

## **Stanford Working Group on Responding to Refugees**

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### **Observations**

#### **The Challenge**

- As a matter of principle, the international community has agreed to a treaty-based rights regime designed to make refugees autonomous drivers of their own survival and future. Under international law, refugee status and rights accrue based on facts, not formalities. The interests of receiving states are addressed by the treaty's emphasis on incremental acquisition of rights as attachment increases; by a contingent rights structure; by rules addressing legitimate security concerns and the duties of refugees; and by the limitation of obligations to the duration of risk in the refugee's country of origin.
- In reality, and despite the treaty-based regime's focus on ensuring refugee self-reliance by the granting to them of rights focused on self-reliance, most of the world's refugees live either in camps where they have little if any autonomy or, if outside camps, face the ongoing risk of summary detention or deportation. More than 80% of refugees live in the less developed world and spend an average of nearly 20 years in a first country of refuge without access to either resettlement or the ability safely to repatriate.
- This discrepancy between principle and the reality for most refugees might be explained by conflicts with other priorities of receiving states; limitations on UNHCR's ability as an institution effectively to ensure compliance with treaty-based rules; and the absence of convincing evidence of refugees' net economic contributions to host societies.

#### **Responding to a Crisis**

- Ensuring respect for refugee rights in the midst of a humanitarian emergency is perceived as largely unviable given both the absence of humanitarian agency access to the decision making process and ingrained patterns of response.
- The core objective of an overarching operational framework for responding to refugees should be to maximize refugee agency and autonomy, taking full account of specific cultural and other contextual factors. Even where little can be done beyond meeting immediate survival needs, there must be a real commitment to avoiding actions that will induce enduring patterns of dependency.
- There is a need for the humanitarian sector to grapple with the practical meaning of protection in devising a strategy in advance of a crisis. In particular, there is a need to draw on external expertise to identify the preconditions for the realization of refugee agency.
- While refugee camps have traditionally served as the fulcrum for the provision of

assistance and protection to refugees, there is an urgent need to de-emphasize their centrality, moving instead to a more seamless mode of intervention (ie. decentralized resource and health care delivery) that benefits host populations as well as refugees, and which harnesses or establishes local resources to meet the needs of refugees not located in proximity to a camp.

### **Encampment of Refugees**

- Once a crisis is in progress, refugee camps are often perceived as a political and practical necessity despite the legal and humanitarian arguments against them.
- Within a camp environment, there is value in promoting “rights talk” as a source of refugee empowerment at the grassroots level. It can lead to multiple forms of refugee agency, especially among refugee women.
- Open camps present both fewer legal and humanitarian concerns, and are best positioned to facilitate refugee agency and the linking of livelihoods and services with those of a host community.
- The core challenge is to identify practical means by which to engender confidence in receiving states that the confining of refugees to camps is not required for the protection of their legitimate social and security interests. The freeing-up of asylum capacity by both enhanced use of resettlement – and, more controversially, local integration – may play a strategically important role to this end.
- The shift away from encampment as a routine response is, however, most likely to occur if there is change to the basic “rules of the game” – specifically, the establishment of incentives to receive refugees that become the bedrock of a more integrated and normative approach to the conceptualization of protection.

### **Refugees Outside of Camps**

- In line with general patterns of increased urbanization in the world, the majority of refugees – seeking some combination of economic opportunity, social connection, anonymity, and/or security – are today located in non-camp settings. There is thus a need to escape the “camp only” mentality in conceiving responses to refugees.
- Refugee rights are rarely factored into the conceptualization or delivery of development assistance programs for two main reasons: first, a lack of political will meaningfully to incorporate refugees in development assistance planning; and second, narrowly framed and understood institutional mandates in which protection is treated as distinct from development, and which often embrace respect for rights at a formal level but without meaningful adumbration or application.
- Among the practical steps that could be taken to embrace non-camp refugees in development assistance programs are the more effective identification of non-camp refugees by improved access to asylum procedures and self-registration through the creative use of technology; exploring initiatives at the local level that are not dependent on the support of higher levels of government; and real official attention to reorienting development assistance in line with the rights-based development models pioneered by non-governmental entities, such as Oxfam.

- The impending need to devise a follow-up to the Millennium Development Goals provides an especially important opportunity to engage in research based on the collection of panel data that can shed light on the real effects of refugees on local employment and wages, and thus inform the viability of enhanced efforts to promote the reception and inclusion of refugees in rights-based development initiatives.

### **The UNHCR's Role**

- The UNHCR could re-gain institutional focus by shifting away from its current care and maintenance strategy in favor of a “pivot towards protection” – emphasizing, for example, refugee status assessment, refugee choice in settlement, the promotion of refugee self-reliance, and solutions to refugeehood.
- The present distance between the core of UNHCR's work and such Convention-based goals may be attributable to three key factors: (a) a dramatic expansion of the beneficiary class of “persons of concern” to the agency beyond “refugees” to include, in particular, internally displaced persons; (b) the decline in the availability of solutions to refugeehood, which has spawned an “industry” of partner agencies dependent on the delivery of material assistance; and (c) the political imperative favoring a system under which many less developed states benefit from the financial assistance provided for hosting refugees even as wealthy states insulate themselves from refugee flows by the provision of such financial assistance. Any effort to re-emphasize the place of protection must therefore grapple with the continuing salience of these factors.
- There will also be serious challenges for the UNHCR as an institution because of its rather slow-moving nature, its propensity to focus on meeting immediate challenges, and the absence of a clear financial or other incentive to make protection concerns preeminent.
- It is important to recognize too that there are principled challenges to a more focused “pivot towards protection” – especially because the UNHCR's present broadly framed mandate serves important humanitarian interests.

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