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World Refugee Council Research Paper No. 9 – March 2019

Resolving Refugee Situations Seeking Solutions Worthy of the Name

Megan Bradley



Centre for International
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Resolving Refugee Situations Seeking Solutions Worthy of the Name

Megan Bradley

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About the Series

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About the Author

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Alongside her research and teaching, Megan has worked with a range of organizations concerned with humanitarianism, human rights and development. From 2012 to 2014, she was a fellow in the Foreign Policy Program at the Brookings Institution in Washington, DC, where she worked with the Brookings Project on Internal Displacement. She has also worked with the Office of the United Nations High Commissioner for Refugees and the International Development Research Centre. From 2007 to 2008, she served as the Cadieux-Léger Fellow in the Canadian Department of Foreign Affairs and International Trade.

She received her doctorate in international relations from St. Antony's College at the University of Oxford and also holds a master of science in forced migration from Oxford.

Executive Summary

In theory, at least, refugee situations are resolved through the pursuit of three “durable solutions” to displacement: voluntary repatriation, local integration in host states or resettlement to third countries. Over the past 30 years, however, these options have become increasingly elusive. Voluntary return — often labelled the “preferred” solution — has been limited as many of the conflicts generating refugee flows continue unabated. Officially recognized local integration and resettlement efforts have benefited a small minority, but resource constraints and a lack of political will to welcome large groups of refugees have limited large-scale access to these options. The failure to enable durable solutions has left 75 percent of refugees in situations of protracted displacement.

How can durable solutions for refugees be unlocked? This has literally become a billion-dollar question as humanitarian agencies struggle to secure the funds necessary to support refugees who are hemmed in camps and barred from working. But the search for solutions is not just about money. It is about the rights, dignity and well-being of refugees themselves. It is also a matter of global justice: the vast majority of refugees — some 84 percent — remain in the Global South, often in states grappling with instability and widespread poverty, while Northern states fail to accept and enable durable solutions for large numbers of refugees. Building on this recognition, this paper reviews recent developments, ideas and opportunities associated with the search for durable solutions to the displacement of refugees and other forced migrants, in particular internally displaced persons (IDPs). It suggests that despite the continued barriers to durable solutions for refugees, important opportunities may be seized to advance solutions, including by more concertedly supporting refugees’ own choices and strategies; strengthening accountability for violations of refugees’ rights; addressing connections between displacement and durable solutions in conflict and disaster situations; and responding more comprehensively to the interconnected needs of refugees and IDPs. Realizing these opportunities depends, in part, on clarifying the aims of the durable solutions process and the conditions under which durable solutions may be achieved, and on addressing major disparities in support of various displaced populations.

Introduction

Globally, the search for durable solutions to the plight of refugees is failing. Theoretically, refugee situations are resolved through voluntary repatriation, local integration in host states or resettlement to third countries. Over the past 30 years, these options have become increasingly elusive. Voluntary return — often labelled the “preferred” solution — has been limited as many of the conflicts generating refugee flows continue unabated. In 2016, some 552,200 refugees voluntarily repatriated. This was the highest annual return rate since 2008, and more than double the number of returns in 2015, but still less than 2.5 percent of refugees worldwide (Office of the United Nations High Commissioner for Refugees [UNHCR] 2017, 3, 24). Many returned to instability in countries such as Afghanistan, Somalia and Sudan, and have subsequently been internally displaced — demonstrating that while they are no longer counted as refugees, they have hardly benefited from a meaningful solution to their situation (Internal Displacement Monitoring Centre [IDMC] 2017a, 60–65). Officially recognized local integration and resettlement efforts have benefited a small minority of refugees, but resource constraints and a lack of political will to welcome and extend citizenship rights to large groups of refugees have limited large-scale access to these options. Less than one percent of refugees are resettled each year, and even fewer obtain citizenship as part of formal local integration efforts.¹ The failure to enable durable solutions has left 75 percent of refugees in situations of protracted displacement. Forty-two percent or 9.4 million are trapped in situations that have spanned more than 20 years (UNHCR 2017, 3, 14).²

How can durable solutions for refugees be unlocked? This has literally become a billion-dollar question as humanitarian agencies struggle to secure the funds necessary to support refugees who are hemmed in camps and barred from working. But the search for solutions is not just

1 In 2016, 189,300 refugees were resettled, and the UNHCR (2017, 3, 14) recorded 23,000 naturalizations of refugees in host countries.

2 See UNHCR (2017, 23-24). The UNHCR typically defines protracted refugee situations as those exceeding five years. These figures include the 5.3 million Palestinians under the mandate of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), who are ensnared in the world’s largest and most long-standing refugee situation.

about money. It is about the rights, dignity and well-being of refugees themselves. It is also a matter of global justice: the vast majority of refugees — some 84 percent — remain in the Global South, often in states grappling with instability and widespread poverty, while Northern states fail to accept and enable durable solutions for large numbers of refugees.³ Building on this recognition, this paper reviews recent developments, ideas and opportunities associated with the search for durable solutions to the displacement of refugees and other forced migrants, in particular IDPs. It suggests that despite the continued barriers to durable solutions for refugees, important opportunities may be seized to advance solutions, including by more concertedly supporting refugees' own choices and strategies; strengthening accountability for violations of refugees' rights; addressing connections between displacement and durable solutions in conflict and disaster situations; and responding more comprehensively to the interconnected needs of refugees and IDPs. Realizing these opportunities depends, in part, on clarifying the aims of the durable solutions process and the conditions under which durable solutions may be achieved, and on addressing major disparities in support of various displaced populations.

