

Reference Paper for the 70th Anniversary of the 1951 Refugee Convention

The future of solutions

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Abstract:

Refugee situations have increased in scope, scale, and complexity, and this necessitates new and innovative methods for protection, assistance, and solutions. While the status quo continues to work for some issues, large-scale refugee movements and protracted refugee situations persist around the world, indicating that things must change. A broader approach to solutions is needed that looks beyond the traditional solutions of voluntary repatriation, resettlement, and local integration.

Finding the best responses and solutions for the complex issues facing the millions of displaced people across the globe requires input from those with lived experiences of displacement for the development of policies that are closer to the reality on the ground.

I Introduction

I learnt about the denial of human rights and lack of justice before I knew what those concepts meant, legally. As refugees, the circumstances we are born into are shaped by powers beyond our reach. Yet we live the consequences of persecution and displacement and the laws purportedly used to provide pathways to protection.

As a refugee, going through the legal processes of refugee status determination, identification, credibility assessments, and asylum proceedings can be disempowering and frustrating. We are subject to laws and systems that were not created for us or by us. While it is referred to as ‘refugee protection’, in many ways it epitomizes a system that is often designed to protect *against* us. To keep us out.

Theoretically, seeking asylum is recognized, internationally, as a right; however, in practice, many asylum seekers are treated as criminals. The political discourse on refugees has shifted from seeing us as ‘at risk’, to ‘a risk’. Paradoxically, a system designed to protect some of the most vulnerable people in the world can make us feel even more vulnerable and helpless, further exacerbating the pain of fleeing from our homes.

We find ourselves tasked with navigating the complexities of legal systems—often in languages foreign to us—to reach some semblance of protection afforded under the Refugee Convention as recognized refugees. Yet, disappointingly, successfully navigating these systems does not always result in any guarantees. Access to education, employment, and living a somewhat dignified life in the host country remain everyday uncertainties, as does the prospect of being resettled in a third country. With UNHCR figures indicating that less than one per cent of the world’s refugees are resettled annually, the chances are slim.

My family was told it would be six months before we were resettled. It ended up being nine years. Being born as a refugee in a camp, I was at one point one of the statistics referred to in UNHCR’s annual global trends reports about the number of displaced people worldwide.

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Finding the best responses and solutions for the complex issues facing the millions of displaced people across the globe requires strong evidence-based research and a commitment to translating findings into impact. It requires input from those with lived experiences of displacement for the development of policies that are closer to the reality on the ground. Participation begets solutions.

While many of the Refugee Convention's drafters were themselves refugees, and drew directly on their personal experiences of displacement, today we see a considerable lack of refugee engagement on issues that impact us. From decision-making outcomes to research that has the potential to influence law and policy related to the predicament faced by refugees, it is imperative that refugees play a key role.

Refugee participation is not only an 'ethical imperative'; it can also contribute to changes in policy, the development of law, and durable solutions that are innovative, sustainable, and more impactful. The importance of reflecting the perspectives of those with lived experiences of displacement has been highlighted in many fora. However, a number of obstacles still hinder the participation of refugees. We need to develop more effective measures to include refugee voices. We must do better.

II Traditional approaches to solutions

Once an asylum seeker has gone through refugee status determination and it has been determined that they are a 'refugee' and immediate protection needs are addressed, refugees may need support to find a long-term, durable solution. Traditionally, UNHCR promotes three durable solutions for refugees as part of its core mandate: voluntary repatriation to their country of origin; local integration in the host country; and resettlement to a third country.

This commentary does not purport to outline in any detail the three classic durable solutions for refugees. Since there is another chapter on these issues, these sections are brief.

A Voluntary repatriation

Voluntary repatriation, where and when feasible, is one of the three durable solutions for refugees. It generally requires appropriate measures to ensure that any choice regarding return made by refugees is voluntary, free from coercion, and based on objective information. There must be support for the return of refugees to conditions of physical, legal and material safety, with full restoration of national protection as the ultimate end. This ensures that return takes place in safety and with dignity and, importantly, that it is sustainable.¹

B Local integration

Local integration in the country of first asylum can be an appropriate solution in some countries and/or for some groups of refugees. The 1951 Convention provides a legal framework for the integration of refugees in States party to the Convention.

The scope and pace of the integration process depend on the refugee caseload and the social and economic conditions in the host society. Groups which are often considered on a priority basis for local integration include refugees born on the territory of the host country who may otherwise be stateless, refugees who do not have the possibility to repatriate in the foreseeable future, and refugees who have established close links to the host country.²

C Resettlement

Resettlement of refugees to a third country where they can enjoy long-term protection and integrate into the host society can be a solution for some refugees, particularly those with limited prospects for local integration or voluntary repatriation, or for those with specific needs who cannot find adequate protection in the country of origin or the country of asylum.³

¹ United Nations High Commissioner for Refugees (UNHCR), “Chapter 7: Solutions for Refugees,” in *10 Point Plan* at 191, <https://www.unhcr.org/50a4c17f9.pdf>. For further details on voluntary repatriation, see: UNHCR, “Voluntary Repatriation,” <http://www.unhcr.org/pages/49c3646cfe.html>.

² UNHCR Chapter 7: Solutions for Refugee,” at 194. See also UNHCR, “Local Integration,” <http://www.unhcr.org/pages/49c3646c101.html>., see UNHCR, “Framework for Durable Solutions for Refugees and Persons of Concern,” May 2003, <http://www.unhcr.org/refworld/docid/4124b6a04.html>.

