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Responding to protracted refugee situations

Lessons from a decade of discussion

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Forced Migration Policy Briefings

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Executive summary

In December 2009, the Executive Committee (ExCom) of the Office of the United Nations High Commissioner for Refugees (UNHCR) adopted an ExCom Conclusion on protracted refugee situations (PRS) (UNHCR 2009a). This is a potentially significant development and reflects a growing international interest in one of the most complex and difficult humanitarian problems facing the international community today.

Although Executive Committee Conclusions are not legally binding, they constitute broad expressions of consensus regarding the principles of international protection. Thus, ExCom Conclusions can help address protection gaps, provide operational guidance and set standards of behaviour for states, UNHCR and NGOs, while serving as lobbying and advocacy instruments. In this way, the adoption of an ExCom Conclusion on protracted refugee situations could be a valuable tool in promoting international engagement in an issue of global importance.

Building on a decade of discussion between actors within the refugee policy, research and advocacy communities, it is important to understand how the 2009 ExCom Conclusion can be used to get greater engagement from the broader range of actors required to respond to PRS effectively. To this end, the purpose of this policy brief is to examine in detail the history and process of identifying PRS as a significant international policy problem, the steps leading to the 2009 ExCom Conclusion and a consideration of the text of the Conclusion.

For many years, broader discussions on PRS were eclipsed by a series of refugee emergencies and other pressing international security concerns of states. It is only recently that PRS have been recognised as a pressing international issue deserving both immediate and long-term consideration. The negotiations which led to the 2009 ExCom Conclusion built on a decade of policy development and research on the causes, consequences and possible responses to PRS. This work argued that the scale and dimensions of the problem of PRS demand an urgent global response for the following reasons:

- The international community is failing to respond adequately to the significant unmet protection needs of refugees and other displaced persons caught in chronic exile;
- Inadequate assistance and protection to refugees in prolonged exile has a significant negative impact on the dignity, security and economic and social well being of millions of displaced people and denies them the opportunity to make a meaningful contribution to society;
- UNHCR is not able to provide adequate access to solutions to PRS, which the international refugee instruments set out as a primary functions of the Office;
- The long-term displacement of millions of people contributes to ongoing crises and is a major constraint to strategies to build more stable states and to create sustainable development both in countries of refugee origin and in host states;
- Protracted displacement lies at the heart of chronic regional insecurity where spill-over of conflict and refugees accentuate the fragility of neighbouring states;
- Local host state communities increasingly view the prolonged presence of refugees as a burden and refugees as competitors for jobs, land, food and welfare needs;

- Increasing numbers of long-staying refugees and internally displaced persons (IDPs) are located in urban areas without access to international humanitarian assistance; and
- Protracted displacement creates irregular secondary movement out of regions of origin and increases the flow of refugees to countries in the global North.

While the negotiations surrounding the text of the Conclusion appeared to recognise these concerns, they also represented a key moment when efforts to respond to PRS were confronted with the diverging interests of state actors at a global level. This policy brief aims not only to discuss the principal points agreed to by the drafters of the Conclusion but also aims to draw lessons from the difficult process of achieving international agreement on a text for future efforts to respond to the challenge of chronic displacement.

Some of the key lessons that emerge from the negotiations and adoption of the ExCom Conclusion include:

- There appears to be growing international understanding about the changing nature of the global refugee population and the increasing prevalence and significance of PRS;
- Negotiations around the wording of the Conclusion reproduced significant divisions between donor and resettlement states in the global North and refugee-hosting states in the global South. These divisions have been a key impasse in the global refugee regime for more than two decades and will need to be addressed if comprehensive solutions to long-term displacement can be successfully formulated and implemented (see Betts 2009);
- There is growing recognition that humanitarian actors, such as UNHCR, cannot independently resolve PRS. Instead, ExCom members recognise that a solution to chronic displacement requires the sustained engagement of a broader range of political, security and development actors both inside and outside the UN system, and potentially building on new initiatives such as the launch of the UN Peacebuilding Commission and the One UN development initiative. While this recognition is significant, the challenges for such partnerships must be understood within the difficult history of UNHCR's place within the UN system and the broader treatment of refugee issues (see Loescher, Betts and Milner 2008);
- Central to new approaches to PRS has been UNHCR's recognition of the shortcomings of long-term care and maintenance programmes, and the need to develop new approaches to the livelihoods of refugees premised on self-reliance, pending a durable solution. While this change in policy is significant, its implementation will need to address the concerns and constraints of refugee hosting states, especially relating to their vulnerabilities and the emphasis they place on reinforcing their sovereignty.

In presenting recommendations on addressing these constraints, this policy brief first addresses the nature and scope of protracted displacement, some of its causes and consequences, and a short history of international responses to PRS before examining in detail the process leading to the 2009 ExCom Conclusion and the steps required by states, UNHCR and NGOs to adequately respond to PRS in the future.

1 Nature and scope of the problem

PRS are situations where refugees have been in exile ‘for 5 years or more after their initial displacement, without immediate prospects for implementation of durable solutions’ (UNHCR 2009a: preamble). They are not always static populations; there are often periods of increase and decrease in the numbers of people displaced and changes within the population.

Currently nearly two-thirds of the world’s refugees are in situations of seemingly unending exile. According to UNHCR, the 25 countries most affected by a prolonged refugee presence are all in the developing world (Guterres 2010). There are some 30 major PRS around the world. The average length of stay in these states of virtual limbo is now approaching 20 years, up from an average of nine years in the early 1990s. Thus not only is a greater percentage of the world’s refugees in protracted exile than before but these situations are lasting longer.

As alarming as these developments are, they do not include many of the most chronic and long-term displaced populations. UNHCR estimates of PRS, for example, do not include many of those PRS in urban settings around the world or smaller residual displaced populations who remain in exile after others have returned home. Nor does it include the millions of Palestinian refugees throughout the Middle East under the mandate of the UN Relief and Works Administration (UNRWA). In addition, there are now over two million Iraqi refugees in the region who now find themselves in extended exile (see Marfleet and Chatty 2009). When these populations are added to our understanding of PRS, along with dozens of smaller ‘residual’ refugee populations, the full scale of the problem becomes more evident.

Most significantly, these statistics do not include any of the more than 27 million IDPs worldwide, the majority of whom are also in a state of chronic displacement (see Brookings-Bern Project on Internal Displacement 2007; Forced Migration Review 2009).

Causes

Prolonged displacement often originates from the very states whose instability lies at the heart of chronic regional insecurity and debates on engagement with so-called ‘fragile states’. The bulk of refugees and displaced in these regions come from countries where conflict and persecution have persisted for years, such as Afghanistan, Burma, Colombia and Somalia, to list only a few. More generally, UNHCR argues that:

protracted refugee situations stem from political impasses. They are not inevitable, but are rather the result of political action and inaction, both in the country of origin (the persecution and violence that led to flight) and in the country of asylum. They endure because of ongoing problems in the country of origin, and stagnate and become protracted as a result of responses to refugee inflows, typically involving restrictions on refugee movement and employment possibilities, and confinement to camps (UNHCR 2004b: 1).

For example, tens of thousands of Somali refugees have been living in three camps near the town of Dadaab in northern Kenya since the early 1990s with little prospect of a solution.

These prospects have continued to diminish as Somalia itself has virtually collapsed in the midst of renewed fighting and international neglect. The population in these camps has increased from some 125,000 in 2001 to some 270,000 today (UNHCR 2010).

Thus, long-term displacement is the combined result of the prevailing situations in the country of origin, the policy responses of the country of asylum, and the lack of sufficient engagement in these situations by a range of other actors. Failure to address the situation in the country of origin means that refugees and displaced people cannot return home. Failure to engage with the host country reinforces the perception of refugees as a burden and a security concern, which leads to either encampment or refuge in already overcrowded urban areas and a lack of local solutions. As a result of these failures, humanitarian agencies, such as UNHCR, are left to compensate for the shortcomings of those actors responsible for maintaining international peace and security.

Consequences: human rights

The greatest consequence of protracted displacement situations is for the human rights of refugees and IDPs. Since the late 1980s, many governments in the global South have required displaced populations to live in designated camps, with serious implications for the human rights and livelihoods of those displaced. Several generations of the same families spend their entire lives in refugee camps. For example, thousands of Karen and Karenni refugees have been born in camps along the Thai-Burma border since the mid-1980s. Most of these refugees have grown up in the camps and are now starting their own families in the camps – all without knowing where and when they would find a solution to their plight. Levels of sexual and physical violence, both in refugee camps and urban areas, also remain a cause of great concern. More generally, women, children, the elderly and disabled all face particular protection challenges during prolonged exile.

