11

Strategic Caution and Tactical Innovation

UNHCR Responses to Changing Patterns of Displacement

Astri Suhrke

Introduction

The limitation of the international refugee regime in relation to the needs of refugees and other forcibly displaced persons, as well as the global inequities in the distribution of long-term refugee populations and the costs this imposes on low- and middle-income countries in the Global South, are widely recognized. Viewed from a historical perspective, however, it is also readily evident that the international refugee regime has demonstrated considerable capacity for adaptation and innovation. To better understand this often-neglected aspect, this chapter focuses on the dynamics of adaptation and innovation via a key institutional actor in the regime – the UN High Commissioner for Refugees (UNHCR). Special attention is given to protracted refugee situations of the kind that have developed in the Middle East as a result of the Syrian conflict.

The limitations of the international refugee regime must be noted at the outset. The regime has three general features that impose severe constraints on the UNHCR, the UN refugee agency mandated to protect and assist refugees worldwide (Suhrke and Garnier 2018). First, the regime is state-centric. That is, key decisions regarding protection and assistance of refu-

gees are made by national governments as well as authorities on the sub-national level. The UNHCR can plead and prod, but the final decision lies with the states (Betts 2009). This makes for a structurally fragmented regime. Second, the regime is normatively diverse. National governments develop policies in relation to their understandings of their national interests. Humanitarian concerns informed by the UNHCR assessments of vulnerability and need for protection and assistance are factored in to varying degrees, but these are circumscribed by the political dimensions of most refugee movements insofar as they arise from man-made and often deeply political conflicts over the nature of state and society, or relations among states. Political factors thus introduce systemic instability, but also some structural bias in the collective international response. In some periods, for instance, recipient state responses to mass outflows were heavily influenced by foreign policy interests. The classic example here is from the Cold War period, when Western states established broad resettlement programmes for persons fleeing communist regimes in Eastern Europe, and later in South East Asia and Cuba, designed to demonstrate the superiority of the Western political system over communist ones (Zolberg et al. 1989). Refugee populations that offer no similar political advantages for rich and powerful states typically have had to rely on other and less adequate forms of assistance.

Third, the UNHCR has very limited financial autonomy. The agency has almost no core funding, and must raise money for its global operations mostly through voluntary contributions. Funding comes primarily from a small group of states in the form of annual contributions, as well as in response to ad hoc appeals issued by the agency during the year to support refugee emergencies. Most of the funding is earmarked for particular refugee populations or purposes, and it is never enough.

To illustrate, let us look at data for 2013 – in the early phase of the emerging refugee crisis. In this year, the agency reported USD 3.16 billion in revenue, of which almost all (USD 3.11 billion) was from voluntary contributions (UNHCR 2014a: 13). There was a large shortfall – the revenue covered about 61 per cent of the agency's budget for that year. Slightly over half (52 per cent) of the voluntary contributions came from three donors: The United States, Japan and the European Union. The US contribution was singularly important, totalling USD 1 billion, or one-third of the total, far ahead of the next two – from Japan (USD 252 million) and the European Union (USD 213 million). The remaining donors in the top-ten category were, with the exception of Kuwait, all European countries. The contribution of each hovered around the USD 100 million mark. Altogether, only ten governments accounted for 82 per cent of virtually all the agency's revenue. Five years later, at the height of the Middle East refugee crisis, the imbalance was even more marked. Ten countries provided 93 per cent of the agency's revenues (Türk 2018: 577).

The agency's position on urban refugees adopted in 1997 illustrates well the consequences of such limitations. By the mid-1990s, the increasing flow of 'irregular movers' from the then 'Third World' into urban areas of Western Europe and parts of the Soviet Union had become a 'matter of concern' to the agency. While the number of those recognized as entitled to UNHCR support represented only 2 per cent of the agency's global caseload, they absorbed a disproportionate amount of its budget, estimated at 10–15 per cent. The agency felt the pressure from European donors already weary of supporting major refugee inflows caused by the Balkan wars. 'Donors have become increasingly selective in terms of the programmes they support', the UNHCR noted. 'They . . . show little enthusiasm for long-term care and maintenance of urban cases, including upper secondary and tertiary education' (UNHCR 1997: 5). Budgetary realities led the agency in 1997 to adopt a new policy towards urban refugees, starting with a restrictive definition. An 'urban refugee' was now defined as a person with an urban background. Persons not fitting this criterion would be discouraged from seeking assistance in urban areas, and programmes would be tailored accordingly (UNHCR 1997).

The agency expected the new policy to mean 'a more restrictive approach to the provision of care and maintenance assistance' for urban refugees, and signalled that it would be accompanied by 'a more active approach to durable solutions, including containment of future irregular movements' (UNHCR 1997: i). It was a blunt presentation of a policy whose restrictions were anomalous in the UNHCR's history. It also came to be viewed within the organization as unjustifiably restrictive, a point that the agency obliquely recognized when introducing a more liberal policy towards urban refugees in 2009 (UNHCR 2009).

Operating in a charged political environment, but hamstrung by very limited financial autonomy, the UNHCR has developed a distinct organizational culture that blends strategic caution with tactical innovation. As one analyst puts it, the tendency is to 'duck and cover' when required, and to update agency practices for a changing world when the storm has passed (Betts 2018: 625).

