time evaluation of an ongoing debate. The interest shown in the work by UNHCR's CPU has, in turn, allowed a critical feedback process in which those working on the initiative were willing to comment on my evolving work, facilitating access to further information.

Conclusion

Reflecting the still relatively sparse literature on the politics of forced migration, there is an absence of critical reflection on the research methods that can be used to explore the policy-making process in the global refugee regime. This appendix has offered an insight into the possibilities, dilemmas and pitfalls of various approaches to researching the policy-making process in Geneva. Although further research in Brussels or Washington might highlight the extent to which these insights are unique to Geneva, my research trip has four significant implications for future research that are worth emphasising. These concern: *access*, *methodological complementarity, epistemological pluralism,* and *policy relevance*.

Access. Although the United Nations system is replete with 'gatekeeping' as a result of security concerns, bureaucratic imperatives, state interests, and limited capacity, Geneva is relatively small and tightly socially networked. The potential to acquire access to interviewees, meetings and even social events is greatly enhanced by the use of 'snowballing'. In my experience, initial face-to-face meeting built confidence amongst interviewees about the purpose and motivation underlying my research, which meant that many of my contacts were willing to further support my endeavours with recommendations, references and accreditations in order to open otherwise closed doors.

Methodological complementarity. Using qualitative interviewing, participant observation and archival research did not simply offer three discrete data collection methods; rather they had a synergistic and complementary relationship to one another. Being able to attend meetings such as the Convention Plus Forum and ExCom not only gave me the opportunity to watch the debates relevant to my research first-hand, but also contributed to my ability to conduct interviews. Firstly, it allowed me direct access to state diplomats and politicians; secondly, being an 'insider'

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[44] Smith, S (2000), 'Positivism and Beyond' in Smith, S, Booth, K and Zalewski, M (eds), *International Theory: Positivism and Beyond* (Cambridge: Cambridge), pp. 11-46; Waever, O (2000), 'The Rise and Fall of the Inter-Paradigm Debate', in Smith, S, Booth, K and Zalewski, M (eds), *International Theory: Positivism and Beyond* (Cambridge: Cambridge).

[45] Bevir, M and Rhodes, R (2002), 'Interpretive Theory', in Marsh, D and Stoker, G (eds) (2002), *Theory and Methods in Political Science* (Palgrave: Basingstoke), pp. 131-152.

[46] Betts, A (2004b), 'International Cooperation and Targeting Development Assistance For Refugee Solutions', *New Issues In Refugee Research*, Working Paper No. 107 (UNHCR: Geneva).

built trust amongst prospective interviewees. Similarly, having conducted archival research contributed to the extent to which I was able to garner insights from participant observation. Having done research on ICARA and distributed a relevant UNHCR Working Paper on the issue on the day of the Convention Plus Forum, I was able to 'give something back', creating interest in my work on behalf of state, NGO and UNHCR representatives.

Epistemological pluralism. One of the central contributions of this paper to the academic debate on international cooperation in the refugee regime is the recognition that meaningful and complementary research can be done from a post-positivist epistemological perspective. The majority of research on 'burden-sharing' has been grounded in legal positivism, quantitative methodology or 'desk study'. The limited theoretical work that has been done has drawn almost exclusively on 'rationalist' approaches to international relations theory grounded in microeconomics. In contrast, this paper has recognised the need to go beyond such approaches and to use a range of qualitative methodologies including participant observation and semi-structured interviewing in order to understand the complexity of the political process in the global refugee regime.

Policy relevance. My research experience highlights how, given favourable circumstances, research can have a direct impact on the policy process. Having historical and theoretical insight, and an overview of the debates that was widely perceived to be impartial, gave me a certain amount of credibility as a researcher during my fieldwork. The availability of the UNHCR *New Issues* series and its rapid publication turnaround created an opportunity for me to have an immediate and direct impact on the debate.