What Is a Durable Solution? Conceptual Quagmires

Securing durable solutions is, in theory, the ultimate aim of efforts to protect refugees and other forced migrants. Yet, there is a surprising lack of clarity about what actually constitutes a “durable solution” to displacement. Equally, the aim of the search for solutions is often ill-defined, as is the target population. Is the primary goal to enable solutions for individual refugees, or for refugee communities more broadly? Are solutions supposed to promote refugees' rights, contribute to peace building, catalyze development or

legitimize the withdrawal of humanitarian aid “closing the books” on particular displacement situations, or achieve not one but all of these ends?

In theory, durable solutions are supposed to benefit displaced persons themselves, but other actors have clear and sometimes divergent interests in the process, including host states and states of origin, donors, the UNHCR and other international organizations, non-governmental organizations, and members of host and return communities. “Solutions” such as large-scale returns that serve the interests of reluctant host states and over-stretched humanitarian agencies may, from refugees' perspectives, create more problems than they resolve.⁴ This reflects the tension between durable solutions *for refugees* versus *for refugee flows* as a challenge for states and international politics (Hathaway 2007).

The term “durable solution” is not elaborated in the 1951 Convention relating to the Status of Refugees, or in the UNHCR Statute, although the statute does mandate the UNHCR to seek “permanent solutions for the problem of refugees by assisting Governments...to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities” (UNHCR 1949, chapter 1, para. 1). Inspired perhaps by the UNHCR Statute, durable solutions for refugees are often defined simply in terms of three avenues for resolving displacement — return, local integration or resettlement — rather than in terms of sustainable outcomes, such as the enjoyment of human rights, or a successful transition out of limbo conditions that stifle refugees' ability to realize their hopes and full potential. However, cases such as the internal displacement of repatriated refugees in Somalia and Afghanistan, and the forced return of refugees who had informally integrated into host communities, make it all too clear that these avenues do not necessarily lead to stability and the long-term enjoyment of basic rights for refugees.

Such experiences point to the continued relevance of a long-standing question: is the enjoyment of full, equal and effective citizenship rights the gold standard or the *sine qua non* for durable solutions for refugees? Some have argued that solutions hinge on the full restoration of refugees' citizenship rights — or, for those who never enjoyed full citizenship

3 See UNHCR (2017, 2). This figure reflects only those refugees under the UNHCR's mandate. The proportion would increase dramatically if Palestinian refugees under the UNRWA's mandate are also included.

4 On this dynamic, see, for example, Bradley, Milner and Peruniak (forthcoming 2019).

rights in the first place, the acceptance and establishment of the refugee as an equal citizen, whether in her country of origin, host country or a resettlement state.⁵ This position meshes with a strong and principled focus on human rights protection. However, it also raises complex concerns when refugees pursue durable solutions in states still experiencing or emerging from conflict, in which citizenship rarely translates into reliable, robust human rights protection, regardless of whether one has been displaced. This points to the pursuit of durable solutions for refugees as a process that is inevitably intertwined with broader development and peace-building dynamics.

Thinking about durable solutions for refugees as a process, in turn, raises the question: when does displacement end? This question has informed related efforts to identify and support durable solutions for IDPs. The three avenues for resolving internal displacement roughly parallel those that are, in theory, available to refugees: IDPs may voluntarily return to their communities of origin, integrate into the communities in which they have sheltered or resettle elsewhere in the country. Whereas refugees typically only have a clear legal right to voluntary return, IDPs are usually citizens of the country in which they are displaced, and therefore have the right to freedom of movement and to choose their place of residence; in other words, they have the right to pursue the option of their choice. In practice, however, this right is often limited by, for example, ongoing conflict in communities of origin, persecution, and lack of support for choices at odds with the preferences of state officials and donors.

Generally speaking, because IDPs remain in their own countries and do not have a high-profile standard-bearer in the international system, they are usually not as visible a population as refugees. This has led to under-investment in support of durable solutions for IDPs and neglect of the connections between refugee and IDP populations. While efforts to support durable solutions for IDPs have attracted much less international attention and resources than those focused on refugees, the normative framework on durable solutions for IDPs arguably provides more nuanced reflections on some of the important conceptual questions

⁵ See, for example, Shacknove (1985). On restoration of citizenship rights and voluntary repatriation, see Bradley (2013). On citizenship as a prerequisite for local integration as a solution to displacement, see Hovil (2014).

associated with durable solutions. Notwithstanding the significant legal and political distinctions between refugee and IDP situations, aspects of the IDP frameworks may be a source of insight in refugee situations and in complex forced migration cases involving both refugees and IDPs.

Developed under the leadership of the Representative of the UN Secretary-General on the Human Rights of IDPs, the 2010 Inter-Agency Standing Committee (IASC) Framework on Durable Solutions for Internally Displaced Persons (IASC Framework) is, in conjunction with the 1998 *Guiding Principles on Internal Displacement*, the main source of international guidance on resolving IDP situations (IASC 2010).⁶ Importantly, the IASC Framework stresses that “mere physical movement, namely returning to one’s home or place of habitual residence, moving to another part of the country or choosing to integrate locally often does not amount to a durable solution” (ibid., 5). Rather, the framework indicates that a “durable solution is achieved when IDPs no longer have specific assistance and protection needs that are linked to their displacement and such persons can enjoy their human rights without discrimination resulting from their displacement” (ibid.). The framework identifies the characteristics of a rights-based durable solutions process and eight criteria to assess the extent to which durable solutions have been realized. According to the framework, formerly displaced persons who have obtained a durable solution can equitably enjoy:

- long-term safety, security and freedom of movement;
- an adequate standard of living, including, at a minimum, access to adequate food, water, housing, health care and basic education;
- access to employment and livelihoods; and
- access to effective mechanisms that restore their housing, land and property, or that provide them with compensation (ibid., A-1).