Strategic Caution

Overall strategic caution has marked the organization's attitude to legal issues of protection. Attempts to introduce structural reforms of the international regime typically generate organizational apprehension that doors might open for a discussion of the 1951 Convention (as amended by the 1967 Protocol) and the obligations incurred by state signatories. Fearing that legal amendments would narrow state obligations towards asylum seekers

and refugees, the UNHCR's first line of defence has been to ensure that the substantive elements of the Convention are kept off the table.

In line with this strategy, the organization responded cautiously to an international initiative in the mid-1990s led by legal scholars to introduce structural reforms that would promote global sharing of the financial costs and legal responsibilities for refugees (Hathaway 1997). A plan for responsibility-sharing later introduced by the UNHCR was more modest. The aim was to negotiate special agreements with individual recipient states to complement the 1951 Convention (UNHCR 2003). The initiative was called Convention Plus to emphasize that the mechanisms would be additional to and legally distinct from the Convention. The 1951 Convention was not to be touched.

A similar caution was evident more than a decade later when the refugee crisis in the Middle East and South West Asia made European governments in 2015 call for reform of the international refugee regime. Three years of subsequent discussion culminated in the 2018 Global Compact on Refugees (discussed more fully below), and a similar compact on international migration. Throughout the process – which involved national consultations and deliberations with a wide range of stakeholders on a global scale – the UNHCR generally leaned towards a conservative stance. The agency sought to exclude from the discussion matters pertaining to the Convention as a matter of policy. The answer to the challenges posed by the contemporary refugee situation 'does not lie in draconian measures or revisiting the international refugee protection regime, which has proven to be good law', a high-ranking UNHCR official concluded (Türk 2018: 576).

In the Compact discussions, the UNHCR never challenged head-on the dominant position in the North that structural reforms should focus on assisting countries receiving refugees in the South. Low- and middle-income countries had long hosted the majority of the world's refugees and they continued to receive more. Reforms that would redistribute the refugee population more evenly on a global basis, and reflect the stronger economic capacity of the North, had long been advocated in the South. These demands had gone nowhere, and the same discursive pattern emerged during the Compact discussions. Given the political climate in Europe and the US at the time, the UNHCR assumed (probably correctly) that redistributive proposals would find little support, might provoke a backlash among the agency's principal funders (all in the North) and conceivably could reopen a discussion of Convention issues. Even the modest wording on resettlement when the final text reached the UN in 2018 provoked opposition from the United States (Türk 2018: 580). Thus, the agency's fall-back position was one of strategic caution.

In a longer historical perspective, it is clear that strategic caution has not prevented tactical innovation. Innovation has at times appeared as part of the agency's response to an immediate crisis, but it has also been by design

and developed through consultations with states and aid organizations in a carefully choreographed process.

Tactical Innovation

UNHCR innovations are associated with assertive high commissioners who have been willing to take political risks, stand down the cautious, conservative thinking embedded in the organization and discern opportunities in an unfolding crisis.

An early example, lauded by Gil Loescher (2017: 81) as 'perhaps the clearest example of UNHCR's exercise of power in its early history', is the decision in 1957 by High Commissioner Auguste Lindt to provide emergency assistance to some eighty-five thousand Algerians seeking refuge in Tunisia and Morocco during the war of national liberation against France.[1] The Tunisian request provoked a strong protest from France. As the French government saw it, Algeria was a part of France, and this was an internal French matter. Coming from a permanent member of the Security Council, the French objections carried weight in the UN system. Lindt noted, however, that the UNHCR had just assisted a massive flow of Hungarians who had escaped Soviet repression of the 1956 uprising. Failure to assist other refugees would make the organization appear partial and lose global support, he argued; he was not a commissioner for refugees only from communism in Europe.

Lindt's persistent efforts won him sufficient support in the UN system to assist the Algerians. The mission set a powerful precedent for widening the agency's geographic scope. In two successive resolutions (1959, 1961), the General Assembly affirmed the worldwide responsibility of the UNHCR and authorized the agency to take action as needed without requiring further empowering resolutions. This was the basis for the agency's steadily expanding role to protect and assist refugees from the often violent decolonization struggles in Africa and later in Asia (Loescher 2001).

Another refugee crisis, this time in Europe in the early 1990s, led to the innovative use of a legal mechanism for protection. The High Commissioner, Sadako Ogata, urged European states to admit refugees from the war in the former Yugoslavia by granting them temporary protection status. While not entirely new – the concept had been used for displaced persons in Africa – it was the first time the UNHCR promoted temporary protection as a formal solution. It was a balancing act between humanitarian needs and the reluctance of European states to admit large numbers of refugees, and the mechanism worked reasonably well to mitigate the immediate crisis. Yet the concept introduced uncertainties about the meaning of protection that made it problematic from a legal perspective (Luca 1994). As such, it

cut a bit too close to the core of the UNHCR's legal culture, and the agency did not adopt it as a standard instrument of refugee management. Instead, the High Commissioner recognized temporary protection as a 'pragmatic tool' at certain times when states were faced with 'humanitarian crises and complex or mixed population movement, particularly in situations where existing responses are not suited or adequate' (UNHCR 2014b: 1).

