



Revitalizing the International Response to Forced Migration: Principles and Policies for the “New Normal”

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The pictures are graphic and heart-rending; the numbers beyond easy comprehension. The first two decades of the 21st century have produced crises of persons forced from their homes by violence and conflict at a scale not seen since the middle of the last century. New emergencies pile on top of long-standing unresolved situations of displacement, with the total number of forced migration now exceeding 60 million people. This is the *new normal*—one for which the international legal instruments and institutions established just after World War II are no longer “fit-for-purpose.” The future appears no brighter. In coming years, flows due to natural disasters and climate change are predicted to exceed those currently caused by conflict.

Perhaps it is the boats arriving in Europe—as well as the boats sinking in the Mediterranean and Aegean—that have occasioned the current demands that “something must be done” and the several international summits that will take place in 2016. But the challenges that threaten to overwhelm the international system began long before, and the most intractable aspects of the problem are present not in Europe but rather reside in the developing South where the vast number of forced migrants are located.

This paper will identify the core elements of the international forced migration system as it has developed over the past six decades and detail the range and depth of the current challenges. It will suggest a number of policy and institutional reforms to respond both to the present situation as well as the coming challenges posed by the new normal. These include: (1) new operational models that move from humanitarian relief to strategies of self-reliance; (2) increased (development) assistance to hosting communities; (3) a more formal system for robust international responsibility-sharing; (4) new legal norms to protect forced migrants not covered by the 1951 Refugee Convention; and (5) public information and advocacy campaigns to change the “refugee narrative” and combat rising xenophobia.

I. Introduction

Since earliest times, persons fleeing persecution have been given sanctuary by neighboring cities, empires and nation-states. Those offering protection have done so for a variety of reasons: protecting refugees served political interests against enemy neighbors, offered safe harbor to co-religionists and co-ethnics, supported Enlightenment ideals of religious toleration, and helped provide stability to an international system of states that is based on links between territory, sovereignty and citizenship. Following the upheavals and mass murders of the 20th century, refugee protection was linked with human rights and grounded in notions of empathy and humanitarianism.¹

The international refugee regime we see today grew from ad hoc efforts in the early 20th century² and international organizations created during and just after WWII. With millions of persons still displaced in Europe and elsewhere several years after the end of the War, the (newly minted) UN General Assembly established the Office of the High Commissioner for Refugees in 1950 and called for the drafting of a general convention on refugees. A year later the Convention relating to the status of Refugees came into force.

The modern international refugee regime is a partnership of member states and international organizations, based on the norms of the Convention. The Convention (and its 1967 Protocol)—now with more than 150 state members³-- provides a definition of “refugee” and a robust set of rights for refugees that state parties commit to protecting. Central among these is the right not to be returned to a state that will persecute a refugee (the right to *non-refoulement*). The Convention, however, establishes no international body for adjudicating refugee claims or for allocating state responsibilities necessary for the system’s success. The fundamental responsibilities of the system fall to member states, who are charged with the recognition of refugees and guaranteeing their rights, and who are expected to provide funds to UNHCR⁴ and other international organizations and NGOs. Under the GA statute, the High Commissioner is charged with “providing international protection,” “seeking permanent solutions” and “supervising [the] application” of international conventions relating to refugees⁵; but UNHCR can undertake activities only where states have authorized them to be present.

¹ UDHR Art 14(1): “Everyone has the right to seek and to enjoy in other countries asylum from persecution.”

² Examples include the international response to one million Russians who fled the Bolshevik Revolution, and assistance in population “transfers” between Greece and Turkey and elsewhere.

³ As of April 2015 (UNHCR stats): 142 states have ratified both; 145 Convention, 146 Protocol.

⁴ Almost all of UNHCR’s funding comes from “voluntary contributions” (public and private). Less than 5% are from assessed contributions that fund the UN.

⁵ cite Stat section

Implicit in the Refugee Convention are compromises that mediate the pursuit concerns of humanitarian relief and rights for the displaced and preservation of state control over the entry of non-citizens. Most importantly, the document establishes no right to enter a state to claim asylum—its key guarantee is the right not to be returned. Under the terms of the Convention refugee protection may be denied to persons who commit war crimes and crimes against humanity, who undertake acts contrary to the purposes of the UN or who have been convicted of serious crimes. So too refugees may be returned to states of origin—even if they have established a well-founded fear of persecution—if they are deemed a threat to the security of the hosting state or have committed a crime in that state. The Convention has no provisions that provide a right to a solution (local integration or resettlement) nor does it commit signatory states to any formal system of international burden-sharing. Furthermore, it provides no international mechanism for enforcing Convention rights—leaving enforcement to (the vagaries of) the domestic laws of hosting states.

Despite these embedded and structural limitations, refugee protection and assistance have grown considerably as the international system has evolved. Most significantly, persons fleeing civil disorder and violence generally are recognized as refugees (or can benefit from some other form of international or domestic protection) even if they do not come within the specific language of the Convention’s definition (which requires a well-founded fear of persecution on account of race, religion, nationality, political opinion, or membership in a particular social group). Thus, virtually all Syrians who have fled the violence in their home country receive international protection without a specific showing that they or groups they belong to have been targeted for persecution. Furthermore, legal scholars maintain that the norm of *non-refoulement* has attained the status of customary international law, with the result that it binds all states—even those who are not signatories to the Convention or the Protocol⁶ (and several of the largest refugee hosting states, in fact, are not signatories⁷). As to assistance, the resources devoted to relief for displaced persons has grown exponentially. UNHCR’s expenditures in 1971 (20 years after the agency’s establishment) were just \$ 9 million; ten years later they had increased to nearly \$500 million; in 1992 they passed the \$1 billion level, and by 2015 they had exceeded \$ 3 billion annually.

Putting the various pieces together, the international system for refugee protection works roughly in this fashion: a conflict or civil disorder causes persons to flee across an international border; UNHCR responds, along with its implementing and operating partners, registering (or helping host states to register) refugees and providing emergency assistance such as shelter, food, medical care, and other support (UNHCR is likely to be present in the host state because it has offices in more than 120 countries, and because refugee flows frequently occur to countries that have hosted them before). The emergency

⁶ Technically, objecting states would not be bound.

