



# Strengthening the Global Refugee Protection System: Recommendations for the Global Compact on Refugees

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## **Executive Summary**

On September 19, 2016, the United Nations (UN) General Assembly adopted the New York Declaration for Refugees and Migrants. This document launched a two-year process to develop a Global Compact on Responsibility Sharing on Refugees (“Global Compact on Refugees”) and a Global Compact for Safe, Orderly, and Regular Migration. With a record 65 million displaced persons in the world, the global community must come together to fashion a stronger protection regime for persons on the move. This paper outlines broad themes and specific recommendations that the Global Compact on Refugees should adopt on how to strengthen the global refugee protection system. The recommendations fall into several categories: (1) responsibility sharing for the protection of refugees; (2) filling in protection gaps; (3) balancing and replacing deterrence strategies with protection solutions; (4) refugee resettlement; and (5) building refugee self-sufficiency. Some of the key recommendations include:

- the development of a responsibility-sharing formula to respond to large movements of refugees;
- the development of an early warning system to identify and respond to nations in crisis;
- the adoption of principles included in the Nansen and Migrants in Countries of Crisis initiatives;
- the use of temporary protection measures to protect populations that flee natural disaster;
- the adoption of model processes that ensure safe and voluntary return;
- cooperation between destination and transit countries to expand refugee protections;
- the provision of asylum and due process protections at borders;

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- the use of development assistance to ensure the self-sufficiency of refugees;
- the adoption of a goal to resettle 10 percent of the global refugee population each year;
- the establishment of a refugee matching system between refugees and resettlement countries; and
- the adoption of coherent strategies, involving all sectors, to address large movements of refugees.

This paper draws heavily, albeit not exclusively, from a series of papers published as a special collection in the *Journal on Migration and Human Security*<sup>1</sup> on strengthening the global system of refugee protection.

### Responsibility Sharing

Responsibility sharing was a main theme of the United Nations (UN) Summit on Large Movements of Refugees and Migrants, held September 19, 2016 in New York. A road map toward a global agreement on responsibility sharing for refugees was included as an annex to the New York Declaration for Refugees and Migrants, adopted at the summit, which is intended to lead to a Global Compact on Refugees in 2018 (UN 2016). An agreement to develop a Global Compact on the Safe, Regular, and Orderly Migration (“Global Compact on Migration”) was also part of the declaration. The United Nations High Commissioner for Refugees (UNHCR) has been designated to assist with the process of developing a Global Compact on Refugees.

The first task is to define “responsibility sharing” and what it means in a global context. In theory, the nations that have signed onto the 1951 UN Convention relating to the Status of Refugees (“1951 Convention” or “Refugee Convention”) and the 1967 Protocol relating to the Status of Refugees (“1967 Protocol”) have pledged not to expel or return refugees to the frontiers of territories where their lives or freedom would be threatened. However, they are not required to protect refugees who reside in other countries.

In fact, the responsibility to care for refugees has historically been met by nations in proximity to conflict and other refugee-producing conditions, such as parts of Africa, Asia, and the Middle East. According to the UNHCR, 10 of the world’s countries host 60 percent of the world’s refugees (UNHCR 2016, 2).

In order to relieve countries of first asylum of a disproportionate share of caretaking responsibilities, a system must be established that spreads the responsibility for refugees, wherever they reside, to the entire global community. Developed nations, such as the United States, European nations, Australia, and South American countries accept modest numbers of refugees for resettlement. They also contribute financial and other types of assistance to

1 Rethinking the Global Refugee Protection System Special Collection, *Journal on Migration and Human Security*, Center for Migration Studies, 2016-2017. See [http://cmsny.org/cms\\_research/refugeeproject/](http://cmsny.org/cms_research/refugeeproject/).

refugee receiving countries. Despite these efforts, refugees languish in protracted situations for years, even decades.

A responsibility-sharing framework would require nations to contribute to alleviate refugee crises in real time, either through financial assistance, resettlement, or other interventions. A comprehensive refugee response framework,<sup>2</sup> as defined in the Annex of the New York Declaration, would include criteria that would “trigger” these responses, based on a nation’s capacity to contribute.

In his paper, “Prospects for Responsibility Sharing in the Refugee Context,” Volker Turk, Deputy High Commissioner for Protection at UNHCR, offers a framework for responsibility sharing. Citing the need for international cooperation, Turk does not propose new binding legal instruments, but argues for using the current instruments — the 1951 Convention and the 1967 Protocol — to their fullest capacity (Turk 2016, 46-49).

He proposes responsibility-sharing arrangements that include triggering mechanisms and proportional contributions in line with state capacity, which would be agreed upon in advance of large movements of refugees and migrants (*ibid.*, 48-49). Such an agreement would alleviate pressure on host countries by equitably spreading the responsibility for refugees. Civil society would also play a central role in a responsibility-sharing framework. Father Leonir Chiarello, c.s., has argued that civil society and the private sector can assist with basic needs, job training, and advocacy for refugee populations.<sup>3</sup>

Such an agreement should be a main feature of the Global Compact on Refugees (Turk 2016, 49). Ambassador John Donoghue, permanent representative to the United Nations from Ireland and co-facilitator of the New York Declaration process has stated that responsibility sharing needs to be “operationalized.” While the New York Declaration failed to reach this goal, the global compacts represent another opportunity to achieve it.