Durable solutions may also require the equitable enjoyment of:

- access to and replacement of personal and other documentation;

⁶ See also Bradley and Sherwood (2016).

- voluntary reunification with family members separated during displacement;
- participation in public affairs at all levels on an equal basis with the resident population; and
- effective remedies for displacement-related violations, including access to justice, reparations and information about the causes of violations (ibid.).

The IASC Framework is challenging to implement: it sets an arguably high bar for determining when durable solutions have been achieved, and progress toward the attainment of the criteria laid out in the framework can be difficult to measure (Sherwood et al. 2014).⁷ But its approach, focused on cross-sectoral support for durable solutions (linking humanitarian, development and peace-building actors), non-discrimination and redressing displacement-related assistance and protection needs, may clarify some of the conceptual issues surrounding durable solutions for refugees and productively inform more holistic efforts to support solutions for forced migrants, including both refugees and IDPs. By extension, the notion of a durable solution developed in the IASC Framework implies that refugees have accessed a durable solution not simply when they have voluntarily returned, locally integrated or resettled, but when they “no longer have specific assistance and protection needs that are linked to their displacement” and “can enjoy their human rights without discrimination resulting from their displacement.” Many of the criteria laid out in the IASC Framework for assessing progress toward solutions are, with some modifications, relevant in refugee situations, as well as for IDPs.

This approach is reflected in guidance on the development of strategies to support durable solutions for IDPs and returning refugees, in the context of the implementation of the UN Secretary-General’s 2011 Decision on Durable Solutions to Displacement (UN Secretary-General 2011; see also UN Development Programme [UNDP] et al. 2016; Norwegian Refugee Council et al. 2017). However, the process surrounding the Secretary-General’s Decision struggled to gain traction and has now largely been overshadowed by the piloting of the Comprehensive Refugee Response Framework in

the context of the negotiation of the 2018 Global Compact on Refugees. In fact, IDPs as a population of concern and the relationship between durable solutions for refugees and IDPs have been sidelined in the compact process and in broader international efforts to respond to the surge in displacement in recent years. Moving forward, opportunities should be seized to think more carefully about the relationship between durable solutions for refugees and IDPs and to act more strategically in support of solutions for both groups.

Recent Developments

Around the world, refugees and IDPs are the primary architects of solutions to the challenges that displacement presents for them and their families. While they may not be able to independently resolve certain problems, such as their legal status or exposure to violence and discrimination, many take steps to improve their situation and lay the foundations for durable solutions, even in the absence of official support. For example, many refugees strategically maintain links with their communities of origin, develop social and economic ties in host communities, mobilize politically or seize opportunities to pursue educational or professional qualifications.⁸ Further, refugees involved in past large-scale voluntary repatriation processes have usually returned under their own steam, independently of institutional actors such as the UNHCR. While the following discussion focuses mainly on recent developments at the national and international levels, exploring the strategies deployed by forced migrants themselves is thus also essential to understanding barriers to durable solutions and opportunities to overcome them.

Several trends have shaped recent developments on durable solutions:

- *The eroded quality of asylum offered to refugees has undercut solutions.* Many countries, in particular in the Global North, that previously extended citizenship to recognized refugees now offer only temporary protection, even when the possibility

⁷ The Joint IDP Profiling Service coordinated a process to develop indicators, methodologies and tools to facilitate the technical implementation of the IASC Framework. See www.jips.org.

⁸ These strategies have, for example, been employed by Somali refugees in a range of host countries, including Kenya and Norway. See, for example, Horst (forthcoming 2019; 2006a; 2006b).

of voluntary repatriation in conditions of safety and dignity is nowhere on the horizon. This compounds the number of refugees trapped in a holding pattern and limits their ability to access solutions. At the same time, restrictive and punitive conditions imposed on asylum seekers and refugees limit their ability to achieve self-reliance, access essential medical care and reunite with their families, in turn undermining coping strategies and their ability to overcome obstacles to durable solutions.

→ *There are major tensions between the drive to negotiate comprehensive “grand strategies” for solutions, the actual comprehensiveness of current proposals and the inhospitable international political climate.* The need for revived strategies that bring in actors from different sectors (in particular, development actors and actors from the private sector) and that more equitably engage states in the Global North and South in supporting solutions is reflected in the refugee compact process and its (nominally) Comprehensive Refugee Response Framework, as well as in a much longer history of international efforts (United Nations General Assembly [UNGA] 2016).⁹ However, with the retreat of US leadership in the refugee regime and with rising populist, xenophobic sentiments in the United States, Europe and Australia, as well as in several major Southern host states, the political support needed to underpin such comprehensive strategies is lacking.