Despite the numerous rights listed in the *1951 Convention relating to the Status of Refugees*, particularly the right to freedom of movement and the right to seek paid employment, and in various international human rights instruments, the rights of refugees are not implemented in many situations of prolonged exile. For instance, in most cases, refugees in Thailand are forbidden to leave the camps, do not have access to land and are forbidden to find a job. Denial of these rights further compounds refugees' vulnerability as they become dependent on subsistence-level assistance or less and lead lives of poverty, frustration and unrealised potential. As time passes, the international community loses interest in such situations. Funding dries up and refugees' food, shelter and other social and economic needs are often not adequately met by international agencies.

Much more needs to be and can be done, both to respond to the immediate needs of refugees and to open up opportunities for them. Refugees frequently have a range of skills that are critical to future peacebuilding and development efforts either where they are or in their countries of origin following their return home. Containing refugees in camps prevents them from contributing to regional development and state-building (see for example Jacobsen 2002). In cases where refugees have been allowed to engage

in the local economy, it has been found that refugees can ‘have a positive impact on the [local] economy by contributing to agricultural production, providing cheap labour and increasing local vendors’ income from the sale of essential foodstuffs’ (UNHCR 2004a: 3; see also Fielden 2008a). If prohibited from working outside the camps, refugees cannot make such contributions.

The urban displaced are a growing part of UNHCR’s population of concern (Fielden 2008b; UNHCR 2009b). Today, more refugees are believed to live in cities than camps (Guterres 2010). In urban environments, the displaced often find themselves in precarious situations, subject to harassment, exploitation and constant fear of arrest. Often, for their own protection, the urban displaced make themselves ‘invisible’ to local authorities and the international community and consequently receive little or no assistance from international agencies and donors. In addition, without documentation, those in urban areas are left unprotected by either their home or host governments and suffer from discrimination, inadequate housing, and lack of employment and access to social services. Limited access to sustainable livelihoods and coping mechanisms prevents many from becoming self-reliant.

Consequences: security

In addition to these human rights and humanitarian concerns, PRS can also lead to a number of political and security concerns for host countries, the countries of origin, regional actors and the international community (for a more detailed consideration of these concerns, see Loescher and Milner 2005a). The long-term presence of large refugee populations has been a source of international – mainly regional – conflict, by causing instability in neighbouring countries, triggering intervention, and sometimes giving a basis to armed elements within camps that can form a source of insurgency, resistance and terrorist movements as in parts of the African Great Lakes, the Horn of Africa, West Africa and Southern Africa, the Middle East, South and Southeast Asia, and Central and South America. The militarisation of refugee camps creates a security problem for the country of origin, the host country and the international community. Security concerns such as arms trafficking, drug smuggling, the trafficking in women and children, and the recruitment of child soldiers and mercenaries can and do occur in some of the camps and urban areas hosting long-term displaced populations.

The prolongation of refugee crises may not only cause such direct security concerns but also have indirect security implications. Tensions between refugees and the local population often arise as refugees are perceived to receive preferential treatment, especially as access to local social services such as health and education becomes increasingly difficult for local rural populations while such services are mostly available in the refugee camps. As donor government engagement for the camp-based refugee population decreases over time, however, competition between refugees and the host population over scarce resources becomes an increasing source of insecurity. In the same way, reductions in assistance in the camps may lead some refugees to pursue coping strategies such as banditry, prostitution and petty theft, which creates additional local security concerns.

These direct and indirect concerns are compounded by the sense of vulnerability experienced by many states in the global South, who host 80% of the world's refugees. These states consequently place significant emphasis on the need to demonstrate and affirm their sovereignty. Many of these states gained their independence during the rapid process of decolonisation following the end of World War II. While the recognition of these states by the international community contributed to their juridical sovereignty, the range and scale of the economic development challenges they faced in the ensuing decades has frequently limited their empirical sovereignty and state capacity (see Jackson 1990). Some, like Mohammed Ayoob, argue that many states in the global South can consequently be characterised by their weakness and vulnerability (Ayoob 1995: 2–3). This sense of vulnerability may lead host states to view the mass arrival and prolonged presence of refugees as a potential threat to their sovereignty, as they may limit the state's ability to control its borders or weaken the state's ability to pursue independent policies at a national or international level (see Milner 2009). As a result, many host states seek to limit their responsibility for refugees as a means of upholding their sovereignty, and view pressures by the international donor community to encourage solutions for refugees through local integration as 'burden-shifting' and an infringement of their sovereignty. It is likely for this reason that host states insisted on the recognition in the 2009 ExCom Conclusion that 'local integration is a sovereign decision' (UNHCR 2009a: paragraph h).

Finally, PRS are linked to other important international issues such as peacebuilding, fragile states and development (see Milner 2010). Preliminary research in Tanzania and Burundi found that the presence of long-staying refugees from fragile states in neighbouring countries can have a negative impact on peacebuilding if there are armed elements opposed to peace, if there are pressures from the host country for early and unsustainable repatriation or if refugees are radicalised in exile. At the same time, refugees can make an important contribution to peacebuilding if they benefit from training and skills development while in exile and have opportunities to participate in the peacebuilding process in their country of origin. For example, the training of health practitioners in the Kakuma refugee camp in Kenya could help address the lack of nurses in South Sudan. Similarly, returning refugees can play a key role in reconstruction and peacebuilding programmes provided sufficient attention is given to livelihood strategies, political engagement and reconciliation activities.

Past responses to PRS

Chronic and stagnating refugee situations have been a long-standing challenge to the international community over the past six decades (see Loescher 2001). At the time of its creation, UNHCR was given the task of protecting and finding solutions for the tens of thousands of people in Europe who had been displaced after 1945, had been left behind after successive resettlement missions and were still housed in temporary camps. The so-called 'Displaced Persons' (DPs) continued to stagnate in camps in Europe throughout the 1950s. It wasn't until after the 1956 Hungarian uprising and the subsequent resettlement of tens of thousands of Hungarian refugees that British refugee advocates, backed by UNHCR and NGOs, called for international action by governments. This pressure

resulted in 1959 being declared ‘World Refugee Year’ and the initiation of a comprehensive response to those remaining both in and outside the DP camps. Following UNHCR’s appeal to major Western governments to provide both funds and resettlement quotas, this protracted refugee problem was finally resolved by the mid-1960s. This programme is an often-forgotten precedent for addressing the durable solution and protection needs of refugees for whom neither local integration nor repatriation are viable options.

Unlike the successful resolution of Europe’s ‘DP’ problem, the international community has not resolved the long-standing protracted situations of the Palestinian and the Sahrawi refugees. The original Palestinian displacement occurred in 1948 and a year later the UN General Assembly created UNRWA to assist Palestinian refugees. Over 60 years later, UNRWA continues to assist the 4 million Palestinians registered with the agency throughout the Middle East and long term solutions are still elusive. The Sahrawis fled the Western Sahara in 1975 after Morocco forcibly annexed the territory following the departure of the Spanish colonial government. Over the past 35 years, the Sahrawi refugees have been living in camps near Tindouf in Western Algeria, assisted by UNHCR and the Algerian government. Both refugee communities live in perpetual limbo and are highly dependent on international assistance. Neither of these situations is close to achieving a solution.

Major PRS also occurred during the late 1970s and 1980s when the Cold War conflict between the United States and the former Soviet Union extended beyond Europe to engulf major regions of the developing world. Consequently, regional and intra-state conflicts in Indochina, Afghanistan, Central America, the Horn of Africa, and Southern Africa became prolonged and debilitating affairs, and generated large waves of refugees. As a result, the global refugee population tripled from 3 million in 1977 to over 10 million in 1982. In light of such developments, refugee situations across the developing world became protracted and seemingly insoluble during the 1980s. The majority of refugees fleeing regional conflicts in Africa, Asia, and Central America were contained in refugee camps and provided with long-term care and maintenance. The international community failed to devise comprehensive or long-term political solutions or to provide any alternatives to prolonged camp existence, and finding solutions for these refugee situations became increasingly difficult.