Questions about how responsibilities would be divided and how implementation would be carried out remain to be addressed. Turk argues that, in order for the new system to work, nations must find new ways to uphold their obligations to refugees. These might include the use of new forms of group refugee status determinations to ensure that all persons in a targeted group have legal status at the same time individual protection needs are identified.

In addition, nations should enhance the use of protection mechanisms in responding to large movements of refugees. While acknowledging the national security concerns of many nations, Turk recommends the use of “protection-sensitive” border procedures. He also urges more consistent application of refugee principles globally, including the relaxation of reservations<sup>4</sup> to the 1951 Convention and 1967 Protocol (Turk 2016, 51-53). Finally,

2 The United Nations High Commissioner for Refugees (UNHCR) is currently piloting regional comprehensive refugee response frameworks as models for the Global Compact.

3 Fr. Leonir Chiarello, c.s., executive director, Scalabrini International Migration Network, comments before the Rethinking the Global Refugee Protection System Conference, July 6, 2016.

4 Signatories to treaties or other international agreements use reservations to place a condition on the implementation of a provision of the agreement. The United States placed reservations on Article 24 and Article 29 of the 1951 Convention, relating to taxation and public benefits for refugees on its territory. See <http://www.unhcr.org/en-us/protection/convention/3d9abe177/reservations-declarations-1951-refugee-convention.html>.

he makes the case that providing effective social support — health, education, and social assistance — to refugee groups and enhancing their self-reliance through job training would promote their successful integration in first countries of asylum or in resettlement countries (ibid., 53).

The Global Compact on Refugees also should include an early warning system to alert the world community to a potential large movement of refugees. In “Rethinking the Assumptions of Refugee Policy: Beyond Individualism to the Challenge of Inclusive Communities,” George Rupp (2016, 81) makes the case that nations must intervene earlier in situations of potential or actual conflict in order to prevent mass migrations.

He points out, for example, that the Syrian crisis did not become visible in the West until the bodies of dead children began to wash up on beaches and when hundreds of thousands of Syrians migrated to Europe. He suggests the early deployment of peacekeeping operations and development aid to nations experiencing armed conflict as a way to stave off instability. He also argues that internally displaced persons and refugees should receive equal treatment in the disbursement of support and that they should not be legally distinct in the international protection regime (ibid., 77-80).

In order to more equitably share responsibility for the world’s refugees, the Global Compact on Refugees must include mechanisms for preventing large movements before they happen, and, when they do occur, ensuring an appropriate regional or global response to them.

### **Filling Gaps in the Global Refugee Protection System<sup>5</sup>**

The world is more complex today than it was in 1951, when the UN Refugee Convention was adopted. Instead of a bipolar world, we now live in a world in which regional and civil conflicts are predominant and nonstate actors are combatants and persecutors. Moreover, the onset of climate change, marked by natural disasters and extreme temperature variations, has caused large groups to migrate to other, more viable areas of the world, and has consigned those without the resources to remain in increasingly dangerous, even life-threatening, situations. In addition, migrant workers in countries hit by crisis, either environmental or due to conflict, often do not meet the narrow 1951 Convention definition of refugees.

In “New Models of International Agreement for Refugee Protection,” Susan Martin argues that there are nonbinding instruments which nations can honor that would help address gaps in international protection. She identifies principles developed through the Nansen

<sup>5</sup> It is unclear as of this writing whether populations who do not meet the refugee definition but are fleeing some forms of generalized violence or natural disaster will be addressed in the Global Compact on Migration or the Global Compact on Refugees, if at all.

Initiative<sup>6</sup> and the Migrants in Countries in Crisis (MICIC)<sup>7</sup> initiative as examples that nations could follow in protecting the majority of migrants who flee their countries (Martin 2016, 65-70).

The Nansen Initiative seeks to protect persons displaced across international borders because of natural disaster or the effects of climate change. Its 10 principles,<sup>8</sup> born out of the Nansen Conference in Oslo, Norway, in 2011, include: 1) enhancing knowledge about cross-border disaster displacement, i.e., predicting displacement and recognizing when it occurs; 2) implementing legal protection mechanisms, both temporary and permanent, to protect large groups displaced by natural disasters; and 3) strengthening the management of disaster displacement risk in countries of origin, so that populations do not have to migrate (Kalin 2012).

Haiti provides a recent example of how natural disaster impacts refugee movement. Hit by a devastating earthquake in 2010, followed by the destruction caused by Hurricane Matthew in 2016, Haitians have attempted to reach the United States by land and sea in order to survive. In 2016, Haitians began arriving at the US border, with some coming from Brazil but others directly from Haiti. While the United States allowed a certain number to enter the country, most others were not admitted and some were later pushed back into Mexico.

Applying Nansen Principles would have helped stabilize Haiti and allowed Haitians to receive protection. While the United States designated Haiti for temporary protected status (TPS) following the earthquake in 2010, it did not redesignate it (update the point of entry for qualifying) after Matthew struck. It also resumed deportations to Haiti. Yet Haiti was in no position to handle the destruction caused by the hurricane, which displaced 800,000 persons. Hurricanes Irma and Maria, which impacted Haiti's northern coast in September 2017, also set back the nation's recovery. Nevertheless, the Trump administration announced a termination of TPS for Haiti on November 20, 2017.

