Chapter 6

The 1989 Comprehensive Plan of Action

Between 1988 and 1989, the number of Vietnamese who sought asylum in Southeast Asia and Hong Kong increased by 84 per cent.¹ This was largely attributed to a temporary lapse in the Orderly Departure Programme (ODP) and the lure of resettlement in wealthy, western nations. The ODP problems were due to differences between the US and Vietnam about who could be given immediate refugee status and resettlement: the US wanted to include those who had been sent to re-education camps and the Vietnamese were not willing for these people to be placed on the lists.² The UNHCR attempted to mediate between the US and Vietnam in order to resolve the ODP dispute and enjoyed some success as US State Department officials were allowed to visit Vietnam for the first time since the war to be present for ODP interviews.³ However, more and more people were prepared to pay traffickers sums of $1500 for a place in a boat; thousands were also crossing through the recently opened land border areas of Cambodia into Thailand, or continuing by boat to Malaysia.⁴

³ USCR, Refugee Reports, Volume 8, Number 8, 14 August 1987, pp. 1–2; USCR, Refugee Reports, Volume 9, Number 3, 18 March 1988, pp. 3–4; Robinson, Terms of Refuge: The Indochinese Exodus and the International Response, 1998, p. 195.
⁴ USCR, Refugee Reports, Volume 9, Number 2, 26 February 1988, pp. 1–2.
Therefore, the numbers seeking asylum radically rose while Southeast Asian states and Hong Kong became increasingly frustrated with the slow resettlement rates. Moreover, the long-stayers that had been repeatedly denied refugee status but could not be repatriated remained and were joined by another seemingly endless stream of arrivals. The options for a durable solution appeared to be evaporating. This final chapter will detail how the Comprehensive Plan of Action (CPA) was created by ASEAN states, Hong Kong and the UNHCR in a collaborative effort to solve the Vietnamese and Laotian refugee problem. A different response was formulated for the Cambodians due to their classification as displaced persons and the nature of the political situation surrounding their displacement; thus, they were not part of the CPA.

In this chapter, I argue that the adoption of UNHCR guidelines for screening refugees did not represent an acceptance by the Southeast Asian states of the basic principles of the 1951 Convention and 1967 Protocol. Rather, the CPA signified that Southeast Asian states had been successful in legitimising their argument within the international legal framework. Indochinese refugees were not to be considered ‘genuine’ refugees according to the 1951 Convention, but ought to be seen as ‘non-genuine’ refugees until proven otherwise. The acceptance by Southeast Asian states of the screening process should also not be seen as tacit acceptance of the 1951 for, at the end of the process, those deemed ‘genuine’ refugees were resettled elsewhere and those deemed ‘non-genuine’ were repatriated—by force in many cases. The CPA therefore provides an important insight into the wider relationship between politics and international refugee law in Southeast Asia.

This chapter is divided into three parts. The first part charts the lead up to the 1989 International Conference on Indochinese Refugees organized by the UN Secretary General. In March 1989, ASEAN states had requested all interested parties meet in Kuala Lumpur to discuss a new framework to replace the failed 1979 system. As I will show, this meeting marked the beginning of the CPA. The second part of the chapter will discuss the CPA itself, focusing on what it aimed to achieve in terms of solving the refugee problem. The two central strategies of the CPA—screening and repatriation—met with a variety of responses. I will argue that both strategies also ultimately failed to persuade ASEAN states to comply with international refugee law. Indeed, if anything, the CPA institutionalized non-compliance. In the final part of the chapter, I will assess the consequences of the CPA when it was concluded in 1996.

5 USCR, Refugee Reports, Volume 9, Number 6, 24 June 1988, pp. 6–7.
6 The Paris Accords were a number of meetings held in Paris where the solution for the Cambodian population was to repatriate them as soon as possible. The UNHCR, for the first time, would assist some 300,000 Cambodians to repatriate. USCR, Refugee Reports, Volume 10, Number 10, 20 October 1989, pp. 2–4; Robinson, Terms of Refuge: The Indochinese Exodus and the International Response, 1998, p. 239.