The end of the Cold War at the end of the 1980s provided opportunities for many refugees and displaced people caught in PRS to return home in the early to mid-1990s. After years of war and famine, up to one million refugees returned to Ethiopia and Eritrea after the change of government in Addis Ababa in 1991. In 1992 and 1993, approximately 370,000 Cambodians repatriated from camps in Thailand, where many had been living since 1979. Between 1992 and 1996, some 1.7 million Mozambican refugees returned to their homeland from Malawi and five other neighbouring states. More than 2.7 million Afghans repatriated from Pakistan and Iran during the period from 1992 to 1996. Around the world, according to UNHCR, more than 9 million refugees repatriated between 1991 and 1996.

Of particular significance during this period, the international community responded to two long-standing PRS, the Indochinese boat people and the Central Americans fleeing bitter intra-state conflicts in El Salvador, Guatemala and Nicaragua, through comprehensive plans of action or CPAs. As Betts has noted, these largely successful past approaches were based on a number of practical principles (Betts 2008: 162–186). They were *comprehensive* in the sense that they drew on all possible solutions: repatriation, resettlement and local integration as well as expanding migratory opportunities. They were *cooperative* in that they were based on burden sharing between countries of refugee origin, host countries and resettlement countries. And finally they were *collaborative* meaning they involved a broad range of UN agencies, NGOs and other actors and recognised that humanitarian actors alone could not find solutions. Both CPAs were conceived as sustained political processes with ongoing dialogue and negotiation, recognised the range of states' linked interests in the regions in issue-areas such as security, migration, trade or development, and channelled them into a commitment to refugee protection and a solutions-oriented approach.

The global refugee population mushroomed in the early 1990s. While many of the Cold War refugee situations were being resolved, conflicts persisted in countries such as Angola and Afghanistan and other political and economic obstacles to repatriation proved insurmountable. At the same time during the early 1990s, new intra-state conflicts emerged that resulted in massive new refugee flows. Conflict and state collapse in Somalia, the African Great Lakes, Liberia and Sierra Leone generated millions of refugees. Millions more were displaced as a consequence of ethnic and civil conflict in Iraq, the Balkans, the Caucasus and Central Asia. A decade and a half later, many of these refugee situations remained unresolved and the number of people stranded in protracted exile was estimated to be some six million (UNHCR 2004b).

2 A decade of initiatives on PRS (2000 to 2010)

Since 2000, UNHCR and other actors have become more engaged with the problem of PRS. Compared to the 1990s, there were fewer intra-state conflicts and, apart from Darfur and Iraq, fewer refugee emergencies, thus permitting more attention to be paid to PRS. In particular, the issue of prolonged exile gained salience among several research and lobbying efforts, including within UNHCR.

Beginning in 1999, UNHCR's Evaluation and Policy Analysis Unit commissioned a number of studies to better understand the dynamics and implications of prolonged displacement. These studies contributed to the development of a working definition of PRS, and to a better understanding of their causes, consequences, and elements of a necessary solution. In particular, the studies shed important light on the distinction between a 'basic needs' and 'minimum standards' approach to long-term refugee populations, and highlighted the benefits that could be derived from increasing the coping strategies of refugees themselves (see Crisp 2003).

It was in the context of these studies that the question of prolonged exile in Africa was addressed by a panel discussion during the Fifty-Second session of UNHCR's Executive Committee in October 2001. Significantly, participants in the panel acknowledged that these refugee situations 'pose serious challenges to the host country, the international community and the refugees themselves' (UNHCR 2001c). At the same time, UNHCR highlighted its desire to 'improve responses by formulating a comprehensive and coherent strategy to address protracted refugee situations' (UNHCR 2001a: 1). Three months later, in December 2001, more focused discussions took place on the question of PRS in Africa during a Ministerial Meeting in Geneva. The discussions emphasised the need to place the problem of prolonged exile within a historical and political context, to address the root causes of refugee movements, to support national capacity-building, and the importance of sustained donor engagement to resolve chronic refugee problems (see UNHCR 2001b; for a consideration of the historical and political context of protracted refugee situations in Africa, see Loescher and Milner 2005b).

UNHCR's first comprehensive policy document on PRS came in the form of a paper presented to the Standing Committee in June 2004. Building from the principles of the 2002 Agenda for Protection, this paper included a number of important innovations in the organisation's understanding of the problem of prolonged displacement. For example, while highlighting that UNHCR is a non-political actor, the paper argues that the Agency must be aware of the political context of its work. The paper also presents a number of short-term and long-term options for responding to long-standing refugee problems, including the need to focus on the immediate effects of refugee well-being in the short term, and the importance of linking solutions with a broad coalition of actors, arguing that 'the key to responding effectively to protracted refugee situations is partnerships with all stakeholders to enable planning, build ownership and increase available resources' (UNHCR 2004b: 6). Many of these themes were also present in the 2009 ExCom Conclusion.

As noted by Slaughter and Crisp (2008), UNHCR launched a series of initiatives in 2002–2004 ('Convention Plus', 'Development Assistance to Refugees' and 'Development through Local Integration') all of which focused on the durable solutions dimension of the organisation's mandate. These initiatives had a number of important operational outcomes. Working in cooperation with governments, UNHCR established a Self-Reliance Strategy for refugees in Uganda and launched the development-oriented Zambia Initiative for refugees living in that country. The organisation sought to reinforce the rights and improve the material circumstances of long-term refugees in countries such as Kenya, Tanzania and Thailand by means of a new Strengthening Protection Capacities Project (UNHCR 2008a). More recently, UNHCR has supported efforts to pursue solutions for refugees through local integration in Tanzania, Sierra Leone and Liberia.

These efforts within UNHCR were mirrored by new initiatives in the advocacy and research communities. In 2004, the US Committee for Refugees and Immigrants initiated an 'anti-warehousing campaign'. In the academic and research communities, a number of evidence-based research projects were launched including the PRS Project based at the University of Oxford and funded by the Ford Foundation; 'Protracted Displacement in Asia: No Place to Call Home', based at Griffith University in Australia and funded by Austcare; and a number of other projects based at York University in Canada and elsewhere examining self-reliance and livelihoods in long-term refugee situations. This research resulted in a number of important policy-relevant publications (see Loescher, Milner, Newman and Troeller 2008; and Adelman 2008), including a special issue of *Forced Migration Review* on the issues of protracted displacement (2009), and created an evidence base from which researchers could engage with policy discussions.

This period also included new approaches to the challenge of prolonged exile from a number of governments. While the prevailing trend within the global South has been to respond to the prolonged presence of refugees through policies of containing refugees in isolated and insecure refugee camps, a limited number of host states, like Sierra Leone, Liberia and Tanzania, began to consider the possibility of resolving PRS through the naturalisation and integration of refugees. Among donor and resettlement countries in the global North, Canada assumed a leadership role by emphasising the importance of the issues of chronic displacement within its multilateral relations, thereby helping to ensure that the issue remained on the international agenda. Domestically, Canada established an Interdepartmental Working Group on Protracted Refugee Situations in 2007. This group brought together the foreign affairs, development and immigration actors within the Canadian Federal Government to help develop a more comprehensive and integrated response to the challenge of protracted displacement (see Dion 2009: 28-29).

Many of these efforts converged in 2008 and 2009 around three events: the launching of the High Commissioner's Initiative on Protracted Refugee Situations in June 2008; the convening of a High Commissioner's Dialogue on Protection Challenges addressing protracted refugee situations in December 2008; and the negotiation of an ExCom

Conclusion on Protracted Refugee Situations, culminating in the adoption of the Conclusion during an extraordinary meeting of ExCom in December 2009.

The first event was the launch in June 2008 of a new initiative by UNHCR to ‘reinvigorate possibilities for solutions to protracted refugee situations and, in the interim, to improve the quality of life for populations that have lived in such exile for long periods of time’ (UNHCR 2008b: 1). In launching this initiative, UNHCR noted that Africa and Asia were the two regions most affected by prolonged displacement and that the challenge ‘is thus concentrated in the two regions of the world with the greatest development challenges’ (2008b: 3). Likewise, UNHCR noted that it and other humanitarian actors ‘are not the principal actors when it comes to ‘unlocking’ refugee situations that have persisted for years’ (*ibid.*). On this basis and building from the outcomes of the 2004 Standing Committee paper, UNHCR proposed a new approach to PRS focused on inter-agency coordination, the active engagement of the affected population, host states and countries of origin, robust support from donor and resettlement countries and non-governmental organisations and ‘flexibility in the design and implementation of programmes, so that they can adjust to changing circumstances’ (2008b: 13).