Further, it is clear that the strategies devised to date are far from comprehensive, in particular in terms of the engagement of Northern states in welcoming refugees within their borders, and in terms of the populations of concern that are included in solutions strategies. Too often, efforts to enable durable solutions focus only on formally recognized refugees, arbitrarily or blindly excluding other groups who are also directly implicated in the search for solutions, including IDPs, host and return community members, and undocumented migrants who may not qualify for protection under the relatively narrow provisions of international refugee law but nonetheless cannot safely return, or who face other

significant protection concerns. The notion that solutions can be achieved for large numbers of refugees without more seriously attending to the concerns facing these related groups reflects both the problematic bureaucratic logic created by the UNHCR’s mandated focus on refugees and the host states’ desire to “deal with” refugees as a particularly visible and politically volatile issue. This approach is divorced from reality: these groups are not sealed off from one other, but interconnected by family ties, political dynamics and socio-economic concerns. IDPs and undocumented migrants with protection concerns often outnumber refugees, and the conditions and concerns they face directly influence prospects for durable solutions for refugees, but they rarely receive such concerted attention.¹⁰

→ *Efforts to support durable solutions to displacement are characterized by major disparities in political, institutional and financial support.* These disparities are difficult to track precisely, owing to the complexity of financing arrangements for refugee responses and lack of transparency in data on donor support. Among refugee advocates, acknowledging these disparities is also controversial, as political leaders in the Global North have used the argument that it is more economically efficient to assist refugees in their regions of origin, to evade responsibility for enabling larger numbers of refugees to resettle or locally integrate within their borders.¹¹ While being attentive to this concern, a well-reasoned discussion of durable solutions does need to be aware of the disparities that characterize the durable solutions “landscape.” These unfold on several axes, including:

- support for different durable solutions in different regions, with financial resources devoted to resettlement and

⁹ While the Comprehensive Refugee Response Framework aims to be comprehensive, it has been critiqued, for example, for not sufficiently addressing gender concerns, and for failing to consider the close relationship between refugee situations and internal displacement.

¹⁰ For instance, the CIREFCA (International Conference on Central American Refugees) process aimed to support the consolidation of peace and the resolution of the displacement crisis emerging from the civil wars in Central America in the 1980s. This process is often regarded as a significant success for refugees. Widening the lens of analysis to consider the longer-term implications of the process, and how other displaced groups, such as IDPs and undocumented migrants, fared in the search for solutions, leads to a much more restrained assessment. However, it is commendable that the process did, at least, aim to address not only refugees but also related groups such as IDPs. See Bradley (2011).

¹¹ For example, in his September 2017 address to the UNGA, US President Donald Trump suggested that, “For the cost of resettling one refugee in the United States, we can assist more than 10 in their home region” (Valverde 2017).

local integration in the Global North outstripping investments in durable solutions for the larger numbers of refugees and other forced migrants who seek out solutions in the Global South;

- support for different displacement situations, with comparatively high levels of financial support recently directed toward the resettlement of Syrian refugees, in particular; and
- support for different groups of forced migrants, with durable solutions for IDPs and undocumented migrants with protection concerns often receiving less international financial and institutional support than efforts on behalf of formally recognized refugees. This is reflected, for instance, in the fact that the UNHCR supported less than half of the 6.5 million IDPs who returned to their homes in 2016 (UNHCR 2017, 35, 36).¹²

Against this backdrop, there have been concerted efforts to revive international resettlement efforts and to carve out “interim” and alternative solutions.

The Search for Interim “Solutions” and Alternative Pathways

In the absence of a clear, outcome-focused definition of durable solutions, a wide array of related concepts has emerged. The UNHCR, the UNDP and other partners have promoted both “transitional” and “comprehensive” solutions, while the International Organization for Migration (IOM) has developed a Framework for the Progressive

Resolution of Displacement Situations.¹³ This emphasizes the importance of mobility in the context of the search for solutions and concentrates on “strengthening coping capacities, fostering self-reliance and creating conducive environments” for the resolution of displacement in the long term (IOM 2016). Beyond “durable solutions,” the 2016 New York Declaration on Refugees and Migrants references “global solutions,” “local solutions,” “third-country solutions” and “long-term and sustainable solutions.”¹⁴

Without breakthroughs in achieving the traditional trinity of voluntary return, resettlement and local integration, attention has focused in particular on interim and alternative “solutions,” alongside efforts to preserve the institution of asylum by encouraging refugees’ self-reliance. Researchers and advocates have explored the relationship between durable solutions and refugees’ mobility, including in the context of temporary labour migration, underscoring that durable solutions to displacement do not necessarily need to entail an end to movement — only to *forced* migration.¹⁵ Building on this work, some have suggested that mobility may represent a fourth solution for refugees, or that it may in some contexts be more desirable than a sedentary “solution.”

Relatedly, in the context of the refugee compact process, there has been growing interest in “complementary pathways” for the admission of refugees, such as humanitarian admissions, medical evacuations and family reunification programs, and avenues for education and labour mobility. Indeed, the New York Declaration’s Comprehensive Refugee Response Framework suggests that such pathways may constitute durable solutions for refugees.¹⁶ Yet from a rights-based perspective, whether labour mobility and other pathways support the achievement of durable solutions depends on whether they help resolve the fundamental precariousness of refugees’ status. Temporary labour migration and mobility

12 The UNHCR (2017, 36) indicates that its support was “required” by “nearly 3 million” of the 6.5 million IDPs who returned in 2016. In principle, authorities of the state in which IDPs are displaced bear primary responsibility for supporting durable solutions for their internally displaced citizens. However, the top countries for IDP returns in 2016 (*ibid.*, 36-37) were Iraq (1.4 million), Yemen (974,100), South Sudan (752,300), Pakistan (704,400), Nigeria (689,900), Democratic Republic of the Congo (619,600) and Syria (600,000), all countries in which the state’s capacity or willingness to support solutions for IDPs is starkly limited, and where more robust support from the UNHCR and other international organizations could presumably have made significant contributions to upholding returnees’ rights and well-being.