The Global Compact on Refugees should adopt the principles promoted by the Nansen Initiative to protect persons displaced by environmental disasters. As stated, the response to such situations should be addressed through a responsibility-sharing framework.

MICIC focuses on the large-scale displacement of migrant workers in a host country, due to conflict or natural disaster, such as in Libya, Thailand, or the United States. MICIC principles speak to safeguarding these populations, including saving lives in a nondiscriminatory manner. A prohibition on discrimination based on immigration status is a central MICIC principle, ensuring that undocumented workers are protected in life and death situations. Central to this principle is an obligation on the part of the host government to reach out to

6 The Nansen Initiative, launched in October 2012, is a state-led consultative process aimed at building consensus among states as how best to address cross-border displacement from climate change and natural disasters. See Kalin (2012).

7 The Migrants in Countries in Crisis (MICIC) initiative is a multi-stakeholder, state-led consultative process to develop nonbinding voluntary principles, guidelines, and effective practices for states to address the longer-term consequences of migrants caught in countries experiencing conflicts or natural disasters. See <http://gcmigration.org/micic/>.

8 See the Nansen Principles at [https://www.regjeringen.no/globalassets/upload/ud/vedlegg/hum/nansen\\_prinsipper.pdf](https://www.regjeringen.no/globalassets/upload/ud/vedlegg/hum/nansen_prinsipper.pdf).

migrant workers in irregular status, encourage them to come forward for assistance, and ensure their protection (MICIC 2016).

In “On the Margins: Noncitizens Caught in Countries Experiencing Violence, Conflict, and Disaster,” Sanjula Weerasinghe and Abbie Taylor underscore the importance of noncitizens being able to access, understand, and navigate information regarding emergency and relief assistance and to access services. Giving several examples, Weerasinghe and Taylor detail the hardship of undocumented noncitizens who are fearful of seeking help in natural disaster situations.

While undocumented immigrants were eligible for emergency relief following Hurricane Sandy in 2015, they were confused and fearful about whether they or their families would be subject to deportation if they made themselves known to authorities. Weerasinghe and Taylor (2015, 33-37) propose, consistent with MICIC recommendations, that national authorities provide better information to undocumented persons during crises, particularly informing them that they can seek assistance without fear of deportation.

Martin argues that the reluctance of nations to renegotiate the Refugee Convention or to ratify binding instruments, such as the UN Convention on the Rights of All Migrant Workers and Members of their Families, make nonbinding, ad hoc agreements like Nansen and MICIC, more important and attractive. The nations that help craft such agreements and endorse them will also be more committed to their implementation. She also posits that advocates can use the agreements to pressure governments to act in these situations (Martin 2016, 70-72).

Despite these advantages, Martin concludes that the effectiveness of these nonbinding instruments lies in whether nations are committed to implementing them in a timely manner. Nearly 90 percent of refugees are hosted in the developing world. Absent a responsibility-sharing arrangement, the responsibility for persons who do not meet the strict refugee definition will continue to fall upon developing states in proximity to crises. The Global Compact on Refugees should adopt the principles contained in MICIC, and encourage all nations to recognize and adhere to them.

### **Safe Repatriation**

Another gap in protection is when a host country decides to return refugees to their country of origin, either through individual deportations or as a group. In some cases, the repatriation of refugees is neither safe nor voluntary. Both global compacts should ensure that any returns are safe and voluntary, and should only be to nations not experiencing conflict or recovery from a natural disaster, as certified by the United Nations.

In “Safe and Voluntary Refugee Repatriation: From Principle to Practice,” Jeff Crisp and Katy Long examine refugee repatriation and how the principles of safety and voluntariness should be honored in all repatriation situations. Crisp and Long lay out best practices for repatriating large refugee populations, so that their return is safe, not coerced, and serves the best interests of the refugees and their home countries.

The authors aver that UNHCR should not participate in any returns where voluntariness is questionable (Crisp and Long 2016, 142-43). They press for alternative solutions — like local integration, third-country resettlement, labor mobility, and cross-border mobility arrangements for refugees — in cases where repatriation would not be voluntary or safe (Crisp and Long 2016, 146).

They also argue that cessation should not be invoked, or return promoted, when countries of origin have not met a basic threshold of safety.<sup>9</sup> Moreover, when refugees have established strong social, economic, and personal links to the country of first asylum, they should not automatically be forced to return to their home country. Second- and third generation refugees, part of protracted situations, should be given special consideration to remain, as they have never lived in or seen their “home” country (ibid.).

Once it is determined that repatriation is safe and voluntary, refugees should be allowed to participate in the process of determining conditions for the return, such as the timing, mode of transportation, and location of settlement. The safety and voluntariness of the returns should be closely monitored. Finally, refugees should be allowed to visit their home countries in advance of making a final decision to return, so that they have full information about conditions and safety (ibid.).

One example of a successful reintegration and repatriation process was the return of Guatemalans following the end of their civil war in the 1990s. Michel Gaubaudan (2016), formerly with UNHCR and involved in the repatriation process at the time, has cited several important factors which contributed to the successful reintegration in Guatemala, including the following:

- an agreement among all actors, including guerilla groups, that return would be safe and populations would not be threatened;
- the use of international monitors to oversee the repatriation process to ensure the safety of returnees and the proper use of funding for the effort;
- the involvement of the private sector and NGOs to support the returning population;
- the ability of refugees to decide, within limits, the timing and conditions of their return; and
- assurances by the government and other actors that returning refugees would not be criticized for leaving, but would be treated with dignity.