To launch this initiative, five priority situations were identified:

- Afghan refugees in Iran and Pakistan
- Rohingya refugees in Bangladesh
- Bosnian and Croatian refugees in Serbia
- Burundian refugees in Tanzania
- Eritrean refugees in eastern Sudan

While UNHCR argued that the choice of these situations was based on an assessment of prospects for success, protection needs, host state perspectives, costs and benefits and UNHCR’s capacity, the basis for prioritisation of these protracted refugee situations over others remains unclear.

The second event was the High Commissioner’s Dialogue on Protection Challenges, held in Geneva on 10 and 11 December 2008. Specifically focused on PRS, the Dialogue brought together more than 250 representatives of governments, NGOs, UN agencies and researchers to discuss the challenge of protracted refugee situations, both in plenary sessions and smaller break-out discussion groups. In advance of the Dialogue, UNHCR released a discussion paper that outlined the importance of political action, international cooperation, coordination and complementarity in finding solutions for situations of prolonged exile, in addition to discussing the challenges faced by the traditional durable solutions to be found in countries of origin, countries of asylum and third countries.

The discussion paper contained some important elements and changes relating to the policy discourse on PRS. These include:

- The affirmation that the prolonged presence of refugee and refugee assistance programmes can have both negative and positive impacts on a refugee-hosting area;

- That host countries cannot be expected to independently find solutions for PRS, but that international cooperation is a pre-requisite;
- That the sustained engagement of a broad range of stakeholders, especially within the UN system, is an important pre-requisite for finding solutions for extended exile;
- That refugee populations are not homogenous, that there are important differences within and between refugee populations, meaning that there is no ‘one size fits all’ approach to PRS;
- That while solutions to refugee situations can benefit from the engagement of peacebuilding and development actors, refugees and refugee programmes can also contribute to these broader efforts;
- That the various durable solutions for refugees may be pursued in a complementary way, including the strategic use of resettlement to maintain or expand the asylum space for refugees not resettled, and that new approaches, such as labour migration, should be considered as a supplement to the traditional solutions.

Arguably the most significant conclusion of the background document was a fundamental shift in UNHCR’s approach to the management of protracted refugee situations in countries of asylum, with a move away from long term ‘care and maintenance’ programmes to an approach focused more on self-reliance and local solutions for refugees. As noted by UNHCR, the dominant model during the 1980s and 1990s was the admission of large numbers of refugees into countries of first asylum on a *prima facie* basis, the containment of these refugees in camps established on government-designated land, and the long-term provision of food, shelter and other needs by UNHCR and other humanitarian actors. Given the precarious conditions for refugees who have continued to be housed in these conditions for more than a decade, as noted above, UNHCR concluded that the care and maintenance model was ‘flawed in several ways’ (UNHCR 2008c: 13) and called for a new approach focused on livelihoods and self reliance to prepare refugees for a durable solution, ‘wherever that might be’ (2008c: 14). Building on recent developments in Tanzania, Sierra Leone, Liberia and elsewhere, the paper suggested that this may open new possibilities for solutions through naturalisation and local integration.

Many of these themes were highlighted during the Dialogue itself. What was especially striking during the plenary and break-out sessions of the Dialogue was the level of consensus on the significance of the problem of PRS and the consequences of prolonged exile, a point emphasised by the High Commissioner for Refugees, António Guterres, during his concluding comments at the end of the Dialogue. He further stressed that while the Dialogue was not a decision-making body, the points raised during the event would inform future deliberations, thereby foreshadowing negotiations around the ExCom Conclusion.

The High Commissioner’s summary included a number of other key points that would come to inform the ExCom Conclusion negotiations. These included:

- A recognition that while the Palestinian refugee situation is the most protracted in the world, the majority of these refugees are under the mandate of UNRWA, not UNHCR, and a solution to their plight was therefore outside UNHCR’s mandate;

- A concession that the five situations selected for the High Commissioner's Initiative were meant to be illustrative, not representative, and that UNHCR's responsibility was to find solutions for all PRS;
- There is no one-size-fits-all approach to PRS;
- That political will is an essential pre-requisite for resolving extended exile, and that UNHCR cannot resolve these situations on its own;
- That solutions for prolonged displacement required meaningful international cooperation, including support for conflict resolution, return and reintegration, support for self-reliance, rehabilitating refugee affected areas, and through resettlement;
- That refugees are not just a burden on refugee-hosting areas, but that the prolonged presence of refugees often bring a number of benefits;
- That durable solutions need to be looked at in a comprehensive manner and approached in a complementary way, in addition to the reinforcement of the three traditional durable solutions of voluntary repatriation, local integration and resettlement. To this end, the High Commissioner suggested the creation of working groups on repatriation and integration to mirror the work of the Resettlement Working Group;
- That collaborative responses and cooperation with other UN agencies needed to overcome the history of competition between UN agencies. While the High Commissioner noted the potential opportunities created with the establishment of the UN Peacebuilding Commission and the launching of the One UN approach in such refugee hosting states as Pakistan and Tanzania, he noted that 'effective collaboration is easier to suggest than implement';
- That solutions needed to be discussed in light of the interests, concerns and constraints of host states, countries of origin, states in the region and regional organisations, in addition to other stakeholders, including mayors, business leaders, civil society and refugees themselves.

Negotiating the 2009 ExCom Conclusion

The third significant event during this period was the negotiation of an ExCom Conclusion on Protracted Refugee Situations between May and December 2009. This process was especially significant as it was a key test of the political will identified by the High Commissioner as crucial for the resolution of PRS. As is the tradition with ExCom Conclusions, negotiations to draft a text acceptable to ExCom's 70-plus states produced multiple drafts and resulted in prolonged and heated discussions. In fact, when intense negotiations failed to produce a consensus text ahead of the normal meeting of the Executive Committee in October, many observers assumed that efforts to consolidate a decade of policy development and research into an ExCom Conclusion had failed. The continuation of negotiations into November and the convening of a special ExCom meeting in December to adopt the Conclusion is at least partially a reflection of the importance attached to the issues by UNHCR and a number of key states, including Canada.

The difficulties in reaching a consensus on the text of the Conclusion is a reflection of the complexity of the issues of chronic displacement, its close relation to core state interests, such as sovereignty and security, and the challenges of cooperation within ExCom itself.

Established by the UN General Assembly in 1958, ExCom was initially to consist of 25 UN Member States. These states assumed responsibility for approving UNHCR's budget and programme, for reaching conclusions on international refugee protection policy issues, and for providing guidance on UNHCR's management, objectives, and priorities. In response to decades of changes in the international system and consequent growth in the membership of the United Nations, ExCom has grown from a gathering of a relatively small number of like-minded states to a grouping of some 72 Member States in 2007. As a result of this rapid expansion, ExCom has become a large and cumbersome body. The composition of ExCom has meant that many of the broad contours of international politics are reflected in ExCom deliberations. Specifically, observers of ExCom have noticed an increasing divide between industrialised states, which are traditionally the largest donors to UNHCR's programme, and developing countries, which host the overwhelming majority of the world's refugees. These North-South divisions have significantly limited the work of ExCom in recent years through the entrenchment of ideological and geo-political groupings.

While these and other factors point to a need to re-examine the composition and role of ExCom in light of its original mandate (see Loescher, Betts and Milner 2008), they also provide important background for at least partially understanding the difficulties around negotiating the text of the ExCom Conclusion on PRS. In particular, negotiations on the Conclusion took place within a broader international context where states in the global South have become more and more concerned about the conditionality of their sovereignty and their increasingly peripheral place in the international system. As was witnessed during debates on international solidarity and burden sharing during the 1998 ExCom meeting, where deep divisions between the priorities and perspectives of Northern and Southern states prevented agreement, negotiations around the 2009 ExCom Conclusion provided a forum for Southern states to express their concerns about marginalisation within the global refugee regime and their frustration at a perceived lack of international support, notwithstanding the fact that they host some 80% of the world's refugees. As noted elsewhere, UNHCR's ability to fulfil its mandate will increasingly depend on its ability to mediate between these competing interests (see Betts 2009).

3 The Conclusion: a balance sheet

Given this context, it may seem striking that negotiations did produce a consensus text by December 2009. While the resulting text is not perfect and clearly the result of compromises by a range of actors, its adoption does provide both a useful barometer of the current state of political will to address the issue and a potentially useful advocacy tool. As noted above, however, ExCom Conclusions are not binding on states. For this reason, it is especially important to understand the different interests that are reflected in the text.