13 On the Transitional Solutions Initiative, see UNDP, UNHCR and World Bank (2010). On the concept of “comprehensive solutions” developed through the UNHCR (2001) and the UNHCR (2003), see Gottwald (2012).

14 See UNGA (2016, paras. 7, 10, 31, 85); UNHCR (2016, paras. 10, 18).

15 On the relationship between mobility and durable solutions, see, for example, Long and Crisp (2010); Long (2010); Landau (forthcoming 2019).

16 UNHCR (2016, para. 10) indicates that “actions should be taken in pursuit of the following durable solutions: voluntary repatriation, local solutions and resettlement and complementary pathways for admission.”

for education, for instance, may help refugees meet important socio-economic needs, but do not necessarily entitle refugees to stay and become permanent residents or citizens in the countries in which they have studied or worked (Fiddian-Qasmiyeh, forthcoming 2019). Some pathways, such as exploitative migrant labour programs, may exacerbate rather than reduce refugees' vulnerabilities. Others, such as family reunification, skilled labour migration and education mobility, may only be accessible to a small and comparatively privileged subset of the refugee population — for example, those who have been able to access and excel in secondary education, who are able to do in-demand or specialized work, and who benefit from the support of transnational family networks. These pathways therefore should not be simply conflated with *durable* solutions that (re)position refugees as full and equal citizens, as this depends on the terms under which “complementary pathways” are followed and the extent to which they are accessible.

All this suggests that the profusion of “solutions talk” and optimism around alternative pathways and a possible “fourth solution” to displacement should be taken with a grain of salt. The language of solutions brings a degree of hopefulness to debates on refugees, and may serve as a counterpoint to narratives that make refugees seem like an unending drain on resources and the challenges facing the refugee system seem insurmountable. But “solutions talk” can also mask failures to address the persistent precariousness facing the most marginalized refugees and other displaced populations. Often, it is tied to a thirst for quick fixes and innovations that would subvert the long-standing logics of restrictionism and exclusion that have brought the search for traditional durable solutions almost to a standstill.

Struggles to Revive and Reincarnate Resettlement

Since the outbreak of the Syrian civil war and the surge in displacement rates globally, the UNHCR and a handful of states have devoted considerable effort to reviving refugee resettlement efforts and expanding the range of resettlement countries.

The United States, Canada and Australia have long provided more than 90 percent of resettlement opportunities worldwide (Van Selm 2014, 512). Countries in the Global South, such as Brazil, have gradually become more engaged in providing “third country solutions,” including through resettlement. Efforts such as the Global Refugee Sponsorship Initiative have promoted the private sponsorship model used in Canada to other countries around the world, encouraging community groups, as well as private citizens and businesses, to support resettlement, alongside more traditional government-led efforts.¹⁷ The Canadian government argues that beyond expanding the quality and quantity of resettlement spots provided, the private sponsorship system plays an important role in fostering public support for refugees and welcoming attitudes toward newcomers more generally (Government of Canada 2017).

Owing in part to such efforts, resettlement rates have crept up in recent years, rising to 139,300 in 2016 (UNHCR 2017, 3). However, this figure still represents less than one percent of refugees worldwide, and less than 12 percent of the 1.2 million refugees the UNHCR has identified as being in particular need of resettlement (Norwegian Refugee Council et al. 2017). Resettlement rates may plunge in the near future as the United States scales back its resettlement commitments. The UNHCR has promoted the “strategic use of resettlement” — essentially, trying to leverage the offer of resettlement places for significant proportions of refugees in specific displacement situations to open up opportunities for alternative solutions for others in the refugee community, such as local integration or voluntary repatriation. Yet, the UNHCR's own evaluations of these efforts suggest that hopes for the strategic use of resettlement have rarely, if ever, translated into reality (Van Selm 2013). While resettlement is, in theory, to be made available first and foremost to those with pressing protection concerns, most of the new resettlement places created in recent years have been allocated to refugees coming from politically high-profile situations such as Syria or the Yazidis from Iraq — or, in the case of private sponsorship programs, to those with family ties or other transnational connections. Many refugees in these communities certainly have a dire need for resettlement, but so, too, do thousands involved in other crises unfolding far beyond the attention of major media outlets.

¹⁷ See Global Refugee Sponsorship Initiative (n.d.).

The push to dramatically increase resettlement quotas is laudable on a principled basis. However, in the absence of major changes in the political calculus around resettlement, recent efforts to resuscitate the resettlement system will likely have only modest effects on broader efforts to resolve protracted displacement situations. At the same time, proponents of efforts to revive resettlement systems must be cognizant of the ethical concerns these initiatives may inadvertently raise. Beyond potentially arbitrarily prioritizing refugees from politically high-profile situations and comparatively well-connected backgrounds, these concerns include the delegitimization of other forms of migration that are not so carefully choreographed by states. For instance, the resettlement system enables states to celebrate the “good” refugees who “wait patiently” in camps and communities in the Global South for a long shot at resettlement, and delegitimize those who take matters into their own hands, moving under their own steam to states in the Global North where they may claim asylum directly (Hyndman and Giles 2011).