These practices should be included in the Global Compact on Refugees. The return of refugees is an issue of growing importance to many host nations. Thus, it is vital that the global compact include safeguards that ensure that return is safe, voluntary, and structured, and that returning refugees can reintegrate into their home countries.

<sup>9</sup> The 1951 Convention relating to the Status of Refugees gives UNHCR the authority to declare that, because of changing country conditions, refugees no longer require protection in a host country and should avail themselves of protection in their own countries. See <http://www.unhcr.org/excom/standcom/3ae68cf610/note-cessation-clauses.html>.

## **Mitigating Deterrence Strategies and the Externalization of Borders**

Both compacts should acknowledge that the deterrence of large movements of refugees and migrants is a common practice to which states should offer protection alternatives. The New York Declaration did not direct the use of deterrence policies, but it encouraged “border cooperation” and the sharing of “best practices” in border enforcement.<sup>10</sup> This language could be interpreted as promoting the extension of borders to halt large movements of refugees and migrants from reaching developed nations through cooperation from destination and transit countries. Both the Global Compact on Migration and the Global Compact on Refugees should clarify these terms, opposing deterrence schemes and promoting the use of protection policies and resources both at a nation’s borders and regionally.

The use of deterrence strategies to discourage large movements of refugees and migrants has become a widespread practice in developed nations. Australia has interdicted boats at sea and used offshore detention sites, where refugees have languished. The United States has deployed a deterrence strategy against Central American refugees marked by detention and interdiction. Finally, the European Union entered an agreement with Turkey to return Syrian refugees in 2015, causing refugees to take more dangerous routes to Europe. European nations are pressuring African nations to prevent their citizens from leaving their countries. These arrangements have been marked by incentives, both financial and otherwise, from powerful nations to origin and transit nations to prevent, halt, or otherwise lessen large movements of persons.<sup>11</sup>

These strategies should not be deployed. However, if they are, they should be accompanied by protection measures to ensure that persons are not returned to their persecutors. If enforcement is externalized, then protection should be externalized as well.

In “The Impact of Externalization of Migration Controls on the Rights of Asylum Seekers and Other Migrants,” Bill Frelick, Ian M. Kysel and Jennifer Podkul examine how the human rights of asylum seekers are impacted under these arrangements. The authors define externalization of migration controls as arrangements between a destination country and a transit country to stem large movements of migrants. These arrangements involve interception by the transit country, the detention of would-be asylum seekers, and their return to their home country, often without proper screening of their protection claims.

The externalization of migration controls is rights-threatening when it blocks access to safe territory, including by frustrating a person’s ability to leave his or her country or to reach another country. The authors recommend that 1) externalization policies should include rights protections by increasing the protective capacity of authorities involved in migration control in transit countries; 2) developed states should condition funding to transit countries based on their implementation of human rights protections in law and practice; 3) greater support should be provided to regional and international organizations that protect the rights

10 G.A. Res. 71/1 (Sept. 19, 2016).

11 Under the EU-Turkey deal, Turkey has asked for a loosening of visa restrictions for Turkish citizens to travel to Europe and for consideration for the admission of Turkey into the European Union. See Kingsley and Rankin (2016).

of refugees and asylum seekers, including the UNHCR; 4) border personnel should receive robust training in human rights law, and 5) expert civil society actors should be allowed to provide support to asylum seekers, including legal representation (Frelick, Kysel, and Podkul 2016, 209-10).

In “The End of the Deterrence Paradigm? Future Directions for Global Refugee Policy,” Thomas Gammeltoft-Hansen and Nikolas F. Tan examine the broader tactics used by nations to stem refugee and migrant flows, including policies pursued within their borders. They argue that deterrence not only causes harm and offends international norms, but is also unsustainable and does not work. They cite successful legal challenges to deterrence policies in both domestic and international courts; the growing pressure from refugee-hosting states for more responsibility sharing, accompanied by the threat that they will move refugee populations forward to destination countries; and the mounting evidence that deterrence is not effective in blocking secondary movements. They also reference increasing direct and indirect costs to the states in question (Gammeltoft-Hansen and Tan 2017, 40-45).

The refugee crisis worldwide is, in reality, a crisis in institutionalized responses, as nations are physically blocking access to asylum, in direct opposition to refugee and human rights law. The authors make the case that there needs to be a “paradigm” shift that leads to a broader conception of refugee protection, and that this change should be memorialized in a binding instrument (*ibid.*, 50-56).

Karen Musalo and Eunice Lee examine US enforcement tactics in response to the “surge” of Central American unaccompanied children and families into the United States in the summer of 2014 and how these strategies both failed to stem their migration and violated their rights.

Despite efforts by the United States and Mexico to stem the flow, the number of US border arrivals in 2016 matched or exceeded 2014 numbers, with the number of family units jumping 8,000 while the number of unaccompanied children fell 8,000 short of 2014 numbers (DHS 2016). Since late 2016, the number of Central American asylum seekers arriving at the US border has dropped, due in part to harsh rhetoric from the Trump administration and an uptick in asylum requests in Mexico and other countries in the region.