In particular, there are five thematic developments in the Conclusion that provide an important foundation for future efforts to address protracted refugee situations:

Definition

One of the most significant elements of the Conclusion is agreement on a new definition of what constitutes a protracted refugee situation. In 2004, UNHCR defined a major protracted refugee situation as a situation of 25,000 or more refugees that had been in existence for five or more years with no immediate prospect of a durable solution. Over time, this characterisation of a *major* protracted refugee situation became the working definition of *all* protracted refugee situations. Indeed, earlier drafts of the Conclusion defined a protracted refugee situation as ‘situations of displacement in which 25,000 or more refugees have continued to live in exile for five or more years.’

Such a definition would have been problematic as it would have excluded a number of PRS from being addressed as part of an international response to chronic displacement. For example, one of the five priority situations identified in the High Commissioner’s Initiative – that of the Rohingyas in Bangladesh – includes a population of 20,000 camp-based refugees. Likewise, it would have been problematic to exclude the estimated 17,000 Burundians in the DRC, 20,000 Congolese in Sudan or 15,000 Rwandans in Uganda for accounting purposes (see UNHCR 2009c). These concerns are only heightened when one considers the problematic nature of refugee population statistics (Crisp 1999).

As such, the Conclusion’s definition of a protracted refugee situation as one in which refugees have been in exile ‘for 5 years or more after their initial displacement, without immediate prospects for implementation of durable solutions’, without the quantitative limit of 25,000, is a significant development. It is therefore important that this new definition is used consistently in future policy and research in this area.

Shift from care and maintenance to self-reliance

As noted above, the change of UNHCR’s policy on care and maintenance presented in the November 2008 background paper was a second significant development. It is also significant that the Conclusion itself contains frequent reference to the importance of the change: that responses to chronic displacement are different from responses to emergencies; that the *status quo* is unacceptable; and that refugees should be encouraged to pursue self-reliance pending a durable solution.

While this language that should be welcomed by refugee advocates, it is important to understand how increased self-reliance for refugees may be perceived by host states in the global South as a back door to local integration. Indeed, as noted by the High Commissioner in his concluding comments at the 2008 Dialogue, discussions on self-reliance will best be pursued in a way that is mindful of the particular needs and vulnerabilities of host states and host communities.

Concerns of host states and host communities

As such, it is significant to note the frequent reference in the Conclusion to the particular concerns, real or perceived, of host states and host communities. In particular, the Conclusion contains strong language on the impact of the prolonged presence of refugees on communities that are unstable, in transition, and often facing significant development and governance challenges. There is also language about the need for assistance to mitigate the negative impact of the prolonged presence of refugees, while there is also a significant absence of language on the potential benefits associated with the prolonged presence of refugees and refugee assistance programmes.

In this context, it is important to underscore the significance of the mention of state sovereignty in operational paragraph h) of the Conclusion, which states that the decision to integrate refugees locally is a sovereign decision. While this reference may seem out of place in an ExCom Conclusion, it is important to take the inclusion of this statement as a clear indication of the core concern of host states in the global South. In particular, many host states in the global South are themselves poor and unstable, under transition, and facing a range of internal and external constraints – ranging from democratisation and economic liberalisation to porous borders and limited state capacity. It is within this context that many host states have a particular sense of vulnerability, which, in turn, motivates state behaviour and influences the formulation and implementation of particular asylum policies (for an understanding of these dynamics in the African context, see Milner 2009). While some of these vulnerabilities are rhetorical or perceived, many are legitimate and need to play a more central role in our response to long-term displacement. Future research could usefully shed light on these dynamics and show how they affect the broader political context within which solutions for PRS may be more usefully pursued.

Durable solutions

There is significant reference in the Conclusion to the various durable solutions, both individually and the ‘strategic combination’ of repatriation, local integration and resettlement. Many of these statements reflect commitments outlined in the 2002 Agenda for Protection, but not yet fully implemented. As such, the outcomes of the Conclusion, in addition to the 2008 Dialogue, suggest that the reinforcement of the individual durable solutions, a more thorough consideration of their complementarity, and evidence-based considerations on the possibility of other steps to solutions, such as labour migration, are necessary elements of a new approach to situations of prolonged exile. Central to the Conclusion, however, is the important recognition in operational paragraph o) that there is no ‘one-size-fits-all’ approach. As such, the Conclusion recognises the importance of

individual approaches to particular situations, based on research and analysis, but mindful of best practices elsewhere.

At the same time, it must be noted that the Conclusion makes frequent reference to repatriation as the preferred durable solution. Especially striking is the mention in operational paragraph e) that ‘voluntary repatriation should not necessarily be conditioned on the accomplishment of political solutions in the country of origin.’ Given the long debate over repatriation, concerns relating to the emergence of ‘facilitated’ and ‘promoted’ repatriation in the 1990s (see Chimni 1999), and the reconsideration of a hierarchy of durable solutions, refugee rights advocates should be especially concerned at the inclusion of such provisions in the final text of the Conclusion.

Multisectoral approaches and the sharing of responsibilities

Also significant are the statements in operational paragraphs m) and n), whereby states and UNHCR are called upon to work with other actors to find solutions for protracted refugee situations and, secondly, whereby specific reference is made to the importance of engaging with other initiatives within the UN System, especially the One UN development initiative and the newly-established Peacebuilding Commission. While these are important recognitions of the need to develop collaborative and cooperative responses to PRS, the inclusion of this reference in the Conclusion will not automatically lead to such collaboration. As noted by the High Commissioner during the 2008 Dialogue, ‘effective collaboration is easier to suggest than implement.’ While ExCom Conclusions are approved by the UN General Assembly through the Third Committee, the history of competition between UNHCR and other UN agencies, especially since the late 1990s, suggests that leadership from the UN Secretary General will be required to ensure that such collaborations occur.

Given this constraint, it is also significant that the Conclusion overtly re-emphasises UNHCR’s non-political mandate, and the insistence that it should be states that play the catalytic role in leveraging solutions and engaging other actors. This seems to go against a major research finding that UNHCR should play this catalytic role, as it did with CIREFCA and the Indochinese CPA (see Betts 2008), and it will be interesting to consider what this means for UNHCR’s leadership in response to protracted displacement.

4 Lessons and recommendations

After a decade of discussion and debate on the causes, consequences and possible responses to PRS, there are a number of important lessons to be drawn from both the process leading to the 2009 ExCom Conclusion and the final text itself. These lessons may provide important insight into factors that currently constrain international action in this area and could consequently provide useful points of departure for future efforts by the policy, research and advocacy communities to move forward from the ExCom Conclusion and continue to work to find solutions for long-term displacement.

These lessons indicate that additional work from the research, policy and advocacy communities is required to:

- Develop better understandings of the political context of PRS to help overcome the North-South divide, engage with the interests of Northern and Southern states and foster the political will necessary to formulate and implement comprehensive solutions to situations of prolonged exile;
- Develop new approaches to PRS that reflect a shift from care and maintenance to more solutions-oriented approaches, premised on encouraging the self-reliance of refugees;
- Systematically address the challenges relating to the traditional solutions of repatriation, local integration and resettlement, while developing new thinking on other possible solutions and the complementarity between solutions;
- Build partnerships with other actors within the UN system, especially within the peacebuilding and development communities, to develop more comprehensive, coordinated and cooperative responses to long-term displacement; and
- Develop a clearer methodology to better understand the dynamics of individual PRS, identify opportunities for strategic engagement, and a more transparent process by which the allocation of scarce resources to individual protracted refugee situations may be prioritised.

Overcoming the North-South divide and engaging with the interests of states

First, it is important to understand the broader political context of PRS and address the significant divide that remains between refugee-hosting states in the global South and the donor and resettlement countries in the global North. As noted above, this divide has been a frequent cause of impasse in the global refugee regime for decades and was a particular obstacle during the ExCom negotiation process. For their part, states in the global South see discussions on solutions for PRS as an effort by the global North to continue to contain the refugee issues in the South. In contrast, states in the global North see the policy choices of host states in the South as an impediment to solutions for refugees, especially through local integration.

To help address this impasse, it will be important for states to build coalitions across the North-South divide. In particular, states in the global South, like Tanzania, Sierra Leone and Liberia, which have already contributed to solutions for refugees through local integration, should be fully supported and recognised for their contribution, and encouraged to play a leading role in fostering similar discussions in other states. It will

also be important to engage with politically significant states in the global South to ensure strong participation from the South. A strategically significant state may be Brazil, which began resettling refugees in 2001. For their part, states in the global North must increasingly recognise how restrictions they may place on asylum in their domestic systems may affect their ability to engage in discussions about solutions with states in the global South.