Innovation by Design

The line between innovation as an ad hoc response to crisis and innovation by design may be thin, but the agency's efforts to bring attention to the underlying causes of mass outflows fit the concept of a policy design. The so-called 'root cause' debate started in 1980, sparked by a political crisis in (West) Germany when the number of asylum seekers jumped from sixteen thousand in 1977 to over one hundred thousand in 1980. Most came via Berlin, which offered an open door to West Germany to persons from then 'Third World countries' who had entry permits to East Germany and could freely proceed to West Germany by crossing from East to West Berlin (Zolberg et al. 1989: 280). An alarmed (West) German government mobilized supporters in the United Nations to obtain a General Assembly resolution in December 1980 that called for international cooperation to 'avert new flows of refugees' (UN General Assembly 1980).

Averting amounted to preventing, which of course collided head on with the UNHCR's mandate to protect and assist refugees. A creative move by a former High Commissioner, Sadruddin Aga Khan, contained a plan to avoid the collision. He urged the wider UN and its members to address underlying causes of refugee flows, including aid programmes to troubled regions, early warning systems to identify and monitor potential crises and dispatch of special UN representatives to mediate in conflict spots (Aga Khan 1981). The 1981 plan and two major follow-up reports (ICIH 1986; Lee 1987) placed the High Commissioner's Office at the centre of the UN debate on how to address mass outflows with more than just offering palliative care.

The shift to a 'root cause' focus elevated refugee policy to the 'high politics' of security within as well as among states, brazenly leapfrogging the principle of sovereignty in an apparent 'transformative shift' in the language of humanitarianism in the UN system (Barnett 2010: 80). Recognizing the sensitivity of the UNHCR's position, the three High Commissioners who followed Sadruddin approached the matter with some caution. By contrast, Sadako Ogata, a former professor of political science who served as High Commissioner from 1990 to 2000, developed the 'root cause' argument as a matter of 'preventive protection' (UNHCR 1991). Her embrace of the approach created controversies among legal scholars and left a lasting imprint

on the discourse in the UN, the wider aid community and the academic literature. As High Commissioner, Ogata recognized that addressing 'root causes' without endangering the integrity of the UNHCR's mandate – and its support for a state-centric system – required caution. She therefore used the softer tools of discursive pressure and alert presence by monitoring and high-profiling causes of forced displacement in debates in the UN system, in the agency's Executive Committee of states and organizations and in bilateral talks with states.

Development-Oriented Refugee Policy

Another major innovation by design was the promotion of development assistance targeting refugees and displaced persons. Its most elaborate, early expression was the UNHCR's initiative in 2002–5, mentioned above, called Convention Plus.

Convention Plus

The UNHCR had already in the 1960s supported rural settlement schemes for refugees from wars of decolonization. Subsequent waves of post-independence violence produced massive displacement, mostly to areas near the conflict zones. In many cases, especially in Africa, protracted refugee situations developed with no clear prospect of either return or third country resettlement. As host governments highlighted the sharp inequities in the global distribution of forcibly displaced persons, the UNHCR and its NGO aid partners searched for new ideas to assist both refugees and the host communities. By the late 1980s, 'development-oriented assistance' was widely advocated in the humanitarian community as a means of addressing protracted refugee situations and the related, much-discussed gap between relief and development (Crisp 2001). Implementation was another matter.

In 2002, the High Commissioner, Ruud Lubbers, put forward an ambitious plan for greater responsibility-sharing to the agency's Executive Committee. The starting point was the present structural inequities in the international refugee regime. 'From 1997-2001, developing countries hosted some 66% of the global population of concern to UNHCR; the share of the Least Developed Countries (LDCs) alone amounted to almost 35 per cent' (UNHCR 2003: 6). To address this imbalance, Lubbers's team proposed a threefold scheme: more resettlement from 'developing countries' to countries with greater capacity to receive refugees, better management of secondary movement of displaced persons, and targeting development assistance to host countries to aid refugees and refugee-impacted areas (Zieck 2009). The scheme was called Convention Plus.

The language of responsibility-sharing in a general sense was widely accepted. Central elements of the Convention Plus proposal had been vetted by the UN General Assembly in a previous UNHCR document (*Agenda for Protection*), but when it came to specifics, and above all, binding commitments, states were holding back. After three years of discussion by the UNHCR's Executive Committee and related stakeholders, and supportive position papers from a newly established Development Plus Unit in the UNHCR, the process ended in 2005 with only one non-binding memorandum called the Framework of Understanding (on resettlement), and not even that in the other two areas (UNHCR 2005). A close observer later concluded that the initiative had been 'doomed to fail' (Zieck 2009: 387).

The failure to reach even a joint statement on principles in the key area of targeted development assistance for refugees – pillar three of the plan – reflects long-standing issues that remain highly relevant today. The basic idea of pillar three was that countries hosting large refugee populations would receive aid earmarked for development programmes in the affected areas (UNHCR 2006b). While targeting primarily refugees, the programmes would generate economic activities that would benefit both the refugees and the host communities. The host state, donors, aid organizations and the UNHCR would develop the programmes together. The host state would integrate the programmes in its national development plans. Importantly, donors would finance the programmes as commitments additional to existing aid to the host country.