⁷ For example, Jordan, Lebanon, Pakistan, Thailand.

response will require new resources, so UNHCR issues an appeal for funds (joined by its partners); donor states typically fund such appeals at the 50-60% level. Funds may also be available from the Central Emergency Relief Fund (CERF), administered by the UN Emergency Relief Coordinator, or from private donations raised by UNHCR's private sector fundraising unit and by NGO partners. In year two—assuming the refugees have not returned home—the needs of the new population are put into the general UNHCR budget for which there is an annual appeal (again, usually funded at the 50-60% level). That is, absent a solution, the situation is normalized within UNHCR, adding to the overall number of refugees worldwide. Programming matures to some degree—emergency food support becomes a routine food security program and medical care (including maternal and infant health programs) will be provided in more developed clinics; schools for primary aged children will be opened; and programs for vulnerable women and for income-generation may be initiated. If refugees are in a camp environment, water and sanitation projects are important elements of the overall approach. Refugees outside of camp settings (now more than half of all refugees) benefit from fewer programs. Typically they are registered by UNHCR and/or the host state and then largely left to their own devices. Services may be provided to vulnerable groups (particularly women and children), and increasingly cash grants are given (in lieu of in-kind assistance such as food).⁸

In this manner, the refugee situation stabilizes and may continue for many years (or decades) without much change in program. Over time, resources tend to decline, as emergencies arise elsewhere and international attention shifts. Many refugees find work in informal sectors but few are able to regularize their status, return home or benefit from resettlement to a third country. Refugees restricted to camps remain largely dependent on international assistance; productive camp activities are few; and opportunities for education beyond primary school are rare.⁹ While UNHCR regularly calls attention to dramatic shortfalls in needed funding, there is little international response—so long as refugees largely continue to reside in countries of first asylum in the developing world. And refugees who attempt onward movement (outside of limited resettlement channels) are met with visa restrictions, sanctions on carriers, interdictions at sea, detention at borders and legal norms permitting return to “safe” countries of transit.

Even without the Syria crisis, the international regime system was facing major challenges—with new emergencies piled on coming on top of long-standing situations. Indeed, in just the few years prior to, and during, the Syrian conflict, major displacement emergencies erupted in the Central African Republic, Mali, Nigeria, South Sudan, Ukraine, Yemen. With Syria—once Syrians began moving to Europe—the state of refugee protection around the world became impossible to ignore, and it brought to the fore the tension between principles of humanitarianism and state control of borders.

⁸ Technology is largely absent (as is electricity to power it)—although increasingly refugees have mobile phones, and some camps have computer training facilities.

⁹ See B. Rawlence, *City of Thorns: Nine Lives in the World's Largest Refugee Camp* (2016).

II. How the current system is broken

Being a refugee means that the usual bonds between a state and its citizen have been sundered, and that the state is no longer able or willing to provide that person the physical safety, political membership, social benefits, and rights generally accorded to citizens. The international refugee regime was established to offer surrogate protection to refugees. Its goal is to end refugee situations not by seeking replacement of the offending government or other forms of intervention in the country of origin, but rather by ameliorating the harms of exile and displacement. Thus, to function adequately (and as intended), the international system requires: (1) *asylum space*—a cross-border place for persons fleeing persecution (coupled with a right not to be returned); (2) *refugee rights*—to protect rights lost in being a refugee and to help refugees attain self-reliance and begin to rebuild their lives; (3) *solutions*—to “re-attach” refugees to political communities that provide membership and the rights of citizenship, and (4) *international cooperation*—in responding to, funding and resolving refugee situations.

Today, each of these elements of a successful regime is under severe pressure. The central challenges include:

A. Growing denials of access—As noted above, neither the Refugee Convention nor other international law instruments establish a right to enter a country to apply for asylum. But refugee protection cannot exist if states do not permit access; and in this regard the international system has been largely successful: states neighboring countries in conflict have generally left their borders open to persons fleeing violence. Thus, South Sudanese refugees have found safe haven in Sudan and Ethiopia; Nigerians fleeing Boko Haram have been accepted into Cameroon and Chad; refugees from Mali have freely entered Niger, Algeria, and Burkina Faso. But there are a growing number of examples of the restricting of asylum space. Most significantly, the countries bordering Syria (Jordan, Lebanon, Turkey, Iraq)—after accepting more than 4 million refugees—have now largely closed their borders to further flows. States not contiguous with refugee-producing countries have adopted policies of deterrence, with the EU’s response to Syrian and other asylum-seekers being the most publicized today. The United States (regarding forced migrants from the Northern Triangle countries), Australia (to stop boats carrying asylum seekers from Bangladesh, Burma and elsewhere), Israel (building a wall and opening a detention center directed at asylum-seekers from Northern Africa), and non-EU European states (e.g., Macedonia) have all adopted policies and practices aimed at denying asylum space to putative refugees.¹⁰

B. Denial of rights—Despite the fact that the Refugee Convention guarantees a rich set of human rights, some of the largest refugee hosting states (Pakistan, Thailand, Lebanon,

¹⁰ For a full discussion, see Hathaway and Gammeltoft-Hansen, *Non-Refoulement in a World of Cooperative Deterrence*, 53 Colum. J. Transnat’l L. 235 (2015).

Jordan¹¹) are not signatories to the Convention. This does not necessarily render refugees rightless, as they may receive protections under domestic law; but inevitably those protections are less robust than those guaranteed by the Convention. And ratification of the Convention is hardly a guarantee that a state will respect its rights-granting provisions. Refugees are routinely denied the right to work or start businesses and excluded from labor law protections and social safety net programs; refugee children are often excluded from school; states frequently restrict the right to free movement—all in contravention of international law. States justify these restrictions because of perceptions that refugees would take jobs from citizens and would overburden social protection programs that already struggle to meet the needs of the local communities.

C. Long-term refugee status/lack of solutions—The international refugee regime never contemplated that persons would remain in refugee status for long periods of time. The High Commissioner is charged with seeking solutions, and member states are enjoined to assist in that endeavor. Yet solutions to refugee situations have declined dramatically in recent years. Out of more than 14 million refugees worldwide,¹² fewer than 150,000 refugees returned to their home states in 2014 and data for the first half of 2015 show even smaller numbers. Refugee resettlement totaled fewer than 100,000 for 2015; and formal local integration has been negligible for a number of years. Quite simply, protracted refugee status is now the rule, not the exception. The impacts of protracted refugee situations (PRSs) on refugees—particularly refugee children—are obvious,¹³ as are the consequences for hosting states.