It is also important to understand that discussions on refugees do not occur in a political vacuum and are often informed by a range of constraints and priorities that are unrelated to the question of refugees, ranging from security and state capacity to development and economic relations (see Milner 2009). To better understand these dynamics, additional research is required on the interests of key states in the global refugee regime, especially key refugee hosting states, and how these interests affect the engagement of states in discussions on solutions for protracted refugee situations.

Additional research could also help identify ‘win-win outcomes’ (see Betts 2009) through a more systematic understanding of the political economy of refugee populated areas. Host states frequently claim that the prolonged presence of refugees has a negative impact on the environment and security in refugee-populated areas. Preliminary research, however, suggests that the prolonged presence of refugees and refugee assistance programmes can result in multiple benefits for refugee-populated areas through increased employment opportunities for the local population, investment in local infrastructure, opportunities in the local market, provision of services for the local population, and availability of labour where refugees are allowed to work outside the camp (see Milner 2009; Jacobsen 2002). A more systematic understanding of these burdens and benefits would contribute to the kind of constructive North-South cooperation envisioned by Betts (2009).

Shift from care and maintenance to self-reliance

Identifying such opportunities and developing better understandings of the interests and concerns of host states will be especially important as UNHCR attempts to shift from an approach premised on the management of refugee populations through long-term care and maintenance programmes and develops more solutions-oriented approaches, premised on the self-reliance of refugees. As noted above, the recognition of the need for such a shift was one of the most significant developments during recent discussions on protracted refugee situations. It may also be one of the most difficult to implement, especially given the concerns of host states that increased self-reliance is a back-door route to the local integration of refugees.

As such, policy discussions are required between donor states, host states and UNHCR on the development of self-reliance initiatives that prepare refugees for a durable solution, regardless of where that durable solution may be found, while addressing the interests and needs of host states and host communities. Such approaches could build on an understanding of the benefits associated with the prolonged presence of refugees, as noted above, and the opportunities created for the development of border regions and the

enhancement of state capacity through an approach that focuses more comprehensively on refugee hosting areas.

Discussions on self-reliance could also build on recent work on labour migration as a possible solution for refugees (see Long 2009). While temporary labour migration cannot replace the security of legal status inherent in a solution for a refugee, as discussed below, it could usefully serve as a mechanism for providing refugees with access to self-reliance opportunities. Specifically, refugees may benefit from skills training that would enable them to fill labour needs in other states, thereby providing them with opportunities and helping to meet labour needs elsewhere while also engaging refugees themselves more directly in the search for solutions. Additional research and policy discussions could usefully explore this possibility.

Finally, discussions on self-reliance and skills training should be informed by a more thorough understanding of the types of economic opportunities available to refugees and the potential contribution that they could make to peacebuilding in their country of origin. For example, refugees could benefit from training as teachers and health practitioners to help address gaps in the education and health sectors in their country of origin, while also contributing to the provision of services to refugee and host communities while in exile. Given the diverse elements of recent peacebuilding discussions and the multiple ways these elements relate to refugee populations, further research is needed to more systematically understand the relationship between the prolonged presence of refugees in neighbouring countries and peacebuilding in the refugees' country of origin.

The meaning of comprehensive solutions

While an increased focus on self-reliance and livelihoods can improve conditions for refugees in the short to medium term, it is important that such approaches are not seen as a substitute for a durable solution. In this way, work on self-reliance should be in parallel with work to reinforce the traditional durable solutions of repatriation, local integration and resettlement. As articulated in the 2002 Agenda for Protection, and echoed in the 2009 ExCom Conclusion, each of these solutions has a role to play in particular protracted refugee situations. However, gaps and limitations have been frequently identified in each of these solutions.

To help address these gaps, states and UNHCR should follow through on the High Commissioner's recommendation at the end of the 2008 Dialogue and establish a Repatriation Working Group and a Local Integration Working Group to mirror the work of the Resettlement Working Group, enhance policy and practice as they relate to the individual solutions, and ensure that solutions are effectively supported. These groups could also engage in lessons-learned exercises to see how innovations, such as Tanzania's decision to grant citizenship to more than 160,000 Burundians, might be replicated elsewhere.

Finally, such groups could also provide the basis for understanding the interaction and complementarity of the three durable solutions. While there is no ‘one-size-fits-all’ solution for all PRS, there is increased understanding that every situation could usefully be addressed through a combination of the solutions. In this way, additional thinking is required on the sequencing of solutions, the use of one solution to leverage another, and the interaction between solutions. Likewise, the language of the 2009 ExCom Conclusion, specifically the identification of repatriation as the preferred solution, indicates that it is necessary to revisit discussions from the 1990s about the non-hierarchical nature of the three solutions.

Engaging other actors

While the 2009 ExCom Conclusion could usefully be employed to encourage such developments, it is important to recognise that it is highly improbable that UNHCR will be able to address the range of challenges associated with PRS without the support of a broader range of actors within the UN system, especially peace and security and development actors. Indeed, as detailed in research and policy discussions on prolonged exile, the issue is more than a humanitarian challenge and consequently requires the active engagement of more than just humanitarian actors. Specifically, the 2009 ExCom Conclusion urges UNHCR to pursue partnerships with such actors, especially the One UN development initiative and the UN Peacebuilding Commission. The encouragement of such partnerships should be a high priority for UNHCR and states as they move forward from the ExCom Conclusion.

Indeed, there is a particular historical and institutional context for the implementation of the paragraph of the 2009 ExCom Conclusion that calls for partnerships with other actors within the UN system. As noted above, the treatment of historical and contemporary protracted refugee situations suggests that humanitarian actors, such as UNHCR, are not able to formulate and implement truly comprehensive solutions to PRS without the sustained engagement of a broader range of peace and security and development actors within the UN system. As a result, the next steps in responding to situations of prolonged displacement should actively engage with the reform process occurring within the UN system and the potential implications for protracted refugee situations, including:

- the latest process of humanitarian reform proposed by the Inter-Agency Standing Committee (IASC) in 2005 and 2006 (see Holmes 2007);
- the conclusions of the High-level Panel on Threats, Challenges and Change, reflected in the 2005 Report of the Secretary-General, *In Larger Freedom*, including the proposed establishment of the United Nations Peacebuilding Commission (UNSG 2005); and
- the conclusions of the High-level Panel on United Nations System-wide Coherence in the areas of development, humanitarian assistance and the environment and the establishment of the One UN initiative in 2006 (UNSG 2006).

It will be important for states to promote discussions within the broader UN system on the links between PRS and these initiatives.

Such discussions should also be supported by future research on how these institutional developments may relate to the possibility of more integrated and comprehensive responses to solutions for refugees. The potential for such links is especially interesting given that the two pilot countries for the UN Peacebuilding Commission – Burundi and Sierra Leone – are countries of origin of significant protracted refugee situations, while two of the countries selected as pilots for the One UN initiative – Tanzania and Pakistan – host significant refugee populations.

In light of the history of competition between UNHCR and other agencies and programmes within the UN system (see Loescher, Betts and Milner 2008), however, it is important to note that such partnerships are historically difficult to develop within the UN system, and senior leadership from the Secretary-General may be necessary to realise this objective.

Prioritising individual situations

Finally, more systematic analysis is required to understand the dynamics of particular PRS more thoroughly and to understand when, where and how strategic opportunities may emerge (see Morris and Stedman 2008). Just as conflict studies developed an understanding of when a conflict may be ‘ripe for resolution’ (see Zartmann 1989), on-going analysis of individual PRS may identify strategic opportunities that can be seized to move a situation towards a solution. Likewise, more systematic comparative studies of protracted refugee situations may identify a broader set of policy lessons that could be applied elsewhere.

This kind of analysis may also help with the difficult task of prioritising engagement in particular protracted refugee situations. As noted above, UNHCR’s decision to prioritise five particular situations of prolonged displacement remains unclear, and suggests the need for a more transparent methodology. So long as the tools to engage with prolonged exile remain finite, thinking is required to consider where and when they can be deployed most strategically and to the maximum benefit. Close cooperation between the research and policy communities, along with UNHCR, could facilitate the development of such a methodology that is more transparent and legitimate.

Bibliography

Adelman, Howard (ed.) (2008) *Protracted Displacement in Asia: No Place to Call Home*, Aldershot: Ashgate.

Ayoob, Mohammed (1995) *The Third World Security Predicament: State Making, Regional Conflict and the International System*, Boulder, CO: Lynne Rienner.