Throughout the process the UNHCR had made considerable effort to outline the concept in detail and explain its rationale. The first step was to recognize that the needs of refugees were rarely factored into national development plans, the agency argued. The refugees were not part of the hosting governments' political constituencies, and the governments expected international aid organizations to take care of their humanitarian needs. Dependent and idle populations on long-term relief carried huge humanitarian and economic costs, however. Integrating these populations into national development and giving them rights would realize their economic potential and turn them into an asset, whether they stayed or returned to their country of origin (UNHCR 2003).

While the logic seemed compelling, actual and potential host countries were not persuaded. They feared that money earmarked for refugees would not in fact be additional but would eat into existing aid flows, that national authorities would not have control over the funds, that the process would entail additional conditionality on aid, and – perhaps most importantly – that programmes would enable the refugees to remain indefinitely. In other words, targeted development assistance would be a back door to local integration – one of the three conventional 'durable solutions' to displacement. In the refugee discourse of poor or middle-income developing countries,

this was not sharing of responsibility for refugees, but rather only a tweaking of existing principal forms of sharing whereby the North paid and the South hosted. It did not seem to matter that the UNHCR had anticipated the objections by distinguishing between what they called DAR programmes (Development Assistance for Refugees) and DLI programmes (Development through Local Integration). Although the programmes appeared substantively similar, the UNHCR maintained that DAR did not preclude the refugees from return or resettlement in third countries, but rather prepared them for it.

The co-chairs' summary of the discussion on pillar three was offered 'as a means to inform future discussions' (UNHCR 2006b: 1). And there the process ended. It seemed a limp final chapter to Lubbers's ambitious project, accentuated by the High Commissioner's sudden resignation for unrelated reasons. All was not lost, however. The agency's work on pillar three had left an inventory of concepts, papers and guidelines that became lodged in the discursive infrastructure of refugee assistance. Here were model agreements among hosting governments, donors and aid organizations that outlined rights and obligations for the parties to development-oriented programmes for refugees and host communities. Operational guidelines for DAR programmes had been drafted, including the appropriate information management systems to assess the 'gender differentiated impact of possible activities, [and the] potential of refugee hosting areas', and to gain 'a better understanding of the coping mechanisms and livelihood strategies employed by women, men and children in both the refugee and local populations' (UNHCR 2003: 11, par. 52). Data that could link the skills and knowledge of refugees to local productive activities would be shared by the parties to the agreement. In mid-2006, the agency put it all together in a handbook for planning, implementing and assessing development assistance for refugees, complete with glossary, references and links to relevant websites (UNHCR 2006a). The concept was ready to be rolled out, although its actual roll-out had to wait for nearly a decade.

The New York Consensus

Not until the refugee crisis of 2015–16 did the international community turn its collective attention to the need for reforms in the international refugee regime. Starting in the UN General Assembly in 2015, this was the process noted above that culminated in September 2018 in a Global Compact on Refugees (with a companion Comprehensive Refugee Response Framework) and a similar compact on migration.

It was the result of another carefully choreographed, stepwise process designed to produce a global consensus on a politically sensitive and controversial subject. A resolution in the UN General Assembly in December

2015 (70/539) placed the subject of 'large movements of refugees and migrants' on the agenda of the high-level opening session of the UN General Assembly that would take place in September the following year. In the meantime, the Secretary-General prepared a 'comprehensive report' setting out background material, analysis and proposed recommendations (UN 2016). The report provided the basis for a lengthy and detailed resolution adopted at the meeting, called the New York Declaration (UN General Assembly 2016a). The text was then submitted to a two-year global consultative process coordinated by the UNHCR. The revised text, called the Global Compact on Refugees, was submitted to the General Assembly at its opening session in September 2018 and approved by all 193 members (UN 2018).

The Compact is descriptive as well as prescriptive. Principles and practices designed to promote greater sharing of burdens and responsibilities for refugees are elevated to the status of collectively accepted norms and 'best practices'. Key principles are formulated with verbs used in the imperative form common to UN resolutions ('we will'), as in 'resources *will* be made available to countries faced with large-scale refugee situations relatively to their capacity' (UN 2018: par. 32, italics added). The Compact is in this sense a statement of 'political will and . . . ambition', as the UNHCR makes clear in its introductory note (ibid.: iii). The text is not legally binding. The commitments of what states 'will' do are further modified by subordinate clauses referencing the varying capacities and different legal systems of states.

Given the wide differences in how state governments respond to uninvited population flows, it is hardly surprising that the Compact is a document of modest change (Aleinikoff 2018). The sections discussing the three traditional durable solutions – resettlement, repatriation and local integration – are comparatively brief. They do not signal significant changes in existing practices, nor do they place new obligations on states. A much larger part of the document deals with procedures for ways to support countries that receive large inflows or have long-term refugee populations. This section reads as an affirmation of the aspirations laid out in the UNHCR's position papers for pillar three of Convention Plus, turned into declaratory policy by the imperative 'will'.

Since most hosting areas are in low- and middle-income countries adjacent to areas of armed conflict, as the Compact acknowledges, responsibility-sharing means financial transfers from North to South. The relatively more prosperous states and international development actors will contribute resources to help refugees and hosting areas not only to meet immediate needs, but to go further. They will provide development assistance to prevent receiving areas from plunging into deeper poverty and conflict, and to utilize the potential of refugees to become self-reliant. The needs of refugees

will be integrated in national development plans. Additional, stable and flexible financing will be provided to promote resilience among refugees as well as the hosting communities.