D. No framework for responsibility-sharing—The preamble to the Refugee Convention states that “a satisfactory solution” to refugee situations “cannot . . . be achieved without international co-operation.” However, it provides no guidance on how such cooperation should be organized or proceed. A form of practice has emerged over the past number of decades that approximates a framework for responsibility-sharing, with donor states supporting multilateral organizations (e.g., UNHCR, UNICEF, WFP, IOM) and NGOs (such as, Save the Children, Oxfam, IRC) involved in refugee operations¹⁴ and also providing direct support to hosting states. A relatively small number of states participate in UNHCR’s resettlement process. States may also cooperate at a regional level.¹⁵ But the

¹¹ Turkey, the world’s largest refugee hosting state, has ratified the Convention but has maintained its original scope as applying only to refugees from Europe.

¹² This figure does not include the nearly 5 million Palestinian refugees in the Occupied Territories, Lebanon, Jordan, and Syria.

¹³ See T.A. Aleinikoff and S. Poellot, *The Responsibility to Solve: The International Community and Protracted Refugee Situations*, 54 Va. J. Int’l L. 195 (2014).

¹⁴ These organizations also receive significant funding from private sector and individual sources.

¹⁵ For example: (a) “regional processes” (such as the Bali process, with 48 members) that focus on migration, enforcement, and protection; (b) regional free trade/free movement agreements (e.g., ECOWAS, MERCOSUR); (c) UNHCR-sponsored regional solutions plans, such as the Addis Ababa Commitment on Somali Refugees, and the Solutions Strategy for Afghan Refugees; and (4) the Brazil Declaration and Plan of Action (a product of the region’s “Cartegena+30” conference).

overall paucity of solutions and shortfalls in funding make clear the inadequacies of the informal system of burden-sharing.

There are several notable examples of multi-state plans for resolving long-standing displacement situations, such as the Comprehensive Plan of Action for southeast Asia refugees in the 1970s and 80s and the CIREFCA¹⁶ process of the 1980s and 90s for Central American refugees. However, a “comprehensive plan of action” for Syrian refugees has failed to materialize. Rather, states have addressed the situation through a variety of mechanisms, including a donor Pledging Conference in January 2016, a UNHCR-sponsored “high-level meeting on global responsibility sharing through pathways for admission of Syrian refugees” in March and numerous annual appeals for funds.¹⁷ (The Pledging Conference achieved moderate success, with states committing \$ 11 Billion over a number of years and supporting self-reliance efforts for refugees in countries of first asylum; the “legal pathways” meeting produced little of note.)

E. The situation in Europe—The headline news for the past year has been the large number of refugees and migrants arriving in Europe (more than 1 million in 2015¹⁸). Initial welcomes by some European states—most notably Germany—have hardened into policies of deterrence and denial, with physical and legal barriers going up between some European states. An EU plan to share out 160,00 asylum-seekers arriving primarily in Italy and Greece has not been implemented. Exceptions to the Schengen system have been instituted by individual states, and the free movement of people within the zone as a whole is at risk. The Dublin Convention is now recognized as an inadequate response to large-scale refugee arrivals. EU and European law prevent the return of asylum-seekers without some form of legal process, but the delay caused by complying with those norms serves—it is argued—as a magnet for more arrivals. Smuggling and trafficking have increased in size and sophistication, with criminal organization reaping tens of millions of dollars from refugees intent on reaching Europe.

In March, the EU and Turkey struck a bargain under which Turkey will stem the flow of refugees in return for billion euro in assistance, visa-free travel to Europe for Turkish citizens and renewed consideration of Turkey membership in the EU. Under the plan, persons arriving in Europe will be returned immediately to Turkey (provided that international legal norms are complied with), and the EU will establish a broader resettlement program for Syrian refugees in Turkey (under an odd formula that grants one resettlement slot for each returned migrant). The “deal” has led to a dramatic decrease in arrivals in Greece; but it appears—at the time of this writing—to be unraveling as the EU and Turkey bicker over visa liberalization. Furthermore, arrivals in Italy have begun to increase, and about 40,000 asylum-seekers who arrived in Greece before the deal was announced are presently being detained in camps pending adjudications of their

¹⁶ Conferencia Internacional sobre Refugiados, Desplazados y Repatriados de Centro America.

¹⁷ See also the UNHCR-UNDP “3RP” (Regional response and resilience plan for Syrian refugees).

¹⁸ <http://www.unhcr.org/5683d0b56.html>

claims—blocked from movement north through Macedonia and denied settlement elsewhere in Europe due to non-implementation of the EU “sharing out” plan.

F. Rise of xenophobia makes protection rights and achievement of solutions difficult—Most European states and developed states elsewhere have witnessed the rise of far-right/populist political movements that have fundamentally altered the domestic discourse on refugees. Countries generally quite favorable to refugee relief and admissions in the past have adopted tough new measures, constructing border fences, limiting admissions, changing rules for recognizing refugees, and restricting refugee rights. Austria’s chancellor recently resigned due to public concerns over migration. And it would have been unimaginable just a few years ago that candidates from a major political party in the US would call for a halt of refugee admissions from Muslim countries or that more than two dozen governors would seek to ban Muslim refugees from entering their states.

* * *

Together, these elements have coalesced to seriously undermine the ability of the international refugee system to deliver on its basic goals. Denials of access mean that people will be forced to reside in unsafe places. Denials of refugee rights, coupled with a lack of solutions, produce refugee dependency (what I have termed elsewhere a “second exile”¹⁹). The lack of an adequate responsibility-sharing framework contributes to all these challenges: states are less likely to keep borders open and countries of first asylum are less likely to recognize refugee rights if other states do not contribute to refugee assistance and the resolution of situations of displacement. A system seen as unresponsive and out of control fans the flames of xenophobia, which in turn can restrict political will to expand funding, resettlement and other programs aimed at ameliorating the current deficiencies.

III. Positive developments in the response of the international community, states and civil society

Not all is doom and gloom. The international refugee regime provides protection and assistance for millions of displaced persons. Over the past decade, UNHCR’s fundraising and expenditures have tripled, to now more than \$3 billion a year.

The “Solutions Alliance,” a collaboration of UNHCR, UNDP, the World Bank, donor states, hosting states and NGOs, was launched several years ago and is making slow but steady progress on addressing protracted refugee situations. The Alliance works to identify target countries for comprehensive planning that brings together humanitarian

¹⁹ T.A. Aleinikoff, “Rethinking the International Refugee Regime,” The Gruber Distinguished Lecturer in Global Justice delivered at Yale Law School, Feb. 8, 2016.

and development actors, with a focus on refugee self-reliance, development assistance to hosting communities, and solutions. Projects have been announced for Zambia, Uganda, Tanzania and Somalia.