Advancing Solutions: Opportunities and Recommendations

The refugee system is hungry for new ideas. Yet, fundamentally, enabling durable solutions for more refugees may not so much be about bold new ideas as about achieving clarity on the aims of the durable solutions process and about marshalling the political will to implement long-standing recommendations. For example, advocates have raised countless calls for increased resettlement quotas, longer-term monitoring and support for returnees, better integration of refugees into national and regional peace-building processes, more active engagement of development actors (including, but not limited to, the World Bank) in supporting durable solutions, and the systematic inclusion of refugees in planning and implementing durable solutions strategies.¹⁸ This section

¹⁸ On the regional dimensions of durable solutions, see, for example, Milner (2009). Many of the concerns resonating in contemporary debates on durable solutions are evident in earlier analyses, for example, Ferris (1996).

endeavours not to reiterate too many of these important, well-documented recommendations but instead to elaborate on some important issues that have not yet received the attention they deserve.

Clarifying Aims and Conditions for Solutions and Addressing Disparities in Support

The aims of the durable solutions process, and the conditions under which durable solutions have been achieved, need to be clarified. Given the proliferation of “solutions talk,” clear distinctions are needed between durable solutions and interim or temporary measures that may support, but cannot substitute for, the eventual resolution of the factors causing and sustaining displacement. At the same time, greater efforts are needed to recognize and overcome disparities in the levels and quality of support provided for different displaced populations, with a view to ensuring that no forced migrants are “left behind” in the search for solutions to displacement.

Recommendations:

- Clearly recognize that voluntary return is not, in and of itself, a durable solution to displacement. Equally, resettlement and local integration may not translate into durable solutions, unless they offer legal, physical and socio-economic security. Durable solutions for refugees should restore or establish full citizenship rights for those who were displaced, recognizing that this is part of longer-term and broader development processes. Drawing on reflections on the resolution of internal displacement, durable solutions may be understood to have been achieved when refugees “no longer have specific assistance and protection needs that are linked to their displacement” and can “enjoy their human rights without discrimination resulting from their displacement” (IASC 2010, 5).
- Affirm that durable solutions do not necessarily entail an end to mobility, but only to *forced* migration. In the absence of durable solutions, interim or progressive steps toward solutions — including ongoing mobility — may be critical contributions and coping strategies, but cannot be substituted for repositioning refugees as full and equal citizens. This concern is particularly important to bear in mind as efforts continue to identify “alternative pathways” to admission, some of which may

provide temporary respite but not a long-term response to refugees' precariousness. Efforts to promote alternative pathways to admission and durable solutions should also be attentive to the potential exclusion of refugees who are often already among the most marginalized, such as those without higher education, employment experience or access to robust transnational networks.

- Through cooperation between key actors, including the UNHCR and donor states, clearer data should be made available on the different solutions that are being promoted for different populations and the amounts spent in support of these solutions. The provision of such data is an important first step toward recognizing and addressing the disparities in support for durable solutions that hinder the ability of some refugees and IDPs to resolve their displacement.

Supporting Refugees' Choices and Strategies

Returns enable durable solutions to displacement only “when they are safe, voluntary and matched with comprehensive preparation and reintegration efforts” (Norwegian Refugee Council et al. 2017). Yet, the New York Declaration insists that “voluntary repatriation should not necessarily be conditioned on the accomplishment of political solutions in the country of origin”¹⁹ (UNGA 2016, para. 6). Vigilance is needed to ensure that such rhetoric is not used to legitimize premature pushes for refugee returns that are not safe, dignified or meaningfully voluntary. And yet, over the course of the past decade, a sizable proportion of returns were unassisted or “spontaneous”; many involved refugees returning to countries still facing active conflict (Harild, Christensen and Zetter 2015, 6-7).

The dynamics around unassisted or “spontaneous” returns are not as well understood as those shaping repatriation movements formally supported by the UNHCR.²⁰ However, it is clear that the motivations for such movements (and other potentially risky coping strategies) are highly complex and often involve family pressures and declining conditions in host countries. The

engagement of international actors in supporting people who have undertaken such returns can raise thorny ethical issues. However, the failure to provide assistance can reflect paternalism and privilege institutional risk aversion over respect and support for refugees' choices. This means, in turn, that opportunities are missed to help transform these movements from makeshift strategies into viable, long-term solutions.

Recommendations:

- Bearing in mind the complex ethical questions associated with supporting returns in insecure conditions and other risky strategies refugees may pursue, explore opportunities to better understand and support refugees' choices, and ensure that they have access to more reliable information on shifting conditions in countries and communities of origin.

Advancing Accountability

Whether displaced persons return, locally integrate or settle elsewhere, accountability for the violations that forced them from their homes is crucial for the achievement of durable solutions. Refugees and IDPs have historically been excluded from many transitional justice processes such as trials, truth commissions and compensation programs. Increasingly, however, refugees and IDPs are recognized as key actors in these processes, which can help to establish the conditions necessary for the achievement of durable solutions to displacement. Refugees from Syria and many other countries have played leading roles in testifying to and documenting the crimes that forced them from their homes, laying the foundation for the eventual pursuit of accountability for these abuses. Particular progress has been made in developing standards and administrative processes to facilitate the restitution of displaced persons' lost homes and lands, and property restitution rights are now addressed in the majority of peace agreements. But, in spite of these developments, most refugees and IDPs still do not directly benefit from efforts to ensure accountability for the violations they have experienced, and ample room remains to

¹⁹ This sentence was introduced by Lebanon and included on Lebanon's insistence.