A realist reading of the Compact would see it as designed to contain refugees in the areas where they first arrived and discourage so-called secondary movement, such as travelling, on foot or otherwise, onwards to Europe. The Compact recognizes this point obliquely. It assures states that the emphasis on building resilience among refugees and in the host communities is not local integration by stealth. Building resilience, it claims, does not diminish, but rather complements the possibilities for achieving other durable solutions in the future (UN 2018: par. 64).

New Mechanisms of Support

When the UNHCR's earlier Convention Plus initiative had stalled, its supporters hoped it would still have some influence as a norm-setting exercise for future discussion of reform and as an inventory of good practices (Betts and Durieux 2007). In some measure, this happened. Much of the Compact text is recognizable from earlier discussion on the use of development assistance to mitigate refugee situations. The UNHCR had played an important and innovative role by refining and placing this debate on the table in Geneva in 2002. Ten years later, when powerful Northern states took the debate to a new level in the UN system, key principles and ideas for mechanisms of assistance could be taken off the shelf.

Once the process was underway in the UN, the UNHCR played an important role in drafting key documents (the Secretary-General's 2016 report and the New York Declaration) and by coordinating the global consultations leading to the final text adopted in 2018. The Compact text itself was nestled in the annual UN resolution on UNHCR operations put before the UN General Assembly. The agency's standing in New York was probably further strengthened when Antonio Guterres took over as UN Secretary-General in January 2017; he came fresh from the UNHCR, where he had served as High Commissioner for ten years.

While steering clear of radical reforms, the UNHCR inserted provisions for organizational follow-up mechanisms in the Declaration and the Compact to encourage gradual change and ensure that the world of states would remember the New York consensus. One mechanism, called the Global Forum, was a meeting designed to keep the momentum and mobilize resources for the refugee policy framework annexed to the Compact. The first meeting held in 2019 gathered some three thousand participants from states, development actors, international organizations, NGOs and refugee activists. Pledges of funding were made and information about good practices shared. States promised inclusive national policies, 'for example,

to support "out of camp" policies, strengthened asylum systems, refugees' access to work and financial services, and the inclusion of refugees in national and local development plans and national systems for education and health' (UNHCR 2020). Another mechanism was networks of situation-specific support organized on a regional basis by the UNHCR at the request of states, called Support Platforms. By late 2019, regional platforms had been established for Central America and Mexico, the Horn of Africa and Afghan refugees. A 'Global Academic Interdisciplinary Network' was launched to build knowledge in relation to the Compact.

A more tangible outcome was the Joint Data Center of the World Bank and the UNHCR that opened in Copenhagen in 2019. With a mandate from the New York Declaration and initial pledges of USD 25.6 million, the Center had a broad statistical mission to collect and analyse primary micro-data on forcibly displaced populations and their host communities, build a statistical base on statelessness and strengthen national statistical capacities in sending and receiving countries.

While the effects of these follow-up operations depended heavily on the continued commitments of states, the increasing engagement of the World Bank signalled that a development-oriented refugee policy was safely embedded in the international refugee regime. The World Bank and the UNHCR had cooperated more closely in the years leading up to the Compact, marked by a joint publication in 2017. A landmark report, *Forcibly Displaced*, made a detailed, strong case for a development-oriented policy to address protracted situations of forcible displacement (World Bank 2017). The policy had several elements: development actors needed to engage, concessional finance for low- and middle-income countries hosting large refugee populations should be made available and the efficiency of humanitarian assistance must be increased through sustainable and cost-effective solutions. The aim was to improve the resilience of refugees as well as to support the host communities by stimulating economic activity. A burden would be turned into a win-win solution, the report concluded.

The report was part of a broader, emerging consensus at the time. The UN Secretary-General had in 2015 appointed a high-level panel to recommend ways to improve humanitarian funding. A panel of high government officials and representatives of the corporate world delivered its report in January 2016, in time for the World Humanitarian Summit in Istanbul in May that year. Its recommendations foreshadowed those in the World Bank–UNHCR report: (i) improve funding to low- and middle-income hosting countries, (ii) establish joint programming of humanitarian and development aid to promote resilience among refugees and the affected local population and (iii) integrate displaced persons in national development with adequate support from the international community (High-Level Panel 2016). The panel specifically called for change in eligibility criteria for ac-

cessing World Bank grants to allow middle-income countries such as Jordan and Lebanon that were hosting 'millions of Syrian refugees' to benefit. The panel also noted that funds in the Bank's   Crisis Response Window – a programme under its soft-loan mechanism – should be at least tripled.

Additional Funding

Even before the Compact was signed, the World Bank had stepped up with special funding for developing countries hosting large numbers of refugees. Grants totalling USD 2 billion were made available to low-income countries in the new 'refugee sub-window' of the IDA facility for 2017–20. Middle-income countries that did not qualify for IDA money could draw on a new concessional facility, the Global Concessional Funding Facility, whereby Bank funds were offered to unlock additional donor money. Established in 2016, the facility had soon provided USD 1 billion to support projects for refugees and marginalized communities in Jordan and Lebanon. By the end of 2018, the total concessional and special grant money made available to these two countries had reached USD 2.5 billion. When the UNHCR surveyed the total financial pledges for refugees and hosting countries made in support of the Compact in late 2018, it came to a grand total of USD 6.5 billion (Türk 2019: 580). That was several times the agency's regular annual budget.