Musalo and Lee argue that these youth and young families have fled the endemic violence in the Northern Triangle by organized criminal networks which governments in the region have failed to control. They characterize the US policy of deterrence as constructive *refoulement*, and a violation of international law (Musalo and Lee 2017, 137-50).

The authors offer several recommendations, including:

- shifting US funding from interdiction to protection efforts in Mexico and Central America;
- ending the use of policies that undermine due process for children and families, including the use of detention, raids, expedited removal, and “rocket” dockets for unaccompanied children;

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- establishing protection programs in the region, such as in-country processing; and
- extending TPS to nationals of El Salvador, Guatemala, and Honduras residing in the United States (*ibid.*, 172-79).

Tragically, the Trump administration is heading in the opposite direction in Central America, dismantling protection programs, such as the Central American Minors (CAM) program,<sup>12</sup> and slashing the number of refugees resettled from the region. The administration has also terminated TPS for Honduras and may be poised to do so for El Salvador, which would affect close to 260,000 long-term residents of the United States from those two countries.<sup>13</sup>

According to a study by the Center for Migration Studies of New York, at least 88 percent of these TPS recipients are employed, and they have 246,000 US-citizen children (Warren and Kerwin, 2017). The loss of status for these populations would eviscerate the TPS program and substantially weaken a pillar of the US refugee protection system. While temporary protection programs should not be used as a substitute for refugee protection, they can be effectively used to safeguard imperiled persons, many of whom will not meet the refugee standard, while states pursue durable solutions for them (Kerwin 2014, 46-47).

In a success story, Ninette Kelley, head of the New York office for UNHCR, points to Lebanon as an example of a response to a large refugee flow which has worked, based upon responsibility sharing and the use of protection policies, not deterrence. Lebanon, a country of 4.5 million persons, received over one million Syrian refugees from 2011-2015. The period was marked by economic pressures, sectarian tensions, funding shortfalls, and overburdened institutions, but also by the protection of hundreds of thousands of Syrians (Kelley 2017, 82-84).

Among the lessons outlined by Kelley are the need to engage local and national authorities from the beginning of the crisis; the need for better political analysis to inform contingency planning; the benefits of streamlined coordination; the advantages of linking humanitarian and development funding early on in a crisis; and the importance of predictable and multi-year funding. Kelley (*ibid.*, 96-100) concludes that the cooperation between government actors at all levels, humanitarian organizations, and the world community seen in Lebanon should be the norm in responding to refugee crises.

For both global compacts, then, addressing the reality of deterrence strategies is vital. In the New York declaration, terms such as “border cooperation” and the sharing of “best practices” in border control can be interpreted to allow nations to move forward with agreements based on deterrence and enforcement. At a minimum, the global compacts must emphasize that protection measures must be included in any such arrangements, while at the same time discouraging deterrence practices altogether.

12 The Central American Minors (CAM) refugee/parole program, established by the Obama administration in 2016, was a family reunification program which allowed minors from the Northern Triangle of Central America to join lawfully present family members in the United States, either with refugee or parole status. Both the refugee and humanitarian parole portions of the program have been terminated by the Trump administration. See <https://www.uscis.gov/CAM>.

13 The United States extended temporary protected status (TPS) for Honduras on November 6, 2017, for six months. A decision on El Salvador is scheduled for January 8, 2018.

## Resettlement of Refugee Populations

A key component of the international refugee protection system is the ability of refugees to live in another country because of the likelihood they would be harmed if returned to their home country. Three traditional durable solutions exist: safe repatriation, integration into a country of first asylum, and resettlement to a third country. For the resettlement option to be triggered, a refugee or refugee family must be vulnerable, unsafe, or endangered in their country of first asylum.

In an era of rising xenophobia, it is important to identify new ways to protect and to integrate refugees in a safe and effective manner. To start, the Global Compact on Refugees should provide for increased refugee resettlement. Nations without refugee resettlement programs should establish them.

Less than one percent of the world's refugees are resettled each year, but, according to UNHCR, 10 percent should be resettled to meet the global need. In 2015, for example, UNHCR projected that 960,000 refugees would need resettlement, but only 107,000 were accepted for resettlement to a third country — 90 percent to the United States, Australia, and Canada (UNHCR 2016, 26).

The Global Compact on Refugees must lay out a formula for reaching the 10 percent target within a certain time period, and establish an accountability mechanism to ensure that nations increase their resettlement slots accordingly. In order to encourage nations to meet this goal, new models of resettlement must be developed and brought to scale so that refugees can become fast contributors to their host countries' social and economic lives.

In "Matching Systems for Refugees," Will Jones and Alex Teytelboym propose a new framework for refugee resettlement, a matching system. This would entail the creation of a clearinghouse to which both refugees and the hosting agencies or communities would submit information about a refugee's preferences and needs and match them with the capacities and priorities of the host countries and their local communities.

The matching criteria would be governed by 1) comprehensiveness, or the capacity of the agency or community to host refugees; 2) stability, as it would honor the priorities of host communities and the preferences of the refugees; 3) efficiency, such that one refugee family could not benefit at the expense of another; and 4) safety, giving refugees the ability to submit their preference as to where they want to go (Jones and Teytelboym 2017, 668-70).