Many states have continued to play a vital role in refugee protection, assistance and solutions. Most countries in the developing world continue to keep their borders open to persons fleeing violence in conflict. Examples include the states bordering Mali, South Sudan, northern Nigeria, and the Central African Republic. Donor states have dramatically increased their contributions to multilateral organizations and NGOs and bilateral assistance to countries of first asylum. Zambia and Uganda have developed innovative development projects that will provide job opportunities to both refugees and members of the host community. Turkey has recently decided to grant work authorization to Syrian refugees (although progress on this has been slow), and Jordan has announced plans to establish “special economic zones” that will support companies that hire refugees and Jordanian nationals.

The number of countries accepting refugees for resettlement has grown to 28. Importantly, in a time of anti-resettlement rhetoric in the US and elsewhere, Canada announced an increase in resettlement of Syrian refugees—with the new prime minister ordering planes to fly to the region to bring refugees to Canada. Canada has also expanded its program of private sponsorship of refugees, an initiative that is being looked at in the United States and which, if adopted, would materially increase the number of worldwide resettlements.²⁰

A global statelessness campaign (#IBelong) launched by UNHCR in 2014 has produced some results. According to UNHCR, four additional states have signed the 1961 convention on the reduction of statelessness; 18,000 stateless persons in Thailand have been granted nationality; and birth certificates have been distributed to 1000 children in Benin, which will permit them to go to school and access benefits.²¹ In a world of (probably) more than 10 million stateless individuals, these are, to be sure, small steps, but the campaign is slated to last until 2014.

A development that will need further examination and elaboration is the increasing interest among the private sector to assist in refugee situations. There are dozens of initiatives that have been launched in response to the Syrian crisis—from “airbnb for refugees” and platforms to match skilled refugees with employers to proposals for significant private investment in refugee hosting areas and enhanced connectivity for refugees around the world.²² Indeed, it is now clear that what is needed

²⁰ See J. Kumin, WELCOMING ENGAGEMENT: How private sponsorship can strengthen refugee resettlement in the European Union (MPI 2015).

²¹ <http://www.unhcr.org/ibelong/>

²² In October 2015, FaceBook announced an initiative with UNHCR to bring internet connectivity to the Nyarugusu refugee camp in Tanzania and the local community near the camp. as example.

is some sort of “clearinghouse” to vet and match private initiatives with the needs of multilateral organizations, host states and refugees. Foundations are also providing significant support, most notably the IKEA foundation which has given several hundred million dollars to UNHCR to develop better shelters and support solar lighting, education, and self-reliance programs in refugee camps.

In addition to these projects and programs, we will see a series of international conferences in 2016 that will urge strong (and new kinds of) action on displacement. As noted, a pledging conference in London generated \$11 billion in new commitments for Syrian refugees and states hosting them. In May, the World Humanitarian Summit, convened by the Secretary General, will take place in Istanbul. The SG’s report to the Summit takes a strong stand on the reduction of forced internal displacement and calls for “a new international cooperation framework on predictable and equitable sharing of responsibility” and additional assistance to hosting states. It further urges planning for and achieving “collective outcomes” (for humanitarian and development actors) and suggests a range of new financing approaches.²³ These recommendations gained greater specificity in the recently issued Secretary General report for the September Summit on large movements of migrants and refugees,²⁴ which calls on states, inter alia:

To take immediate steps to ensure a greater sharing of responsibilities for refugees in order to safeguard the rights of refugees and to ensure that the impact of their flight is not borne disproportionately by countries and regions on the basis of their proximity to countries of origin alone;

To acknowledge the extraordinarily generous contributions made by countries and communities hosting refugee populations and the need to provide greater support where needed to host communities, which are the first to absorb the impact of any major influx of refugees, and to recognize that support to host communities requires well-coordinated humanitarian and development responses so that development resources are directed towards meeting the needs of both refugees and host communities.

...

... [T]o fully and promptly support the Office of the United Nations High Commissioner for Refugees when it calls for a comprehensive refugee response plan for refugees in situations involving large movements of refugees ...

...

²³ Report of the Secretary General for the World Humanitarian Summit, *One Humanity: Shared responsibility* (Jan. 31, 2016).

²⁴ Report of the Secretary General, *In safety and dignity: addressing large movements of refugees and migrants* (Apr. 21, 2016).

To find solutions for refugees, including by:

- (i) Investing in reconciliation and reconstruction to make it possible for refugees to return home voluntarily in safety and dignity;
- (ii) Providing resettlement spaces or other legal pathways for admission to at least 10 per cent of the global refugee population annually;
- (iii) Providing meaningful opportunities for local solutions[.]²⁵

Together, these conferences and reports reflect what could be termed a “new consensus” on how the international community should address refugee emergencies and protracted situations—recognizing the necessity of joined up planning and implementation by humanitarian and development actors and putting emphasis on measures to support refugee self-reliance, assist hosting communities and strengthen international responsibility-sharing.²⁶

IV. What is to be done?

Repairing and improving the international system of refugee protection will require a multi-pronged approach. Measures must be taken at global, regional, national and local levels to ensure better delivery of assistance and, ideally, an end to the need for assistance. Solutions must be pursued with far greater vigor. Efforts are needed to “change the narrative” on refugees--which has become one of both burden and job-taking, of helplessness needing long-term care and terrorism posing an existential threat to states.

Simply making the system function as it was intended to function is, in the current climate, daunting. But even this will not be enough, if—as will be suggested—the “refugee problem” is of a different scope and character than it was when the founding documents of the international regime were adopted.

A. Making the system work as it was intended to

A program to get the international refugee system back on track would include:

- **affirming state commitments under the Convention and Protocol and seeking additional ratifications**
- **ensuring that borders remain open to asylum-seekers and that the principle of non-refoulement is rigorously respected**

²⁵ Paragraphs 102, 103.

²⁶ For an example of the new thinking, applied to the Syria situation, see Ferris and Kirisci, *The Consequences of Chaos: Syria's Humanitarian Crisis and the Failure to Protect* (Brookings 2016).