Betts, Alexander (2008) 'Historical lessons for overcoming protracted refugee situations', in Gil Loescher, James Milner, Edward Newman and Gary Troeller (eds), *Protracted Refugee Situations: Political, Human Rights and Security Implications*, Tokyo: United Nations University Press.

Betts, Alexander (2009) *Development Assistance and Refugees: Towards a North-South Grand Bargain?* Forced Migration Policy Briefing 2, Refugee Studies Centre, University of Oxford.

Brookings-Bern Project on Internal Displacement (2007) 'Summary report: Expert seminar on protracted IDP situations', Geneva. http://www.brookings.edu/~media/Files/events/2007/0621_displacement/20070621_displacement.pdf.

Chimni, B. S. (1999) 'From resettlement to involuntary repatriation: towards a critical history of durable solutions to refugee problems', *New Issues in Refugee Research*, Working Paper No. 2, Geneva: UNHCR.

Crisp, Jeffery (1999) 'Who has counted the refugees? UNHCR and the politics of numbers', *New Issues in Refugee Research*, Working paper No. 12, Geneva: UNHCR.

Crisp, Jeffery (2003) 'No solutions in sight: the problem of protracted refugee situations in Africa', *New Issues in Refugee Research*, Working paper No. 75, Geneva: UNHCR.

Dion, Adèle (2009) 'Comprehensive solutions: a "whole-of-government" approach', *Forced Migration Review*, Issue 33.

Fielden, Alexandra (2008a) 'Local integration: an under-reported solution to protracted refugee situations', *New Issues in Refugee Research*, Working paper No. 158, Geneva: UNHCR.

Fielden, Alexandra (2008b) 'Ignored displaced persons: the plight of IDPs in urban areas', *New Issues in Refugee Research*, Working paper No. 161, Geneva: UNHCR.

Forced Migration Review (2009) 'Protracted displacement', Issue 33, <http://www.fmreview.org/protracted.htm>.

Guterres, António (2010) 'Restoring rights: forced displacement, protection and humanitarian action', Harrell-Bond Human Rights Lecture, Refugee Studies Centre, University of Oxford, 13 October.

Holmes, John (2007) 'Humanitarian action: a Western-dominated enterprise in need of change', *Forced Migration Review*, Issue 29.

Jackson, Robert (1990) *Quasi-states: Sovereignty, International Relations, and the Third World*, Cambridge: Cambridge University Press.

Jacobsen, Karen (2002) 'Can refugees benefit the state? Refugee resources and African statebuilding', *Journal of Modern African Studies*, Vol. 40, no. 4.

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

Loescher, Gil, Alexander Betts and James Milner (2008) *The United Nations High Commissioner for Refugees (UNHCR): The Politics and Practice of Refugee Protection into the Twenty-first Century*, Abingdon: Routledge.

Loescher, Gil and James Milner (2005a) *Protracted Refugee Situations: Domestic and International Security Implications*, Adelphi Paper no. 375, London: Routledge.

Loescher, Gil and James Milner (2005b) 'The long road home: protracted refugee situations in Africa', *Survival*, Vol. 47, no. 2.

Loescher, Gil, James Milner, Edward Newman and Gary Troeller (eds) (2008) *Protracted Refugee Situations: Political, Human Rights and Security Implications*, Tokyo: United Nations University Press.

Long, Katy (2009) 'Extending protection? Labour migration and durable solutions for refugees', *New Issues in Refugee Research*, Working paper No. 176, Geneva: UNHCR.

Marfleet, Philip and Dawn Chatty (2009) *Iraq's Refugees: Beyond 'Tolerance'*, Forced Migration Policy Briefing 4, Refugee Studies Centre, University of Oxford.

Milner, James (2009) *Refugees, the State and the Politics of Asylum in Africa*, Basingstoke: Palgrave Macmillan.

Milner, James (2010) 'Responding to Forced Migration in a 'Reforming' UN System: The case of Burundian refugees in Tanzania', Paper presented to the annual meeting of the International Studies Association, New Orleans, 17 February. http://www.allacademic.com/meta/p413156_index.html.

Morris, Eric and Stephen John Stedman (2008) 'Protracted refugee situations, conflict and security: the need for better diagnosis and prescription', in Gil Loescher, James Milner, Edward Newman and Gary Troeller (eds), *Protracted Refugee Situations: Political, Human Rights and Security Implications*, Tokyo: United Nations University Press.

Slaughter, Amy and Jeffery Crisp (2008) 'A surrogate state? The role of UNHCR in protracted refugee situations', in Gil Loescher, James Milner, Edward Newman and Gary Troeller (eds), *Protracted Refugee Situations: Political, Human Rights and Security Implications*, Tokyo: United Nations University Press.

UNHCR, Africa Bureau (2001a) 'Discussion Paper on Protracted Refugee Situations in the African Region', Background paper prepared for the 52nd Session of UNHCR's ExCom, October.

UNHCR (2001b) 'Chairman's Summary: Informal Consultations on New Approaches and Partnerships for Protection and Solutions in Africa', Geneva, December.

UNHCR, Africa Bureau (2001c) 'Addressing Protracted Refugee Situations', paper prepared for the Informal Consultations on New Approaches and Partnerships for Protection and Solutions in Africa, Geneva, 14 December.

UNHCR, ExCom (2004a) 'Economic and social impact of massive refugee populations on host developing countries, as well as other countries', EC/54/SC/CRP.5, 18 February.

UNHCR, ExCom (2004b) 'Protracted refugee situations', Standing Committee, 30th Meeting, EC/54/SC/CRP.14, 10 June.

UNHCR (2008a) Strengthening Protection Capacity Project, *Protection Gaps Framework for Analysis: Enhancing Protection for Refugees*, Second edition, January. <http://www.unhcr.org/41fe3ab92.html>

UNHCR, ExCom (2008b) 'Protracted Refugee Situations: Revisiting the problem', Standing Committee, 42nd Meeting, EC/59/SC/CRP.13, 2 June.

UNHCR (2008c) 'Protracted Refugee Situations: A discussion paper prepared for the High Commissioner's Dialogue on Protection Challenges', UNHCR/DPC/2008/Doc. 2, 20 November.

UNHCR, ExCom (2009a) 'Conclusion on Protracted Refugee Situations', No. 109 (LXI).

UNHCR (2009b) 'UNHCR policy on refugee protection and solutions in urban areas', Geneva, September.

UNHCR (2009c) *UNHCR Global Appeal: 2010–2011*, Geneva, December.

UNHCR (2010) 'News story: Neighbouring countries feeling the strain as Somalia's emergency grows', Nairobi, 3 May. <http://www.unhcr.org/4bde90856.html>.

UN Secretary-General (2005) *In Larger Freedom: Towards Security, Development and Human Rights for All*, Report of the Secretary-General of the United Nations for decision by Heads of State and Government in September 2005, A/59/2005, 21 March.

UN Secretary-General (2006) *Follow-up to the outcome of the Millennium Summit, including 'Delivering as One: Report of the High Level Panel on United Nations System-wide Coherence in the areas of development, humanitarian assistance and the environment'*, Report of the Secretary-General of the United Nations to the Sixty-first session of the United Nations General Assembly, A/61/583, 20 November.

Zartman, I. William (1989) *Ripe for Resolution: Conflict and Intervention in Africa*, Oxford: Oxford University Press.

Annex

Conclusion on Protracted Refugee Situations

No. 109 (LXI) – 2009

EXCOM Conclusions, 8 December 2009

The Executive Committee,

Recalling the principles, guidance and approaches elaborated in previous Conclusions of the Executive Committee which are pertinent to protracted situations,

Welcoming the initiatives taken by the High Commissioner to maximise all opportunities to unlock and find comprehensive solutions to the existing protracted refugee situations, including the convening in 2008 of a High Commissioner's Dialogue on Protection Challenges on the specific topic of protracted refugee situations,

Noting with deep concern the plight of millions of refugees worldwide who continue to be trapped in 'protracted refugee situations' for 5 years or more after their initial displacement, without immediate prospects for implementation of durable solutions,

Noting with concern the detrimental effects of long-lasting and intractable exile on the physical, mental, social, cultural and economic well-being of refugees,

Recognising that priorities for responding to protracted refugee situations are different from those for responding to emergency situations,

Further recalling the need for the countries of origin to undertake all possible measures to prevent refugee situations, particularly those that can become protracted, to address their root causes, and to promote and facilitate with the full cooperation of host countries, the international community, UNHCR, and all other relevant actors, refugees' voluntary return home from exile and their sustainable reintegration in safety, dignity and social and economic security,