The refugee matching system would be fairly applied. It would not determine which refugees were resettled, nor would it involve money changing hands, the use of tradeable quotas, or reliance on morally repugnant criteria, such as hosts trying to prioritize the admission of refugees of a given race, ethnicity, or religion. It could be applied locally (i.e., matching refugees to particular voluntary agencies, local areas, or even properties) or internationally (i.e., between states in a responsibility-sharing scheme).

Jones and Teytelboym maintain that the refugee matching system would have numerous benefits. In particular, it could: 1) result in better matches between refugee families and particular resettlement locations, thus minimizing local resistance to resettlement; 2)

provide a refugee matching model that states could use; 3) allow matching systems across different states, like the European Union, that would make international relocation and resettlement more rapid, humane, and effective; and 4) coordinate, speed up, and optimize refugee matching around the world (ibid., 675-81).

### **Addressing Xenophobia and National Security Concerns**

Even with a matching system that benefits resettlement nations, xenophobic trends and refugee-related security concerns need to be addressed. In “Another Story: What Public Opinion Data Tell Us About Refugee and Humanitarian Policy,” Brad Blitz looks at how public opinion in support of refugee protection can be used to hold governments more accountable for the protection of refugees and asylum seekers.

Blitz points out that governments in the United States and Europe, in painting refugee and asylum seekers as security threats, have pursued restrictive asylum policies since 9/11 which are at odds with the generally positive views by their citizenry on asylum and protection. His paper seeks to identify why this has happened and how this trend can be halted and reversed.

Blitz blames several factors for the emergence of a security-refugee linkage in a post-Cold War context, most notably cultural antagonism against refugees from majority Muslim countries, abetted by the responsibility of extremist groups in terrorist attacks. He also cites the association of refugees with concerns about economic migrants, such as their intention to integrate and whether they contribute economically to the nation; a focus on policies that prioritize human capital, encouraging high-skilled migration and discouraging those with low skills like many refugees; the use of conditional economic aid to control migration and as a replacement for receiving and integrating refugees; and the normalization of the externalization of border controls as an alternative to refugee protection and safe passage (Blitz 2017, 380-83).

Blitz offers several recommendations to reverse these misconceptions: court challenges to detention, the externalization of border controls, off-shore processing, and the separation of families; a public information campaign to document how restrictive asylum policies are contrary to foreign policy interests; and the education of public and government officials on the rights of refugees and asylum seekers under international and national laws (ibid., 390-94).

Given that national security concerns are rising in Europe and the United States, refugee resettlement programs are coming under increased scrutiny, even in situations in which refugees are thoroughly vetted before entering a country. The Paris and Brussels attacks in 2016, although not perpetrated by refugees, heightened this concern. As such, proposals to restrict the admission of refugees have surfaced in national debates, often as a way to gain political support through fearmongering.

For example, the United States has set a historically low ceiling of 45,000 admissions for fiscal year (FY) 2018 (White House 2017), while Europe has cut off the number of Syrian refugees arriving via Turkey. In both cases, national security concerns have been cited to justify the reduction in admissions, despite the lack of evidence that resettled refugees have

perpetrated attacks in host countries. In order to counter such arguments, advocates must make the case that resettlement programs are secure and offer the best model for protecting refugees in a safe manner.

In “How Robust Refugee Protection Policies Can Strengthen Human and National Security,” Donald Kerwin makes the case that every act of refugee protection — from prevention and mitigation of refugee-producing conditions, to investment in host communities, to full integration, third-country resettlement, and safe and voluntary return — promote security. Moreover, he argues that refugees have contributed substantially to the economic, diplomatic, and military strength of the United States.

Kerwin (2016a) points out that blocking admission or denying resettlement to refugees based on race, religion, ethnicity or national origin plays into the narrative and recruiting strategies of terrorists, who argue that nations in the West are at war with Islam and that Muslims should remain in the “caliphate” and fight against the West. Rhetoric which conflates Islam with terror not only creates xenophobia but also alienates the Muslim world (ibid.).

By contrast, nondiscriminatory, rights-respecting refugee protection programs can be an important component of a sound US foreign policy, as they relieve the burden on allied states and generate goodwill and a positive public image for the United States. If the US program is reduced and discriminates by national origin or religion, other nations would likely follow suit, resulting in even less protection for the large number of refugees and asylum seekers in the world. And it would do nothing to make the United States safer (Kerwin 2016b, 119-21).

Resettlement is used for particularly vulnerable refugees such as survivors of torture, those with medical conditions, and women and children. Syrian refugees resettled in the United States fit into this category (ibid., 111-16). Kerwin points out that refugees brought to the United States are the most exhaustively vetted persons that enter the country and that the radicalization of US citizens and noncitizens presents a greater threat. The US Department of State has reported that only one dozen of the nearly 785,000 refugees admitted to the United States since 9/11 have been arrested or removed due to terrorist concerns. Ensuring that refugees are integrated into American society and culture, Kerwin (ibid., 116-19) argues, would help prevent their potential radicalization.

Finally, reducing or eliminating America’s commitment to refugees would flaunt US values and undermine the nation’s reputation and commitment as a safe haven to the persecuted, thus limiting the “soft” power of the United States to influence foreign governments. (ibid., 121-24). For these reasons, the United States and other states should recognize the need to strengthen the global system of refugee protection, not to weaken it.