The extra funding came with conditionality to improve the rights of refugees to work and move outside camps, and to access social services. Infrastructure projects were designed to benefit both refugees and local communities, for instance improved water, waste and electricity in communities with large refugee populations, road construction offering employment, and expanded social services (health and education). Of the first ten countries that signed up for projects under the IDA 'refugee-window', all but one was in Africa, with the geographic outlier being Bangladesh, with its huge influx of refugees from Myanmar. Independent analysts found that the additional finance generally had been used successfully to improve the policy environment, but that stricter conditionality to leverage rights in return for funding should come with the next replenishing of IDA (2021–23) (Post et al. 2019).

The UNHCR involvement in a programme launched in Jordan was more controversial, partly because it was larger, served as a potential model for other countries hosting long-term refugee populations and invited closer scrutiny that exposed the fundamental dilemmas embedded in such schemes. Established in London in 2016 with support from the UK and other European countries and later replicated elsewhere in the Middle East, the 'Jordan Compact' involved transfer of grants and concessional loans to Jordan, in return for which the Jordanian government gave Syrian refugees educational and employment rights. The core of the agreement was employment of refugees in special economic zones, whose products were given preferential market access in the European Union. This was expected to

encourage further investment, hence the claim that the scheme would turn a refugee crisis into a development opportunity.

The scheme was partly developed and given a measure of intellectual legitimacy by two well-known Oxford scholars (Betts and Collier 2017). Yet there were obvious drawbacks. The Jordan Compact was negotiated without input from the refugee community, and the zones were often far from where the refugees lived. The factory work matched the skills of only some refugees, and the wages were non-negotiable (Barbelet et al. 2018; Huang and Gough 2019). Viewed in a political economy perspective, the scheme appeared to be an exploitative extraction of surplus from a captive labour force that had few alternatives of employment or place of residence. Viewed in a realist perspective on the international refugee regime, it appeared to be a mechanism that made long-term presence in the hosting country more acceptable and thereby justified limited admission or resettlement to third countries. The end result was to solidify global inequities and reduce the refugees' choice of where to live and ability to control their lives (White 2019: 113–14).

As the development dimension of refugee policy moved to the forefront, the UNHCR was pulled into close cooperation with a set of powerful and resource-rich actors. The USD 2 billion in grants from the World Bank's new 'refugee window' was a huge addition in the eyes of the UNHCR; in the World Bank's total IDA funds it was small money (USD 82 billion for fiscal years 2021–23). It made for an uneven bargaining relationship, accentuated by the UNHCR's dependence on external development expertise. The development–refugee nexus was nevertheless an opportunity for the agency to leverage refugee rights (of mobility, work and access to social services) as a condition for additional funding to the hosting governments. Analysts cite the introduction of greater legal protection measures attached to projects in Ethiopia, Pakistan and Chad as early indications of success (Huang and Post 2020), although fuller assessments remain to be done.

The UNHCR adjusted institutionally by establishing relations with the development assistance sections of donor ministries in addition to the humanitarian sections with which they had traditionally worked. Cooperation with other development banks and the OECD and DAC also increased. An evaluation in 2020 of the agency's engagement in humanitarian–development cooperation found that, although the new approach had not been fully internalized in the organization, the development dimension had become an integral part of its work (Steets and Lehman 2020).

Conclusion

A fundamental weakness in the international refugee regime as codified after the Second World War was the absence of principles, let alone more specific instruments, for the sharing of responsibility for the world's ref-

ugees. The parties to the 1951 Convention (and the 1967 Protocol) only accept responsibility for asylum seekers appearing on their doorstep. Except for some refugee flows closely connected to the interests of the large powers, geographic proximity to conflict has been the primary distributive mechanism. Secondary movements and large-scale, organized resettlement to third countries have been limited and appear in retrospect as exceptional events.

For all parties to the regime, the obvious inequities of this distributive system have been a matter of much anguish, sharp political disputes and some efforts of reform. For the UNHCR, it has raised particularly difficult dilemmas. The agency's main funders are a handful of the world's richest states, which – apart from in exceptional circumstances – prefer most of the world's refugees to remain where they have long been concentrated, that is, in the poor or middle-income countries in the South. The discourse on responsibility-sharing has consequently focused on the sharing of monetary costs, rather than sharing by giving refugees greater options to resettle in third countries. Host communities in the South have been reluctant to sign on to schemes for redistributing costs, however, suspecting that this will open the door to long-term presence of displaced persons on their territory.

To navigate this complicated political landscape, the UNHCR has combined strategic caution with tactical innovation. The cautious part involves refraining from advocating reforms that might alienate its key financial backers or invite discussion on the legal texts underpinning the regime (on the assumption that any change would be to the detriment of refugees). Yet the agency has also shown itself adept at seizing opportunities to promote incremental change, innovate and creatively adjust, whether as a response to crisis or by design. Tactical flexibility has been a mark of the agency's history since it was established in 1950, although mostly one embraced by proactive High Commissioners and even then circumscribed by the constraints imposed on a humanitarian agency operating in a state-centric system without financial autonomy.

