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Responsibility-Sharing: From Principle to Policy

Responsibility-sharing was a central commitment in the 2016 New York Declaration for Refugees and Migrants (Annex 1, Paragraph 1). It was also a key commitment in the preamble to the landmark 1951 Refugee Convention, in which countries of first asylum are promised that their providing refuge will be met by ‘international cooperation’, without specifying its content. Yet, just as the 1951 Refugee Convention failed to define what international cooperation meant, so, too, was the New York Declaration long on principles but short on specific commitments.

The question is thus: Has the Global Compact on Refugees (Refugee Compact) filled this gap? We can all celebrate the significantly increased rhetorical centrality of ‘burden- and responsibility-sharing’ (Section IIIA). The aim is ‘more equitable and predictable burden- and responsibility-sharing’ (Paragraph 15), which was intended to be ‘efficient, effective and practicable’ (Paragraph 16). Global Refugee Forums will implement these commitments, the first of which took place in 2019 (Paragraphs 17 and 19). Convening every four years at ministerial level and co-hosted by states and the United Nations High Commissioner for Refugees (UNHCR), these forums will be supplemented by biennial officials’ meetings. At the forums, states will announce ‘concrete pledges and contributions’, including ‘financial, material and technical assistance, resettlement places and complementary pathways’ (Paragraph 18). At subsequent forums, ‘States and relevant stakeholders’ will be invited to make new pledges and to ‘take stock of the implementation of their previous pledges and progress towards the achievement of the objectives of the global compact’ (Paragraph 19). In addition, specific refugee situations should lead to national arrangements, organised by host countries, with the support of a ‘platform’ to elicit context-specific assistance in the formulation of a comprehensive plan that might include a ‘solidarity conference’ designed to generate support for the plan (Paragraph 27).

Altogether, the Refugee Compact is a significant step forward in the rhetoric of responsibility-sharing – but is it effective? Is it equitable? If neither, what should be done that is both equitable and potentially effective? We have lived in times profoundly hostile to multilateral cooperation, with (former President) Trump, Putin and Xi in leadership positions among the three great powers. Senior officials in the Trump administration even made anti-multilateralism a matter of principle (see Landler 2018). The voluntarism of the Refugee Compact – expressed through each state setting its own goals for responsibility-sharing and then reviewing its own performance – may thus be the best that we can do today. However, is it enough?

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As the Refugee Compact partly recognises, the imbalance of burden-sharing is glaring. As the former United Nations (UN) Special Representative of the Secretary-General for Migration and Development, Peter Sutherland, so aptly characterised it, responsibility-sharing today amounts to 'Responsibility by Proximity'. For instance, Syria's neighbours – Turkey, Lebanon, and Jordan – overwhelmingly serve as the places of refuge for Syrians who have managed to flee the devastating civil war. This means that, globally, the developing world – both relatively poor and home to so many of the world's armed conflicts – also serves as the place of refuge for 86 per cent of the world's refugees ... and it does so without adequate international funding (only 40 per cent of the UNHCR appeal for the region was met in 2016).

Asylum – and a guarantee that refugees will not be expelled to territories in which they will be subject to persecution – is vital. However, the first border crossed cannot be the exclusive principle of responsibility. Non-governmental and international organisations must be joined by states. Together, they need to act on the basis of a more cosmopolitan set of commitments, because they and the people they claim to represent have a shared stake in a more humane and just global order. All need to accept additional responsibilities: responsibility by culpability and responsibility by capability.

1. Culpability

We should hold the perpetrators liable (see Goodwin-Gill/Sazak 2015). The Syrian government and terrorist groups such as Daesh and al Nusra are victimising the people of Syria. Salva Kiir and Riek Machar in South Sudan allowed a personal battle to displace more than a million citizens, sending several hundred thousand refugees to neighbouring states.

Culpability reflects the straightforward norm that, while our positive cosmopolitan duties of reciprocal assistance may be poorly defined in an international order of sovereign states, there are clear principles that impose a duty not to inflict certain harm on our fellow human beings (see Pogge 2005). Clearly, these include genocide, war crimes, crimes against humanity and ethnic cleansing. Forced expulsion is a crime against humanity, whether ethnically driven or not.² All four of these crimes were condemned unanimously at the 2005 Summit of the UN General Assembly as crimes which no state should commit and, should a state do so, as crimes that the international community recognises as warranting international sanction by the UN Security Council under the Responsibility to Protect (R2P) doctrine (see, e.g., Doyle 2015, 109ff).

Moreover, some of this conduct may qualify for referral to the International Criminal Court; however, in the interim, the UN Security Council would be justified in seizing the overseas financial assets of the Syrian state and any terrorist group with seizable assets and using them to pay for the support of refugees on the Syrian border. No one should

² See Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 01 July 2002) 2187 UNTS 3, Art. 7 on 'arbitrary deportation and forcible transfer of population'.

underestimate how politically difficult this will be to apply in many crises, including in the case of Syria. Nevertheless, this may be an effective tool in dealing with crises created by perpetrators without UN Security Council Permanent Five patrons.