²⁰ On spontaneous returns, see, for example, Harild, Christensen and Zetter (2015).

strengthen the contribution these processes make to the resolution of displacement.²¹

Recommendations:

- Lay stronger foundations for durable solutions and the pursuit of justice and accountability for human rights violations associated with displacement by supporting refugees' efforts to chronicle and document the abuses they have experienced and witnessed. Community-based mapping and other techniques may be used to document land claims (particularly when refugees have lost or never held formal land titles) to facilitate future land restitution processes.
- Ensure that refugees and IDPs are able to equitably participate in transitional justice and accountability processes related to the violations they have experienced. These processes should also address forced displacement as a human rights violation in itself, with a view to deterring future violations and promoting the durability of efforts to resolve forced migration.

Promoting More Comprehensive Thinking and Action on Durable Solutions for Refugees and IDPs

IDPs are the “invisible majority” of forced migrants worldwide (UN Emergency Relief Coordinator and Co-signatories 2016). They account for more than 60 percent of those displaced by conflict and almost all of those uprooted by natural disasters; most countries that generate large-scale refugee flows are grappling with even larger IDP situations (*ibid.*). Many refugees are displaced several times within their countries of origin before they seek asylum abroad, and many have family members who stay behind as IDPs for a range of reasons — for instance, some lack the resources to flee internationally. Others stay nearby to check in on homes and businesses or to care for relatives who are unable to make arduous cross-border journeys.

Beyond these connections, countless refugees are exposed to internal displacement after repatriating. Most of the 750,000 refugees who

repatriated in 2015 and 2016 went back to countries facing ongoing conflict and protracted internal displacement situations, such as Afghanistan, Somalia, Sudan and the Central African Republic. According to the IDMC, repatriation in such conditions has two key implications vis-à-vis internal displacement: “First, it increases the risk of [refugees’] de facto internal displacement if they are unable to go back to their place of origin or sustainably reintegrate elsewhere, or secondary internal displacement if they are forced to uproot their lives again. Second, there is a risk that the drivers of displacement could be amplified by a large influx of people. In other words, the sustainability of refugee returns is likely to be fundamentally threatened where origin countries are faced with ongoing drivers of internal displacement risk” (IDMC 2017b, 2).

Recognizing these connections, some past frameworks and initiatives have promoted “comprehensive” approaches to durable solutions for refugees and IDPs.²² Yet, these proposals have not transformed international practice in support of durable solutions. Indeed, in recent years the IDP issue has slipped dangerously from the international agenda, with internal displacement sidelined in the negotiation of the global compacts on refugees and migration and high-level leadership in support of IDPs waning in the UN system. Consequently, support for durable solutions for IDPs is often inadequate and disconnected from related efforts to enable durable solutions for refugees, in particular through voluntary repatriation.

While disconnected approaches undermine solutions for refugees and IDPs alike, recent developments may provide significant, if complex, opportunities for progress. In 2016, an estimated 6.5 million IDPs returned to their areas of origin. These were the highest annual IDP return rates in more than a decade, involving some 16 percent of conflict-induced IDPs and almost 10 percent of forced migrants worldwide. Yet, many of these returns occurred in areas experiencing ongoing conflict and in countries facing new internal and cross-border displacements, such as Afghanistan, Iraq and South Sudan. It is therefore probable that many of these returnees do not yet enjoy a meaningfully durable solution to their predicament. However, these movements are part of a broader pattern of relatively significant levels of IDP

21 On these issues, see the results of the project on displacement and transitional justice undertaken by the International Centre for Transitional Justice and the Brookings-London School of Economics (LSE) Project on Internal Displacement (2012). See also Bradley (ed.) (2015); Duthie (2011); Bradley (2012).

22 See, for example, UN Secretary-General (2011); Gottwald (2012).

returns in recent years — movements that often take place without substantial support from the UNHCR or other international actors. Given the scale of these movements, and the connections between refugee and IDP populations, these processes should be more carefully explored, with a view to identifying strategic opportunities to strengthen their safety and durability.

Recommendations:

- Ensure that durable solutions frameworks and strategies for refugees, including those emerging from the refugee compact process, concretely address connections between solutions for refugees and IDPs. These frameworks should move beyond country-specific strategies to consider regional dynamics and promote more equitable, needs-based distribution of resources in support of solutions. This requires not only integrated monitoring strategies and expanded technical support for “joined up” durable solutions efforts, but also increased political support and institutional accountability to disrupt the pattern of sidelining IDPs and overlooking the connections between durable solutions for refugees and IDPs.
- Mitigate the risk of internal displacement after voluntary repatriation, including by integrating the *Guiding Principles on Internal Displacement* (including those principles focused on the prevention of internal displacement) into national laws and policies, and by strengthening property restitution programs and locally accessible mechanisms to resolve land disputes — a major source of conflict in many return communities. In every voluntary repatriation process, the UNHCR, states of origin and other relevant actors should concertedly analyze the risk of returning refugees becoming IDPs and cooperatively develop and implement explicit strategies to mitigate these risks. Tripartite agreements on voluntary repatriation should include clear commitments on the part of the state of origin to prevent the internal displacement of returning refugees and steps that will be taken to uphold this commitment.
- Revive leadership on IDPs within the UN system. This may, in particular, be advanced by establishing a new post of Special Representative of the UN Secretary-General on Internal Displacement, with responsibility for promoting improved assistance and

protection for IDPs, including the pursuit of durable solutions in complex situations involving both IDPs and refugees.

Exploring Connections between Climate Change, Disasters and Durable Solutions

Debate on durable solutions focuses primarily on conflict and post-conflict contexts.

However, environmental factors and vulnerabilities associated with the effects of climate change are increasingly recognized not only as significant drivers of conflict and forced migration, but also as obstacles to the sustainable resolution of displacement.