Recognising that, in principle, all refugees should have the right to have restored to them or be compensated for any housing, land or property of which they were deprived in an illegal, discriminatory or arbitrary manner before or during exile; *noting*, therefore, the potential need for fair and effective restitution mechanisms,

Acknowledging that protracted refugee situations also impose considerable burdens and generate significant problems and challenges in different sectors for host States and communities which are often developing, in transition, or with limited resources and facing other constraints,

Affirming that support should be provided for addressing the problems and needs of the host States, especially the local host communities, which face additional social and economic difficulties and suffer negative consequences to their local environment and natural resources,

Expressing deep appreciation for the generosity, commitment and determination which these States nevertheless continue to demonstrate in hosting refugees and asylum-seekers, providing protection and facilitating essential humanitarian interventions on their behalf, in keeping with international refugee law, international human rights law and international humanitarian law as applicable,

Thanking those States which have taken measures to bring to an end some of the most enduring refugee situations including through concrete support to the voluntary return to the country of origin, local integration, the provision of resettlement places; and the acquisition of citizenship through naturalisation where this has taken place,

Acknowledging that, while awaiting the implementation of a durable solution, refugees may make positive contributions to their host societies drawing on opportunities to become self-reliant and noting the importance of participatory approaches in this regard,

Noting the importance of refugee access to basic services, including education and health, in order to enhance their opportunities,

Further acknowledging that in times of global financial and economic crises, the impacts are severe for the most vulnerable, not least refugees in protracted situations and their host countries, and the need to give special attention to those who are most affected by the crises is therefore all the greater,

Underlining that the status quo is not an acceptable option and, while every situation is unique, all feasible and practical efforts should be taken to unlock all continuing protracted situations especially through the implementation of durable solutions in the spirit of international solidarity and burden sharing,

Reiterating that voluntary repatriation remains the preferred durable solution of refugee situations and that, while one or another solution may be more directly applicable to each of the respective protracted situations, all solutions will usually complement and intersect with each other, requiring careful tailoring, sequencing and phasing in some situations, and simultaneous application in others,

Mindful that there are compelling legal, protection, health, social and economic

problems in all situations which can become protracted and should therefore also receive due attention,

Noting that, vis-à-vis Palestinian refugees, this Conclusion shall only be implemented subject to Article 1d of the 1951 Convention, Article 7c of the UNHCR Statute and in accordance with United Nations General Assembly resolutions relevant to the issue,

Further noting that States' domestic laws could offer more protection and assistance, as appropriate, than outlined in the 1951 Convention,

(a) *Calls upon* States and all other relevant actors to commit themselves, in a spirit of international solidarity and burden sharing, to comprehensive, multilateral and multi-sectoral collaboration and action in addressing the root causes of protracted refugee situations; in ensuring that people are not compelled to flee their countries of origin in the first place to find safety elsewhere; and in resolving the protracted refugee situations which persist, in full respect for the rights of the affected persons;

(b) *Recognises* the importance of political will in securing comprehensive solutions for protracted displacement and *calls upon* States to act as catalysts to unlock protracted refugee situations and begin progress towards the resolution of these situations;

(c) *Expresses* concern about the particular difficulties faced by the millions of refugees in protracted situations, and emphasises the need to redouble international efforts and cooperation to find practical and comprehensive approaches to resolving their plight and to realise durable solutions for them, consistent with international law and relevant General Assembly resolutions, while bearing in mind broader political processes that may be under way to address protracted refugee situations, including their root causes;

(d) *Strongly reaffirms* the fundamental importance and the purely humanitarian and non-political character of the function of the Office of the High Commissioner of providing international protection to refugees and seeking permanent solutions to refugee problems, and recalls that those solutions include voluntary repatriation and, where appropriate and feasible, local integration and resettlement in a third country, while reaffirming that voluntary repatriation, supported, as necessary, by rehabilitation and development assistance to facilitate sustainable reintegration, remains the preferred solution;

(e) *Calls on* countries of origin, countries of asylum, UNHCR, and the international community to take all necessary measures to enable refugees to exercise their right to return home freely in safety and dignity while recalling that voluntary

repatriation should not necessarily be conditioned on the accomplishment of political solutions in the country of origin in order not to impede the exercise of the refugees' right to return;

(f) *Underlines* the responsibility of countries of origin, with the help of the international community where appropriate, to create and/or ensure conditions for refugees to regain the rights of which they were deprived before or during exile, even after refugees have remained in exile for extended periods of time, and to enable and consolidate their sustainable return and reintegration free of fear;

(g) *Recommends* further that action to address and facilitate durable solutions, with a view to burden and responsibility sharing, be directed, as appropriate, in the form of voluntary repatriation, local integration or resettlement in third countries or, where applicable, in a strategic combination, and assistance to host countries, including through:

(i) the provision of financial assistance and other forms of support in situations where voluntary repatriation is foreseeable or taking place, in particular bearing in mind that voluntary repatriation is the preferred solution;

(ii) where local integration is appropriate and feasible, the provision of financial assistance and other forms of support, including development assistance, for the benefit of refugees and the communities hosting them so as to assist countries of asylum in integrating refugees locally;

(iii) the more effective and strategic use of resettlement as a tool of burden and responsibility sharing, including through the application of a group resettlement referral methodology;

(iv) the mobilisation of support for rehabilitating refugee-impacted areas in the host country from which refugees have returned;

(h) Recalling that local integration is a sovereign decision and an option that may be exercised by States considering the specific circumstances of each refugee situation, *encourages* States and UNHCR, in consultation with other relevant actors, to consider local integration where appropriate and feasible and in a manner that takes into account the needs, views, and impact on the hosting communities and refugees;

(i) *Encourages* States and UNHCR to actively pursue, the strategic and increased use of resettlement in a spirit of international burden and responsibility sharing; and *calls upon* States, with the capacity to do so, to provide resettlement places

and to explore more flexible approaches consistent with national legislation and regulations to bridge gaps which may exist between the resettlement criteria they use and the specific needs and situation of refugees in protracted situations, who may face difficulties in articulating a detailed claim or other constraints;

(j) *Urges* States, UNHCR and other partners to continue pursuing proactive measures in a manner that reduces dependency, promotes the self-sufficiency of refugees towards enhancing their protection and dignity, helps them manage their time spent in exile effectively and constructively and invests in future durable solutions;

(k) *Recognises* that protracted refugee situations can increase the risks to which refugees may be exposed and that, in this respect, there is a need to identify and respond effectively to the specific protection concerns of men, women, girls and boys, in particular, unaccompanied and separated children, adolescents, persons with disabilities, and older persons, who may be exposed to heightened risks, including sexual and gender-based violence and other forms of violence and exploitation; and *encourages* UNHCR and States to pursue age, gender and diversity mainstreaming and participatory approaches with a view to enhancing the safety, well-being and development of refugees and promoting appropriate solutions for them;

(l) *Requests* UNHCR to enhance its efforts to raise awareness, including among refugees, through the organisation of regular campaigns and local and regional workshops on durable solutions;

(m) *Encourages* States, and within their mandate, UNHCR and all other relevant actors to pursue comprehensive approaches toward the implementation of durable solutions and to take protracted refugee situations into consideration in their endeavours in order to create the necessary conditions to bring displacement to an end;

(n) *Urges* States, UNHCR and humanitarian and development partners to pursue active and effective partnerships and coordination in implementation of durable solutions, and to develop new opportunities for partnership including through engaging in and implementing in full the objectives of the Delivering as One initiative; increased information exchange and advice given to the United Nations Peace building Commission; and partnerships with other actors such as international financial institutions, the Inter-Agency Standing Committee, the United Nations Development Group, regional bodies, parliaments, local governments, mayors, business leaders, the media and diaspora communities;

(o) While reiterating that there is no 'one size' which fits all protracted situations, *affirms* that good practices and lessons learned in protracted situations could

prove valuable; and recommends to UNHCR, host countries, countries of origin, resettlement countries and other stakeholders the use of 'core' or 'working' or 'reference' groups, or other similar mechanisms which may be established in the Field and/or in Geneva as appropriate, as a useful methodology to identify appropriate innovative, practical solutions, built around particular situations or themes, within a sub-regional, regional or multilateral context, for specific protracted situations;

(p) *Reaffirms* its call to the international community at large, in cooperation with UNHCR and other international organisations, to ensure, in a spirit of burden sharing, timely availability of adequate development and humanitarian funding and other resources, including sufficient support for host communities and countries of origin in order to provide assistance and achieve durable solutions in protracted refugee situations.



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