- **increasing funding for refugee assistance in countries of first asylum**
- **increasing—and coordinating—development assistance to hosting states**
- **making progress on solutions, through support for voluntary returns and a significant increase in resettlement**
- **launching anti-xenophobia campaigns worldwide and in targeted states**
- **initiating a legal campaign to enforce refugee rights, focusing on rights guaranteed by the Refugee Convention (such as freedom of movement, right to work, and right to education)**

A number of these elements are likely to be reflected in outcome documents from the World Humanitarian Summit and the September GA Summit. But transforming words to deeds will not be easy. It could probably best be accomplished if donor states were to organize an effort to draft a plan on desired results and a strategy for (1) jointly committing to funding, resettlement and other targets, (2) engaging the private sector and civil society on private sponsorship of resettlement and anti-xenophobia campaigns; (3) working with/pressuring multilateral actors to better coordinate to accomplish the desired goals; and (4) recommending to the UN a process for drafting new guidelines or legal norms.

B. Changes for the coming world

The measures just described are *the minimum necessary* for a serious effort to rescue the *current* international system of refugee protection. But given the “new normal” in global forced migration, ensuring that the original system is functioning well is, it may be asserted, too unambitious a goal. It would be like rebuilding urban or highway infrastructure intended for living patterns and means of transportation of the last century. The features of today’s world that make last century’s solutions less efficacious include:

1. an expected regular or increasing flow of forced migrants (instead of episodic and decreasing flows, as seen from the mid-1990s to about 2010)
2. the rise and persistence of protracted refugee situations
3. the increase in the number of non-camp refugees
4. (new) causes of forced migration, not encompassed by the original legal instruments
5. far more international and national actors
6. technological changes, such as the internet, mobile technology and “virtual” cash

7. far larger budget requests from multilateral organizations
8. concerns about international terrorism
9. concerns about the demographic impact of significant refugee flows
10. mixed migration flows
11. larger and more sophisticated smuggling and trafficking organizations
12. the transformation of UNHCR from a “protection and solutions” agency to one primarily concerned with assistance
13. a decline in American leadership on refugee issues

If flow numbers continue to stay high or increase and solutions remain limited, then simple math makes clear that we will be facing an increasing number of refugees worldwide each year for the foreseeable future. (Arguably, a peace deal in Syria could have a significant impact on overall numbers, but it is likely that even if peace comes returns will be slow given the overall destruction inside Syria.) Making progress will require a major redirection of program and policy as well as institutional change.

1. Programmatic change

a. Countries of first asylum

Ameliorating the accumulating harms of protracted displacement situations must be a top priority. The preferred outcome, of course, is a durable solution. But when solutions are not available, then the practice of “care and maintenance” must be replaced with policies of inclusion in the economic and social life of local communities. Hosting states in the developing world, however, are unlikely to adopt robust policies of inclusion without additional support from the international community, as inclusion is costly (if refugees are given access to schools, medical care and other forms of social protection) and usually opposed by local populations (who see refugees as in competition for jobs, and responsible for overcrowded schools, rising rents and other social and economic ills).

Currently, humanitarian donors do not prioritize strategies for inclusion. And there is growing recognition that development actors are more appropriate funders for these activities. Recent initiatives by the World Bank are crucial—indeed, likely game-changers—in this respect. What is needed is a concerted effort among development agencies (international and national) to make responding to and resolving displacement a funding priority.

Once it is recognized that development actors have a crucial role to play in the initiation and support of new programming, it becomes clear that a new operational model for multilateral actors is necessary. A number of multilateral UN organizations

have recently drafted a “think piece” that describes such a model for joined up and comprehensive action.²⁷

A final piece for a transformed system of response is an enhanced role for the private sector and civil society. This would expand participation beyond CRS (for businesses) and the role as implementing partners (for NGOs). Private investment in refugee-hosting areas would complement the new joined up humanitarian-development business models; and web-based networks that match refugees and employers, provide educational resources to refugees, and support virtual communities would materially advance efforts at self-reliance and sustainable resettlement. The efforts could be assisted by the Global Alliance for Humanitarian Innovation launched at the World Humanitarian Summit.

The preceding paragraphs have used the term “inclusion” to describe policies and programs that would permit forced migrants to participate in the local economy and social services provided generally to citizens of the hosting state. “Inclusion” may be distinguished from “integration,” which is generally identified as one of the traditional durable solutions for refugees. Hosting states often reject integration as a goal because, in their view, refugees should return to their countries of origin when conditions permit. This circle can be squared by seeing inclusion as a step in the “progressive realization of solutions” —one that may ultimately lead to more sustainable returns (as refugees gain skills and education that are transferable back home) or perhaps to local integration. Tanzania’s recent naturalization of 165,000 long-staying Burundian refugees is an example of the latter.

Recommendations:

--UN agencies and partners should adopt the model described in the “think piece” as the operational approach for displacement situations and should take concrete steps to implement it.

--Development agencies should make response to displacement a priority; donor states should ensure that humanitarian and development agencies work in a collaborative fashion toward collective goals.

--The UN and member states could establish a multi-stakeholder entity to work with the private sector to (a) support private sector investment in refugee hosting states, (2) provide a “clearinghouse” for agencies seeking help from the private sector and private sector organizations seeking to provide help; and (3) support humanitarian innovation to support research and testing of new technologies, service delivery processes (supply chain, emergency relief), and connectivity (for livelihoods, medical care and education).

²⁷ <http://reliefweb.int/report/world/addressing-protracted-displacement-framework-development-humanitarian-cooperation-think>

--Donor states and international institutions should provide incentives for private sector investments in refugee hosting areas.

--Civil society organizations should support the new operational model and urge donor states to restructure funding sources and priorities in furtherance of the model.

b. Other affected states

Refugees often move beyond countries of first asylum, seeking protection and opportunities in a third country. Movement based on other visas (labor, family unity) or offers of resettlement raise few concerns,²⁸ as they are consistent with the domestic immigration law of the third country. However, spontaneous onward movements have (since post-Cold War days) been viewed as problematic. Generally, well-functioning asylum systems can handle a reasonable flow of spontaneous claimants, but large flows—as seen during the Balkan Wars, the Haitian and Cuban movement to the US, and now with the Syria situation—raise difficult policy issues and frequently spawn harsh administrative measures aimed at deterring and deflecting the flows.