Recommendation:

- Building on efforts such as the Nansen Initiative and the Platform on Disaster Displacement, proactively explore and invest in addressing the connections between durable solutions for forced migration in conflict and disaster situations and the implications of climate change for efforts to sustainably resolve displacement.²³

In the current political climate, keeping doors open to refugees and enabling them to lead secure and dignified lives in exile is a Herculean challenge in and of itself, yet we must not lose sight of durable solutions as the end point of refugee protection. From targeted policy innovations to big shifts in thinking, there are innumerable opportunities to work with refugees to overcome precariousness and, ultimately, resolve displacement.

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²³ On the relationship between forced migration and climate change, see, for example, McAdam, ed. (2012) and McAdam (2012). On the specific issue of climate change, displacement and durable solutions, see Bradley and McAdam (2012).

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About CIGI

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À propos du CIGI

Au Centre pour l'innovation dans la gouvernance internationale (CIGI), nous formons un groupe de réflexion indépendant et non partisan doté d'un point de vue objectif et unique de portée mondiale. Nos recherches, nos avis et nos interventions publiques ont des effets réels sur le monde d'aujourd'hui car ils apportent de la clarté et une réflexion novatrice pour l'élaboration des politiques à l'échelle internationale. En raison des travaux accomplis en collaboration et en partenariat avec des pairs et des spécialistes interdisciplinaires des plus compétents, nous sommes devenus une référence grâce à l'influence de nos recherches et à la fiabilité de nos analyses.

Nos programmes de recherche ont trait à la gouvernance dans les domaines suivants : l'économie mondiale, la sécurité et les politiques mondiales, et le droit international, et nous les exécutons avec la collaboration de nombreux partenaires stratégiques et le soutien des gouvernements du Canada et de l'Ontario ainsi que du fondateur du CIGI, Jim Balsillie.

About the World Refugee Council

There are more than 21 million refugees worldwide. Over half are under the age of 18. As a growing number of these individuals are forced to flee their homelands in search of safety, they are faced with severe limitations on the availability and quality of asylum, leading them to spend longer in exile today than ever before.

The current refugee system is not equipped to respond to the refugee crisis in a predictable or comprehensive manner. When a crisis erupts, home countries, countries of first asylum, transit countries and destination countries unexpectedly find themselves coping with large numbers of refugees flowing within or over their borders. Support from the international community is typically ad hoc, sporadic and woefully inadequate.

Bold Thinking for a New Refugee System

The United Nations High Commissioner for Refugees (UNHCR) is leading a consensus-driven effort to produce a new Global Compact on Refugees in 2018. The World Refugee Council (WRC), established in May 2017 by the Centre for International Governance Innovation, is intended to complement its efforts.

The WRC seeks to offer bold strategic thinking about how the international community can comprehensively respond to refugees based on the principles of international cooperation and responsibility sharing. The Council is comprised of thought leaders, practitioners and innovators drawn from regions around the world and is supported by a research advisory network.

The WRC will explore advances in technology, innovative financing opportunities and prospects for strengthening existing international law to craft and advance a strategic vision for refugees and the associated countries.

The Council will produce a final report grounded by empirical research and informed by an extensive program of outreach to governments, intergovernmental organizations and civil society.

À propos du Conseil mondial pour les réfugiés

Il y a en ce moment dans le monde plus de 21 millions de réfugiés, et plus de la moitié d'entre eux ont moins de 18 ans. En outre, de plus en plus de personnes sont forcées de quitter leur pays natal et partent à la recherche d'une sécurité, et elles sont alors confrontées aux limites importantes qui existent quant aux possibilités d'accueil et à la qualité de ce dernier. À cause de cette situation, les réfugiés passent maintenant plus de temps que jamais auparavant en exil.

En ce moment, le système de protection des réfugiés ne permet pas de réagir adéquatement à la crise des réfugiés d'une façon planifiée et globale. Quand une crise éclate, les pays de premier asile, les pays de transit et les pays de destination finale se retrouvent sans l'avoir prévu à devoir composer avec un grand nombre de réfugiés qui arrivent sur leur territoire, le traversent ou en partent. Et le soutien fourni dans ce contexte par la communauté internationale est en règle générale ponctuel, irrégulier et nettement inadéquat.

Des idées audacieuses pour un nouveau système de protection des réfugiés

Le Haut-Commissariat des Nations Unies pour les réfugiés (HCNUR) dirige des efforts découlant d'un consensus et visant à instaurer un nouveau « pacte mondial pour les réfugiés » en 2018. Mis sur pied en mai 2017 par le Centre pour l'innovation dans la gouvernance internationale (CIGI), le Conseil mondial pour les réfugiés (CMR) veut compléter ces efforts.

Le CMR vise à proposer une réflexion stratégique audacieuse sur la manière dont la communauté internationale peut réagir de façon globale aux déplacements de réfugiés, et ce, en se fondant sur les principes de la coopération internationale et du partage des responsabilités. Formé de leaders, de praticiens et d'innovateurs éclairés provenant de toutes les régions du globe, le CMR bénéficie du soutien d'un réseau consultatif de recherche.

Le CMR examinera les progrès techniques, les occasions de financement novatrices ainsi que les possibilités pour ce qui est de renforcer le droit international et d'y intégrer une vision stratégique pour les réfugiés et les pays concernés.

Par ailleurs, le CMR produira un rapport final fondé sur des recherches empiriques et sur les résultats d'un vaste programme de sensibilisation ciblant les gouvernements, les organisations intergouvernementales et la société civile.

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