The limits of the UNHCR's innovative power were demonstrated by the contrast between the Geneva process on Convention Plus (which fizzled out) and the New York consensus (supported by states and development banks). The need to accept compromises that were less than ideal in terms of refugee law and the human rights of refugees was evident in the agency's promotion of other controversial initiatives (notably 'temporary protection') and a humanitarian-development scheme that improved the living conditions of refugees but reduced their control of their lives in a more fundamental sense (the special economic zones in Jordan). In the end, the agency's defence of pragmatism would come to rest on the claim that any realistic alternative would be worse.

Astri Suhrke is Associated Research Professor at the Chr. Michelsen Institute, Bergen. A political scientist, she has published widely on the humanitarian consequences of social and international conflict. Her most recent work on refugees is 'The Moral Economy of the Resettlement Regime', coauthored with Adèle Garnier, in Adèle Garnier, Liliana Lyra Jubilut and Kristin Bergtora Sandvik (eds), *Refugee Resettlement: Power, Politics and Humanitarian Governance* (Oxford: Berghahn, 2018). Astri is a member of the editorial board of the *Journal of Refugee Studies.*

Notes

1. The agency had previously assisted only European refugees. The Eurocentric nature of the international refugee regime was reinforced by the provision in the 1951 Convention, which (until amended by the 1967 Protocol) limited the obligations of its state signatories to refugees from events occurring in Europe before 1951. The UNHCR, however, was established by a UN General Assembly resolution. Its mandate was defined by that body, and the agency's statutes contained no temporal or geographical limitations.

References

Aga Khan, S. 1981. *Study on Human Rights and Massive Exoduses.* E/CN.4/1503. New York: United Nations.

Aleinikoff, T. A. 2018. 'The Unfinished Work of the Global Compact on Refugees', *International Journal of Refugee Law* 30(4): 611–17. https://doi.org/10.1093/ijrl/eey057.

Barbelet, V., J. Hagen-Zanker and D. Mansour-Ille. 2018. 'The Jordan Compact: Lessons Learnt and Implications for Future Refugee Compacts'. London: ODI. Retrieved 24 August 2023 from https://odi.org/en/publications/the-jordan-compact-lessons-learnt-and-implications-for-future-refugee-compacts/.

Barnett, M. N. 2010. *The International Humanitarian Order.* London: Routledge.

Betts, A. 2009. *Protection by Persuasion: International Cooperation in the Refugee Regime.* Ithaca, NY: Cornell University Press.

——. 2018. 'The Refugee Compact: Towards a Theory of Change?' *International Journal of Refugee Law* 30(4): 623–26.

Betts, A., and J. F. Durieux. 2007. 'Convention Plus as a Norm-Setting Exercise', *Journal of Refugee Studies* 20(3): 509–35.

Betts A., and P. Collier. 2017. *Refuge: Rethinking Refugee Policy in a Changing World.* Oxford: Oxford University Press.

Crisp, J. 2001. 'Mind the Gap! UNHCR, Humanitarian Assistance and the Development Process'. Working paper no. 43. Geneva: UNHCR. Retrieved 24 August 2023 from https://www.unhcr.org/en-au/research/working/3b309dd07/mind-gap-unhcr-humanitarian-assistance-development-process-jeff-crisp.html.

Hathaway, J. C. 1997. *Reconceiving International Refugee Law.* The Hague: Martinus Nijhoff.

High-Level Panel. 2016. 'Too Important to Fail – Addressing the Humanitarian Financing Gap'. High-Level Panel on Humanitarian Financing, Report to the Secretary-General. New York. Retrieved 24 August 2023 from https://reliefweb .int/report/world/high-level-panel-humanitarian-financing-report-secretary-general-too-important-fail.

Huang C., and K. Gough. 2019. 'The Jordan Compact: Three Years On, Where Do We Stand?' Center for Global Development blog, 11 March. Retrieved 24 August 2023 from https://www.cgdev.org/blog/jordan-compact-three-years-on.

Huang C., and L. Post. 2020. 'World Bank's Refugee Policy Review Framework Brings Greater Understanding and Mutual Accountability' (blog post). Refugees International. Retrieved 24 August 2023 from https://reliefweb.int/report/world/world-bank-s-refugee-policy-review-framework-brings-greater-understanding-and-mutual.

Independent Commission on International Humanitarian Issues (ICIH). 1986. *Refugees: Dynamics of Displacement.* London: Zed.

Lee, L. T. 1987. 'The UN Group of Governmental Experts on International Co-operation to Avert New Flows of Refugees: Part II', *American Journal of International Law* 81(2): 442–44.

Loescher, G. 2001. *The UNHCR and World Politics: A Perilous Path.* Oxford: Oxford University Press.

———. 2017. 'UNHCR's Origins and Early History: Agency, Influence, and Power in Global Refugee Policy', *Refuge* 73(1): 77–86.

Luca, D. 1994. 'Questioning Temporary Protection', *International Journal of Refugee Law* 6(4): 535–38.

Post, L., C. Huang and S. Charles. 2019. *World Bank Financing to Support Refugees and their Hosts: Recommendations for IDA 19.* Washington, DC: Center for Global Development.