We are likely to see increases in both moderate and large-scale flows of asylum-seekers who have transited through, or resided within, another state. These movements will be “mixed flows,” consisting of migrants seeking economic opportunities and family reunification, asylum-seekers, persons who have already been recognized as refugees or received another form of international protection, and other forced migrants—and, of course, these categories frequently overlap. The well-recognized push and pull factors include: higher wage levels and shortages of workers in developed states, population growth and youth unemployment in developing states, conflict and violence in fragile and conflicted-affected states, recurrent natural disasters and climate change, and sophisticated smuggling and trafficking operations supported by new technology and large financial incentives.

Effective management of moderate flows (Afghans to Europe, Central Americans to the US, Bangladeshis to Malaysia) will require a holistic approach that understands refugee protection as one part of an overall response to migrant movements. It will need to combine fair procedures for extending protection to refugees and other vulnerable migrants, new avenues for increased legal migration,²⁹ and efficient mechanisms for the return of migrants who do not qualify for admission. This requires thought and work—

²⁸ Although there may be domestic controversy over the appropriate level of resettlement offers, and concerns regarding the effectiveness of integration programs.

²⁹ These could include, for example, private sponsorship of resettlement, increased labor migration, and mobility under regional trade agreements (e.g., ECOWAS and MERCOSUR).

and advocacy to ensure public support³⁰—but these policies can largely be accomplished within the domestic immigration systems of receiving states.

Large-scale movements—the subject of the upcoming UN and US Summits in New York this September—implicate the international community as a whole if the number of refugees is of a magnitude that (1) is beyond the resources of states disproportionately affected due to their proximity to the source country or (2) should trigger responsibility-sharing norms as part of the international solidarity required for the refugee regime to function effectively. It is precisely these movements that have generally met with restrictive practices in developed states. Policy options have, in the past, fluctuated among: deterrence (US interdiction of Haitians; Australian “push-backs”), mass admission (German response to Syrian asylum-seekers, US handling Cuban flows in earlier decades), programs establishing temporary protection (as adopted for the Balkan flows in the 1990s), returns to “safe countries” (the EU-Turkey deal), and establishment of “off-shore” processing or safe havens without refugee processing (Australia, US, respectively).

It is clear that more effective advocacy against deterrent policies is urgently needed. Refugees should not be turned away, detained for long-periods of time, or sent to other places that do not provide protection for rights guaranteed by the Convention and other international law instruments. But to be persuasive, advocates will need to propose alternative approaches and policies that can assure domestic populations that large-scale flows are being responsibly managed. These could include: (a) granting blanket status to members of large-scale movements, perhaps linked to “temporary status”;³¹ (b) development of formal and robust sharing arrangements among resettlement (and other) states; and (c) creation of regional processing centers that provide adjudications according to international law, reach timely decisions, and allocate “screened-in” refugees according to an agreed upon sharing arrangement.

c. Europe

The current situation in Europe requires particular attention. The so-called “crisis” in Europe is surely a humanitarian crisis for refugees who risk loss of life at sea, of being detained in inhumane conditions, separated from family, exploited by traffickers, attacked by mobs, both fenced out and held in by barbed wire, denied opportunities to work or to send their children to school, and are threatened with return. But the humanitarian emergency began long before refugees—who could no longer tolerate current deprivations and an uncertain future in states bordering Syria—began to move toward Europe. Nor is Europe, a continent of 500 million people, “threatened” in any real sense by the arrival of several hundred thousand victims of brutal violence and a complete breakdown of civil order in their home state. Europe is not facing an “existential” threat

³⁰ Including persuading the public that security concerns have been addressed.

³¹ J. Hathaway, “A Global Solution to a Global Refugee Crisis,” *Open Democracy* (Feb. 29, 2016).

(although it is fair to say that, given the ineptness of the response, the EU's Schengen arrangements may be in danger). Rather, it is facing a problem in management—one that, if it could be handled in a responsible and effective manner, would go a long way toward allaying concerns of the European public.

Much of the current “crisis” could have been avoided if Europe had acted far earlier—offering greater assistance to states bordering Syria and instituting a large-scale (controlled) resettlement program. The EU-Turkey “deal” comes several years too late and, as noted above, is at risk of unraveling. The better—and, truth be told, somewhat obvious—solution is to permit refugees to enter, grant Syrians (and perhaps some other groups) blanket recognition, and adopt a distribution formula for all EU states. Refugees could be granted “temporary protection” (as was done for Balkan refugees in the 1990s, most of whom returned when the conflict ended). A 2001 EU directive establishes procedures for the granting of temporary protection,³² but the status has never been invoked; that should be on the table now.

The largest obstacle is not the number of arrivals. Europe is large enough and rich enough to handle some percentage of the more than 4 million Syrians that Turkey, Lebanon (1 million!), Jordan and Iraq have accepted. Rather, it is public opinion fueled by right-wing populist groups and rhetoric, concerns about security, and the fear that any general admission program will serve as a magnet for migrants from other regions. These issues will need to be addressed through (1) demonstration that the flow is manageable and is being managed (the EU-Turkey deal will, in all likelihood, fail to do this), (2) a public information and advocacy campaign,³³ (3) building alliances with civil society and the private sector (and perhaps mayors of large cities), and (4) development of efficient status determination procedures for refugees not eligible under blanket designations—one that results in returns for those deemed not to qualify for a protected status.

These efforts would be materially advanced if the European response could be part of a broader global plan for Syrian refugees. It is somewhat remarkable that an international conference has not been called to develop a comprehensive plan of action, and one wonders why neither the United States nor the United Nations has exercised leadership in this regard. A global agreement would permit Europe states and the US to tell their domestic audiences that they are not bearing a disproportionate share of the solution.

³² <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32001L0055>

³³ An effective campaign will require comprehensive research on the kinds of messages that would be most persuasive—e.g., the humanitarian need of refugees, contributions refugees can make to European countries, how assistance prepares refugees for return and the rebuilding of Syria—and the best means for communicating them.

Recommendations:

--States should adopt fair and efficient asylum adjudication procedures, utilizing blanket determinations for designated groups of refugees.

--Other legal pathways for admission, such as family and labor visas, should be explored.

--The concept of regional "free movement" visas (as under the auspices of ECOWAS, MERCOSUR) could be developed.

--It is essential to mobilize campaigns to end deterrent practices that undermine Convention rights, while providing alternative proposals that respond to public concerns relating to large-scale movements.

--European policy-makers should stop relying on deterrence as a primary response, and should institute far larger resettlement programs, blanket determinations for Syrians (and perhaps temporary protection), and an EU-wide plan for reception, adjudication, and distribution.