## **Building Self-sufficiency for Refugees**

Part of providing durable solutions to refugees is enabling them to become self-sufficient, so they can contribute their talents to host countries and can support themselves and their families. Given the opportunity, refugees are able to bring distinct talents to a nation’s

economy, which provides refugees with stability and relieves the international community of the responsibility of supporting them in camps for long periods.

Studies show that, generally, refugees attain self-sufficiency over time. According to a study by the University of Notre Dame, within eight years of arrival refugees to the United States contribute more in taxes than they receive in benefits, while individually contributing up to \$21,000 more after 20 years (Evans and Fitzgerald 2017, 1-2).

Facilitating economic self-sufficiency among refugees helps end the dependency of refugee populations and positively impacts local economies. Alexander Betts, Naohiko Omata, and Louise Bloom begin with the premise that all refugees are economic actors, but suggest that more study must be conducted as to why there are variations in the economic success of refugees.

In “Thrive or Survive: Explaining Variations in Economic Outcomes for Refugees,” Betts, Omata, and Bloom argue that supporting refugees’ capacity to become economic actors and entrepreneurs is crucial to their economic integration into local and global markets and in creating self-reliance. In terms of development, the traditional top-down or state-centric model is insufficient, as it focuses upon refugees’ vulnerabilities rather than their strengths. A better understanding of transnational, national, and local markets in which refugees participate is needed, and development aid should be adjusted accordingly (Betts, Omata, and Bloom 2017).

Betts, Omata, and Bloom conclude that market-based interventions, which are tailored to the markets in which refugees operate, are needed to support refugees’ income-generating activities, so that they can become self-sufficient more expeditiously. In furtherance of this goal, refugees and the internally displaced should be permitted to interact with private sector groups on the local, national, and international levels.

In addition, interventions and development aid should focus on improving the skills and education of refugees — growing their capacity and building their human capital — as a way to foster economic growth. Skills development, access to microcredit, and improved internet accessibility are needed to allow refugees to become entrepreneurs, which in turn will elevate their incomes. The adoption of these measures would benefit both refugees and their host communities. They would allow refugees to be important contributors to local and regional development (Betts, Omata, and Bloom 2017).

Refugees can also become self-sufficient if they receive sufficient training to pursue livelihoods, either in countries of first asylum or when they return to their home countries. In a yet unpublished paper, Leah Zamore analyzes attempts to meld development aid with refugee assistance, a recurrent theme in development and refugee protection circles. Zamore outlines the history of development aid as applied to refugees, explains how global politics have changed how aid is used over time, and argues for a less self-interested approach by donor states and multilateral institutions.

Zamore maintains that respect for refugee rights and the inclusion of refugees in national development plans should constitute the main condition for refugee assistance to host countries. Because development efforts on behalf of refugees are most effective when they

are aligned with development strategies owned and devised by host countries, it is vital to view refugees as part of, not separate from, the local population.

The focus of the aid community should be to strengthen the economies in which refugees live in ways that reduce inequality and facilitate equitable growth. Moreover, the developing countries that host the bulk of the world's refugees should receive additional, long-term aid through grants, not loans, and not be subject to austerity policies.

In order to foster growth, development assistance should also include debt forgiveness for governments that agree to include refugees in the economic and social life of their countries. Corporations that use bad business practices and exercise tax avoidance should be excluded from these development strategies.

Additionally, host governments and donors must affirm the rights to which refugees are entitled, including the right to work, freedom of movement, and access to education, health care, and other benefits. Finally, Zamore asserts that development assistance targeted toward refugees should not replace a nation's responsibility to resettle refugees in their own countries (Zamore forthcoming).

## **Recommendations**

In order for the Global Compact on Refugees to be successful and make a difference on the ground, new initiatives must be advanced and new commitments made. UN member states should incorporate the follow recommendations in the Global Compact on Refugees.

### ***Responsibility Sharing***

UN member states should agree to a specific responsibility-sharing formula, based on a comprehensive refugee response framework, defining when a mass migration occurs and how nations can share their resources in protecting large groups of refugees and migrants. The Global Compact on Refugees should be the instrument for forging a responsibility-sharing agreement.

Refugee protection measures should be front and center in any response to the large movement of refugees and migrants. These include the use of group determinations and the provision of legal protection as part of the screening process; "protection-sensitive" border policies to ensure that persons receive due process; and the removal of reservations from the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees.

Social, education, and healthcare support should be provided to large populations in countries of first asylum or refugee resettlement nations.

The global community should develop an early warning system to identify nations in crisis and use peacekeeping operations and development to stabilize nations in crisis.

### *Filling the Gaps in Protection*

Nations should implement the principles of the Nansen Initiative, which outline steps nations should take to protect persons displaced by natural disasters and climate change, and the principles of the MICIC initiative, which offers guidelines to protect migrant workers in cases of conflict or natural disaster. Such principles should be incorporated in the Global Compact on Refugees and the Global Compact for Safe, Orderly, and Regular Migration.

Temporary protection measures should be used by host states to protect populations which may not meet the refugee definition but are in need of protection until a conflict or natural disaster has ended and the danger is gone. These measures should be based on the principle of *non-refoulement* and include an option for long-term residents to remain permanently in the host nation.