2. Capability

However, culpability under R2P principles should not be the limit of responsibility. The preamble to the 1951 Refugee Convention includes a commitment to international 'co-operation', irrespective of fault. Although not further specified and preambular (and therefore not legally binding), a moral commitment is, nonetheless, clearly indicated. Thus, in an ideal world of solidarity and integration, we could apply the European Union (EU) formula to the 40 richest states and determine each state's share of the global responsibility to protect refugees. The EU formula for responsibility-sharing sets out four criteria – population, GDP, unemployment and past refugee loads – which would be appropriate criteria in determining each state's responsibility (adjustments could be made to ensure that the outsized populations of China and India do not produce outsized responsibility). Such a system could result in a broader and fairer distribution of the responsibility of hosting refugees. For example, together with Steven Nam, a colleague who worked on the Model International Mobility Convention, we have calculated that the United States' share of the 480,000 Syrian refugees that the UNHCR identified as being in need of resettlement (see UNHCR 2017) would be 29,000 individuals. China would have a quota of 26,000 and Japan 15,300 – all completely manageable numbers.

However, following its collapse in the EU, this plan for responsibility-sharing will not happen globally (see Bulley 2017). The global community lacks sufficient solidarity and those individual states that do choose to meet their global responsibilities lack assured partners, giving rise to incentives for buck-passing that characterise collective-action problems.

Other more modest proposals, however, may be politically viable and offer a step-by-step, iterative solution that makes more adequate collective solutions viable some day through a process of learning.

Two types of such iterative proposals are embedded in the 2017 Model International Mobility Convention, sponsored by Columbia University and developed by a commission of international experts (see Global Policy Initiative 2017).

One proposal is something closer to the current climate model embodied in the Paris Agreement. Under current practice, each year the UNHCR identifies the number of refugees in dire need of resettlement and about two dozen states let the UNHCR know how many refugees they intend to resettle. This process needs to be formalised and expanded, perhaps by way of an agreement between states.

Each year, the UNHCR would identify the demand for the resettlement and financing of the world's refugees and forced migrants and, using a modification of the EU formula (subject to any changes agreed by the states' parties to the convention), note

the nominal responsibility share that should be borne by each state. Potential resettlement states would commit to pledging the share of the identified need which they would cover in the following year, choosing either to offer a visa that enables a refugee family to resettle in a host country or a cash voucher that would cover a refugee family for, say, 10 years in a country of first settlement (in Jordan or Lebanon, a Syrian family needs approximately US\$7,500 per year). As with climate targets, each state would set its own level of responsibility. Its sole commitment would be to set a level of responsibility and then explain – in a summit before its peers (UN member states) – why it chose that level of responsibility each year, rather than its global share as identified by the UNHCR. The key driver here is peer pressure. However, learning and normative change through deliberative engagement may also become factors that induce solidarity. In either case, the processes of agreement and reason-giving would offer opportunities to advance a diffusion of responsibility norms and, most importantly, the better protection of refugees.

Another proposal is to identify pathways other than the formal resettlement process currently in existence for refugees to gain residence in third countries. For example, states could make their family, labour and student visas more readily available to refugees and forced migrants by giving priority to those who meet the skills and other criteria for such an award.

Capability can also be enhanced by mobilising the private sector. At the Private Sector Summit on 20 September 2016, organised by a team from Columbia University and Concordia in cooperation with the UNHCR, the International Organization for Migration, the UN Special Adviser on the Summit on Refugees and Migrants (Karen AbuZayd), Open Society Foundations and the Swiss Agency for Development and Cooperation, as well as participants from the private sector presented numerous actionable reforms to meet the needs of refugees and vulnerable migrants, many of which would help to fulfil national responsibilities. These measures include:

1. Encouraging the private sponsorship of refugee resettlement – as championed by Canada, for instance. Private persons, religious groups and other civil-society actors identify particular refugee families or kinds of recipients whom they want to support for resettlement. This provides better outcomes for refugee integration, supplements the public budget and improves local attitudes towards refugees.
2. Improving connectivity for refugees by investing in cell-phone technology and creating Internet platforms that can help to empower them in order that they may better protect themselves and identify opportunities for livelihood, education and productivity.
3. Engaging in matching refugees with job opportunities through the creation of virtual platforms that link employers with refugees looking for jobs. The same idea can be extended to a platform allowing municipalities to identify the number of immigrants they want and the skills they are looking for and allowing refugees to list their pref-

erences for the kinds of community in which they want to live (where they might have relatives and so forth). A sophisticated algorithm could match the preferences and much improve satisfaction all around.

4. Crowdsourcing – which allows individuals to make a direct contribution. This might also benefit assistance.
5. Subsidising private investment supported by risk-sharing. This can address problems created in countries of first asylum by providing entrepreneurship opportunities and employment for both refugees and locals (see Betts/Collier 2016).

All these proposals seek to remedy a shortcoming in the 1951 Refugee Convention: the lack of binding commitments for responsibility-sharing. Over the past 65 years, the world has, from time to time, relied upon *ad hoc* arrangements to meet dramatic challenges – such as the Comprehensive Plan of Action, which resettled more than one million Vietnamese in the 1980s and 1990s. The time is long overdue for the international community to establish a formal system for collective action.

What is required now is innovative thinking about how to reform existing global structures and to create alternative governance pathways that can reflect cosmopolitan responsibilities and their everyday practice.

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