--The Secretary General and US President (perhaps joined by the President of the World Bank) should convene an international conference to draft a comprehensive plan of action for solutions for Syrian refugees and assistance to hosting states.

2. Legal and Policy changes

It may come as a surprise that the vast number of persons now being protected and assisted as refugees in Turkey, Lebanon, Jordan, and Iraq have never been officially adjudicated to be "refugees" —that is, their claims to protection have not been assessed under the definition of "refugee" in the 1951 Convention. For decades, this has been the practice of both multilateral organizations (most particularly, UNHCR) and hosting states that face large flows of persons fleeing violence and conflict in their home states. (UNHCR calls such persons "*prima facie*" refugees, but they in fact are treated as if they have been recognized as refugees after status determination proceedings.) Regional instruments provide a legal basis for providing protection to persons fleeing conflict and disorder,³⁴ but international legal norms have not caught up with international practice.

There are other classes of forced migration, however, who have no colorable claim to protection and assistance under the current international refugee regime, such as persons fleeing severe economic deprivation, serious abuse of human rights (not based on the grounds specified in the Refugee Convention), natural disaster or the effects of climate change. Individuals in these categories may benefit from other legal norms and international relief efforts. Thus, persons at risk of torture in prison are entitled to *non-refoulement* under the Torture Convention and the EU Convention on Human Rights;

³⁴ The OAU Convention governing the specific aspects of refugee problems in Africa, the Cartagena Declaration, the EU Subsidiary Protection directive, Temporary Protected Status under US law.

severe drought, famine, and epidemics are likely to trigger an international response from multilateral organizations (WFP, UNICEF, WHO) and NGOs (Save the Children, MSF, Oxfam).

The question is whether new norms protecting additional classes of forced migrants would now be advisable. There is general consensus among refugee and human rights advocates that it is not an opportune time to “open up” the definition of refugee in the 1951 Convention—for fear that a number of states might in fact seek a narrower definition. So what has been proposed is a set of guidelines—perhaps modeled after the Guiding Principles on Internal Displacement—or a new protocol to the Convention,³⁵ although serious work on what new classes should be protected and how remains to be done. As a starting point, a protocol could be drafted—based on the refugee definition in the OAU Convention—to provide protection for persons displaced because of violence and civil disorder.

Recommendation:

--An academic/policy group could be formed to draft guidelines and/or protocol and plan strategy for adoption.

--The Outcome Document of the UN September summit should include a recommendation for consideration of new legal norms and a process for drafting them.

--The new Secretary General could be urged to convene a group to draft guidelines and/or protocols for international protection of additional classes of forced migrants, beginning with persons fleeing violence and civil disorder.

3. Institutional and structural changes

The problems identified above, and the necessary solutions, suggest two different kinds of structural change: (1) structural reform in pursuit of a new operational model that better combines humanitarian and development analysis, planning and implementation, and (2) establishing a formal framework for responsibility-sharing.

The need for the first is now well-recognized in the Secretary General’s report for the World Humanitarian Summit and the September Summit on Large-Scale Movements of Migrants and Refugees,³⁶ although precisely what structural changes are being recommended remains undefined. This lack of a plan for institutional reform is no doubt due to sensitive issues of agency “turf” associated with particular funding streams (often

³⁵ See J. Golenziel, *Displaced: A Proposal for International Law to Protect Refugees, Migrants, and States*, forthcoming in the Berkeley J. of Int’l L. (2016).

³⁶ Secretary General Report for the WHS, paras. 124-42 (collective outcomes; “from delivering aid to ending need”); Secretary General Report in preparation for the high-level plenary meeting on addressing large movements of refugees and migrants, paras. 71-86 (UNHCR “to initiate and coordinate a comprehensive refugee response plan”).

from the same donor). So what we are likely to see emerge from the international conferences are calls for better coordination and “empowered leadership”—with no specification as to how this might happen. There are several possibilities, such as: UNHCR becoming the “lead agency” on displacement with overall accountability for developing and coordinating a comprehensive plan that includes humanitarian and development elements; the Resident Coordinator, as head of the UN country team, assuming a leadership role with greater authority and accountability; or the creation of a new “Agency for Forced Migration” that would combine functions. If one of these options is fixed upon by the new Secretary General (or leadership in the General Assembly), it will have to be negotiated with the member states and with the UN agencies.

Equally important would be the establishment of a formal framework for responsibility-sharing in mass flows and crises. James Hathaway has developed a proposal for allocating refugees and costs based on a sharing formula agreed to in advance of a crisis. The proposal separates a refugee’s place of arrival from the eventual place of asylum—a distinction Hathaway believes makes his model both more fair and more acceptable to participating states.³⁷ If it is unlikely that states will sign up in advance for such commitments, then an alternative would be for states to pre-commit to developing a sharing agreement early in a crisis—as opposed to the current situation where resettlement and other solutions come much later. Under either option, the system would move from the current practice of ad hoc arrangements to a protocol or some other instrument binding states to work collectively on solutions. As a number of commentators have suggested, these kinds of arrangements may best be pursued at a regional level.

The Solutions Alliance, described above, could serve as a prototype. What is now a collaboration among a number of state, multilateral and NGO actors could provide the model for a new, formally established, international architecture.³⁸

None of these efforts will succeed without a change in the level and source of funding. The Secretary General’s High Level Panel on Humanitarian Financing has made a number of recommendations on how to increase funding from humanitarian sources.³⁹ Equally important, development funding—which, globally, is roughly ten times larger than humanitarian funding—must be made available for deployment in displacement

³⁷ J. Hathaway and R. Neve, “Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection” 10 Harv. Hum. Rts. J. 115 (1997.)

³⁸ See also UNHCR’s Global Initiative For Somali Refugees, and the resulting Addis Abbaba Commitment on Somali Refugees.

³⁹ Including institution of an “international solidarity levy,” and a “Grand Bargain” that would condition multi-year, less-earmarked funding on greater transparency, cash-based assistance and efficiency among aid agencies. High-Level Panel on Humanitarian Financing Report to the Secretary-General, *Too important to fail—addressing the humanitarian financing gap* (Dec. 2015).

situations.⁴⁰ To better organize funding sources, multi-donor trust funds could be established at the country level, which would collect funds from a variety of sources and distribute them based on a comprehensive plan for emergency response and solutions.