Nations that have not ratified binding instruments, such as the UN Convention on the Rights of All Migrant Workers and Members of their Families, or signed onto the UN Convention relating to the Status of Refugees, should do so.

Nations should adopt policies that ensure that immigrant populations, particularly those without legal status, have access to services and are not subject to enforcement actions during a natural disaster or armed conflict.

The repatriation of refugee populations should be truly safe and voluntary. If not possible, alternative solutions should be provided, such as labor mobility, local integration, and third-country resettlement. UNHCR should re-examine the requirements for invoking cessation clauses and not participate in repatriations which are not truly voluntary. Once it is established that repatriation is an option that is safe and voluntary, refugees should be allowed to participate in the process of determining the conditions of return, including “go and see” visits to their home country before making a final decision to return. These steps should be outlined in the Global Compact on Refugees.

### *Reducing the Use of Deterrence Strategies*

Nations should adopt a refugee protection model that replaces interdiction and return practices with protection policies, including regional comprehensive refugee response frameworks. The externalization of borders in the name of “border cooperation” should be replaced with an emphasis on the externalization of protection.

Destination states should assist transit countries to increase their capacity to protect refugees, and both destination and transit states should allow the admission of refugees at their borders and for resettlement. Assistance to host nations should be conditioned upon the implementation of human rights standards in addressing large flows of refugees and migrants.

International organizations should be provided access to large populations of refugees and should be funded to assess their needs and provide protections. Destination and transit countries should partner with civil society to provide assistance and protection to refugees, and to accept referrals from civil society of cases that warrant asylum protection.

Nations should not use deterrence tactics at their borders, including limiting access to asylum procedures and due process; detention; pushbacks; or the closing of borders. In addition, the externalization of borders must be replaced with the externalization of protection.

In responding to large refugee inflows, nations, in conjunction with international humanitarian and refugee agencies, must form a coherent strategy that invests in contingency planning and includes local and national authorities in such planning; coordinates service delivery in conjunction with communities who are served; and links humanitarian and development funding. Stable, multiyear funding must be committed to support this strategy.

### *The Resettlement and Self-sufficiency of Refugees*

The global community should commit to resettling 10 percent of the world's refugees per year by 2030.

A refugee matching system which synchronizes the needs of refugees and host communities — on international, national, and local levels — could be effective in maintaining refugee relocation systems, particularly in a time of increased security concerns and growing xenophobia.

Nations should commit to launching public information campaigns that highlight the benefits of refugee resettlement and to de-linking refugee resettlement from national security issues.

Refugee populations should be integrated into local communities in order to benefit refugees and host communities, and to prevent radicalization.

Refugee resettlement programs — with rigorous screening — are needed to save lives, expand protection opportunities, and uphold principles of security for all persons. Developed nations without refugee resettlement programs should commit to establishing them and those with resettlement programs should expand their programs.

Development assistance should be directed to build the capacity of refugees to work and become entrepreneurs, and host nations should accommodate this goal by providing work authorization and labor mobility.

Investment in education, skills-building, and infrastructure should be increased in host countries in ways that both benefit host communities and allow refugees to become self-sufficient, including as entrepreneurs. Better data, research, and analysis are needed to understand the economic and political markets in which refugees operate and to eliminate barriers to their independence.

The development plans of nations, and thus the aid they provide, should include refugee populations and facilitate their economic integration into their country. Aid to host countries should be increased and should not be in the form of loans or conditioned on the implementation of austerity measures.

The rights of refugees in a host country should be protected as a condition of development assistance. Refugees in a host country should be entitled to work, freedom of movement, and access to education, health care, and other benefits.

## Conclusion

The Global Compact on Refugees represents an unprecedented opportunity to enhance and strengthen the international refugee protection system. The current refugee situation – which can seem insurmountable and intractable — calls for new thinking and new models for action. Current international instruments governing refugee protection, including the 1951 Refugee Convention and the 1967 Protocol, should be generously interpreted and implemented.

UNHCR and UN member states also need to be bold in introducing new ideas and models of protection into the Global Compact on Refugees. Responsibility sharing must characterize refugee protection efforts, or the situation will only grow worse.

In addition, international legal instruments cover far too few forced migrants. The principles of other international agreements which respond to nontraditional push factors — such as the Nansen and MCIC initiatives — must be honored. Nations should consider increasing legal avenues for forced migrants who may not fit into the traditional refugee definition but still have valid protection concerns.

In order to facilitate responsibility sharing, nations must refrain from using deterrence policies to manage large movements of refugees and, at a minimum, deploy protection measures into regions of large movements. As a result, more nations must commit to resettlement programs, which enhance national security and help to spread the responsibility to protect refugees.

Finally, protracted refugee situations call for the empowerment of refugees, both economically and as participants in the life of the local community. This can be achieved by how aid is delivered with the goal of facilitating the self-reliance and self-sufficiency of refugees where they are located.

The Global Compact on Refugees and the Global Compact for Safe, Orderly, and Regular Migration, which are currently being considered by the United Nations, are opportunities for the world to reconsider old approaches to refugee protection. The global community should not miss the opportunity to strengthen refugee protection in an era of increased migration.

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## Strengthening the Global Refugee Protection System

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