Steets, J., and J. Lehmann. 2020. 'Discussion Papers 1- 4: UNHCR's Engagement in Humanitarian-Development Cooperation', UNHRC, December. Retrieved 24 August 2023 from https://www.unhcr.org/6006feec4.pdf.

Suhrke, A., and A. Garnier. 2018. 'The Moral Economy of the Resettlement Regime', in A. Garnier, L. L. Jubilut and K. Bergtora Sandvik (eds), *Refugee Resettlement: Power, Politics, and Humanitarian Governance.* Oxford: Berghahn, pp. 244–52.

Türk, V. 2018. 'The Promise and Potential of the Global Compact on Refugees', *International Journal of Refugee Law* 30(4): 575–83.

United Nations (UN) General Assembly. 1980. 'A/ RES/35/124, 11 December 1980: IV. International Co-operation to Avert New Flows of Refugees'. Retrieved 24 August 2023 from https://www.unhcr.org/publications/international-co-operation-avert-new-flows-refugees-4#:~:text=1.,2.

———. 2016a. 'New York Declaration for Refugees and Migrants. Resolution adopted by the General Assembly on 19 September 2016 [without reference to a Main Committee.' (A/71/L.1)] 71/1. Retrieved 24 August 2023 from https://www .un.org/en/development/desa/population/migration/generalassembly/docs/ globalcompact/A_RES_71_1.pdf

———. 2016b. 'In Safety and Dignity: Addressing Large Movements of Refugees and Migrants. Report of the Secretary-General'. A/70/59. 21 April. Retrieved 24 August 2023 from https://refugeesmigrants.un.org/report-secretary-general-safety-and-dignity-addressing-large-movements-refugees-and-migrants-a7059.

United Nations High Commissioner for Refugees (UNHCR). 1991. 'Note on International Protection (submitted by the High Commissioner): A/AC.96/777', 9 September. Retrieved 24 August 2023 from https://www.unhcr.org/en-au/ex com/excomrep/3ae68c050/note-international-protection-submitted-high-com missioner.html.

———. 1997. 'UNHCR Comprehensive Policy on Urban Refugees', Geneva, 25 March. Retrieved 24 August 2023 from www.refworld.org/pdfid/41626fb64.pdf.

———. 2003. 'Framework for Durable Solutions for Refugees and Persons of Concern'. EC/53/SC/INF.3, 16 September. Retrieved 24 August 2023 from https://www .refworld.org/docid/4ae9ac93d.html.

———. 2004. 'Convention Plus Issues Paper on Targeting of Development Assistance: Draft, June 2004'. Retrieved 24 August 2023 from https://www.unhcr.org/ en-au/protection/convention/40e408924/convention-plus-issues-paper-target ing-development-assistance-draft-june.html.

———. 2005. 'Progress Report: Convention Plus'. Retrieved 24 August 2023 from https://www.unhcr.org/en-au/protection/convention/4371c24c2/progress-re port-convention-plus-forum20056.html.

———. 2006a. 'Handbook for Planning and Implementing – Development Assistance for Refugees (DAR) Programmes'. Geneva, 24 July. Retrieved 24 August 2023 from https://www.unhcr.org/en-au/publications/operations/44c4875c2/ handbook-planning-implementing-development-assistance-refugees-dar-pro grammes.html.

———. 2006b. 'Convention Plus Targeting of Development Assistance for Durable Solutions to Forced Displacement: Joint Statement by the Co-Chairs'. Retrieved 24 August 2023 from https://www.unhcr.org/en-au/protection/conven tion/437d9f152/convention-plus-targeting-development-assistance-durable-solutions-forced.html.

———. 2009. 'UNHCR Policy on Protection and Solutions in Urban Areas'. Geneva, September. Retrieved 24 August 2023 from https://www.unhcr.org/4ab356ab6 .pdf.

———. 2013. 'Note on the Mandate of the High Commissioner for Refugees and His Office'. Retrieved 24 August 2023 from https://www.unhcr.org/en-au/protec tion/basic/526a22cb6/mandate-high-commissioner-refugees-office.html.

———. 2014a. 'Report of the United Nations High Commissioner for Refugees: Covering the Period 1 July 2013 – 30 June 2014'. Retrieved 24 August 2023 from http://www.unhcr.org/en-au/excom/unhcrannual/54352ea59/report-unit ed-nations-high-commissioner-refugees-covering-period-1-july.html.

———. 2014b. 'Guidelines on Temporary Protection or Stay Arrangements'. Retrieved 24 August 2023 from https://www.unhcr.org/542e99fd9.pdf.

———. 2020. 'Summary of Participation and Pledges at the Global Refugee Forum'. Retrieved 24 August 2023 from https://www.unhcr.org/5e20790e4.

White, B. T. 2019. '"Refuge" and History: A Critical Reading of a Polemic', *Migration and Society: Advances in Research* 2(1): 107–18.

World Bank. 2017. *Forcibly Displaced*. Washington, DC.

Zieck, M. 2009. 'Doomed to Fail from the Outset? UNHCR's Convention Plus Initiative Revisited', *International Journal of Refugee Law* 21(3): 387–420.

Zolberg, A., A. Suhrke and S. Aguyao. 1989. *Escape from Violence: Conflict and the Refugee Crisis in the Developing World*. New York: Oxford University Press.