³ UNHCR Chapter 7: Solutions for Refugees,” at 197. For more information on refugee resettlement see UNHCR, “Resettlement,” <http://www.unhcr.org/pages/4a16b1676.html>.

Resettlement is an invaluable tool for international protection to address the needs of refugees whose life, liberty, safety, health or fundamental human rights are at risk in the country where they sought refuge.⁴ It also provides refugees with a durable solution, and serves as a responsibility sharing mechanism by signalling support for countries hosting large refugee populations.

The concept of durable solutions has traditionally been associated with permanent settlement, whether in the host country, a third country, or the country of origin. However, in the context of an increasing interrelationship between refugee protection and international migration, some refugees or former refugees are using temporary or permanent alternatives offered by migration schemes, either in the host country or through regularized onward movements to a third country.⁵

III Complementary pathways

Where durable solutions are not achievable, complementary pathways may be explored. Complementary pathways can help refugees access protection and solutions when durable solutions are not achievable for all members of a refugee population, particularly in large scale and protracted situations.⁶

Complementary pathways for admission are safe and regulated avenues for refugees that complement resettlement by providing lawful stay in a third country where their international protection needs are met. They do not replace or substitute the protection afforded to refugees under the international protection regime, but rather are additional. Complementary pathways include existing admission avenues that refugees may be eligible to apply to, but which may require operational adjustments to facilitate refugee access.

They can contribute to safe and orderly movement of refugees across borders and help third countries address labour or skills shortages.⁷ Complementary pathways are diverse by nature, and can benefit refugees in a variety of ways depending on their specific objectives. For example, some complementary pathways for admission, such as humanitarian admission, private or community

⁴ UNHCR, “Resettlement Handbook”, <http://www.unhcr.org/46f7c0ee2.pdf>

⁵ UNHCR Chapter 7: Solutions for Refugees.”

⁶ UNHCR “Complementary Pathways for Admission of Refugees To Third Countries: Key Considerations,” April 2019, <https://www.refworld.org/docid/5cebf3fc4.html>.

⁷ UNHCR, “Note on International Protection,” 16 June 2017, <https://www.unhcr.org/excom/standcom/594a56cf7/note-on-international-protection.html>.

sponsorship programmes or humanitarian visas, may be intended for persons in need of international protection.

Other complementary pathways for admission, such as family reunification, education and labour opportunities, are entry or migration avenues that may also be made available to persons in need of international protection.

IV Inclusive economic, cultural, and social policies

As durable solutions are available to very few refugees and most remain in protracted displacement, inclusion amongst refugees and their host communities need to be supported. In any event, access to durable solutions for refugees will be easier if they have been able to become self-reliant pending the identification and establishment of a sustainable solution. “Self-reliance” means the economic and social ability of the individual refugee, household or community to meet essential needs in a sustainable manner and with dignity. In practice, self-reliance usually means granting refugees access to the economy in the host country, including through access to the labour market.⁸

The 2030 Agenda for Sustainable Development, with its promise to “leave no one behind”, and the Global Compact on Refugees (GCR), including the Comprehensive Refugee Response Framework have shown the will and determination of the international community to ameliorate the socioeconomic condition of refugees and host communities.

The GCR calls for the international community to “ensure that refugees and their host communities are not left behind in a country’s progress towards the Sustainable Development Goals”, including by supporting inclusion in national development planning, educational systems, labour markets, health systems and social services, and child protection programmes. The GCR recognizes that the economic, social and cultural inclusion of refugees is of benefit to both refugees and host communities.

Most of the world’s forcibly displaced persons have limited opportunities for self-reliance. Many forcibly displaced persons find themselves in situations where access to health care; water, sanitation and hygiene services; and education is limited, and social security systems are

⁸ UNHCR Chapter 7: Solutions for Refugees.”

inaccessible. The inclusion of refugees in their host communities requires a policy environment where refugees are permitted to enjoy socio-economic rights. Refugees must be included in national health and education plans.

Refugees require access to institutional mechanisms and procedures that provide access to justice, including fair employment practices, freedom from discrimination and exploitation or from other risks associated with third-country mobility, irrespective of their legal status. It is important that the risk of statelessness is not increased, for example, through limited access to birth registration documents for refugees and their families in third countries.

In recent years, significant progress has been achieved in the adoption of global policies that provide an enabling environment to advance self-reliance. If refugees have access to all the same rights and services as nationals of that country, it can be considered as a solution. Though it cannot be considered a durable solution if they are treated as “second class citizens” and do not enjoy all the same socio-economic rights and their access to services are limited. For example, if refugees are granted the right to work, but their children are not included in the education system or they are not protected by the health plan, then this cannot be considered as enjoying socio-economic fully.

V Conclusion

Despite the progress made in many countries, more needs to be done to ensure the inclusion of refugees in national social protection schemes, particularly when such programs are already strained for nationals.

With unprecedented numbers of displaced people, we need to work together—now more than ever—to come up with practical, effective responses to displacement through multidimensional, multidisciplinary, and intersectional approaches. The call for ‘nothing about us, without us’ is not merely a call to engage with refugees in consultations and research, then to make decisions without us. It is a call to make space for us to use our skills, perspectives, and experiences to contribute directly to the future of solutions. After all, we—refugees—are the experts of our lives and the issues affecting us, and we should be treated as such.