While adoption of the proposals suggested in the various conferences and reports would no doubt improve the system, they would not appear to go far enough in incentivizing the changes necessary to full confront challenges currently facing the system (and only likely to grow more significant in the future). The kind of “step up” required might better be accomplished by establishing a *Global Fund for Refugees*--a multi-stakeholder organization, constituted by donor and host states, multilateral organizations and experts on analysis, planning and finance. Initial capitalization for the Fund could come from foundations, donor states, bond issuances and other financial vehicles.⁴¹ A Global Fund could provide support to both of the structural changes described above-- the adoption of new business models by actors on the ground and the creation of a formal responsibility-sharing framework among states. It could drive change by funding only those plans that meet criteria specified in advance.

Recommendations:

--The September Summit Outcome Document should request the Secretary General to provide roadmap for structural change to put in place new operational model.

--Donors and multilateral organizations should explore establishment of financial vehicles (such as a multi-donor trust fund) at the country level to support the new operational model.

--Consideration should be given to developing plan for a Global Fund for Refugees.

V. Conclusion

The best way to deal with large-scale flows of forced migrants, as all know, is to deal with the underlying causes of such flows: conflict and violence, economic privation, climate change. “Prevention,” “early warning,” and “preparedness” are regularly featured in UN documents, donor reviews and NGO studies, and it is well-recognized that the cost of preventing and preparing for crises are far less than responding to them (particularly when responses--in the form of continued assistance for the displaced--

⁴⁰ This would be facilitated if hosting and return states ensured that the needs of refugees and IDPs are included in national development plans.

⁴¹ In formulating a Global Fund for Refugees, it would be important to take a careful look at the design and performance of GAVI and the Global Fund to Fight Aids, Tuberculosis and Malaria.

continues indefinitely). With the great attention now being paid to the Sustainable Development Goals, it is currently in vogue to stress the link between development and causes of conflict and forced migration. While it is no doubt true that tangible and sustained progress on the 2030 agenda might mitigate some of the conditions that contribute to forced migration, development is not a panacea. Conflicts begin for many reasons, in developed and developing states. Thus, a comprehensive approach to prevention must be based on development, security, peace-building, human rights and other approaches; and it must include effective mechanisms to hold accountable those responsible for inciting and sustaining conflict.

This paper has limited itself to proposing improvements in responding to forced migration emergencies and protracted situations. It has stressed the inadequacy of simply requesting increases in resources for humanitarian agencies and their partners.⁴² New approaches must bring a wider range of actors together (including civil society and the private sector) who adopt new operational models; new legal norms will need to be developed; advocacy to shape public opinion (both to fight xenophobia and to support the necessary changes in the international system) will be an important element; and fairly dramatic institutional change will be necessary to address the “new normal” in forced displacement.

Animating these recommendations are core principles that derive from the international refugee regime’s founding instruments and which have evolved over 60 years of practice:

- persons forced from their homes because of violence and conflict should not be returned to a risk of serious harm and violations of human rights (*non-refoulement*)
- in order to ensure *non-refoulement*, states must provide “asylum space” to forced migrants
- the international community has a responsibility to assist countries to which refugees flee in order to ensure the continued provision of asylum space and to show international solidarity
- states are not obligated to grant refugee status to persons seeking recognition as a refugee or to a person who has already been recognized as a refugee so long as the principle of *non-refoulement* and other rights established

⁴² Indeed, there is a serious question whether the existence of a system of robust humanitarian response actually gives incentives to those who would spark conflict because they know that affected people will be cared for externally by the international community.

under the Refugee Convention and other instruments of international law are respected in states to which they are returned and permitted to enter

- norms of due process apply to refugee status determinations; detention of asylum-seekers is not generally permitted and should not be used to deter other asylum-seekers
- persons recognized as refugees have rights under international law; those rights—if respected—will help refugees rebuild their lives and will also permit them to contribute to the states that have granted them protection
- refugee status should not continue indefinitely; the international community has a responsibility to actively seek and provide durable solutions
- the responsibility to provide protection for, and assist, refugees and to find solutions for refugee situations must be shared among members of the international community; to operate most efficaciously, responsibility-sharing should be “regularized”
- refugee protection cannot thrive in societies whose populations do not support it; affirmation of these principles and support for the “refugee cause” requires conscientious advocacy and political commitment

To foster adherence to these principles and make progress on the recommendations in this paper, actions and advocacy should be directed at a range of audiences. Success of the enterprise might be measured in the following terms:

- the Outcome Document of the UN Summit to be held in September (a) supports the recommendations in this report; (b) calls on member states to develop a “regularized” system of responsibility-sharing for displacement situations; (b) requests the relevant UN body to develop international norms for protecting forced migrants not within the terms of the 1951 Convention; (c) sets in motion a process for considering broader institutional reform
- the Secretary General instructs the UN system—with the assistance of the World Bank, donor states, hosting states, and civil society—to develop and adopt a new operational model for response and solutions for situations of displacement; the model recognizes the vital roles of development actors, the private sector and civil society

- the Secretary General and the President of the United States announce a conference to draft a Comprehensive Plan of Action for Syrian refugees and hosting states
- civil society/NGOs develop a comprehensive set of recommendations programmatic, legal and institutional reforms described in the previous two bullets and an action plan for giving strength to those recommendations
- civil society/NGOs establish a global advocacy campaign and advocacy campaigns tailored to specific countries to “change the narrative” on refugees
- (assuming the failure of the EU-Turkey deal and the continued arrival of asylum-seekers in Europe:) the EU establishes a plan for adjudication of asylum claims and allocation of recognized refugees among EU states.

Above all else, laser-like focus must be kept on the over-arching goal of this exercise. To be sure, discussions may need to address issues of security and state control, turf battles among multilateral organizations, ineffective leadership in major states and the EU, the failures of conflict prevention and solution processes, funding shortfalls, and the lack of true international solidarity. But what is crucial is that *refugees' lives matter*. More than 60 years ago, the international community came together to create a system to resolve refugee crises created by World War II and to ensure that future crises would be resolved through the guarantee of rights and international responsibility-sharing. That system is today under severe challenge. It is not able to adequately provide protection or restore the lives and communities of millions of displaced people around the world. All signs point to continued refugee flows and unresolved protracted situations. The world can continue to stumble along, lurching from crisis to crisis, relying on ad hoc responses. Or it can now begin a process of serious operational, legal and institutional reform.