

Towards a Global Compact for Migration: A Development Perspective

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Strengthening Refugee Protection in Low- and Middle-Income Countries

By Susan Fratzke and Camille Le Coz

Executive Summary

For refugees, the process for seeking and receiving humanitarian protection looks vastly different depending on the country in which they find themselves. High-income countries in Europe, North America, and elsewhere usually (though not always) assess refugees' status on an individual basis, in a process based on international law. Typically, recognized refugees are granted a secure legal status, core social and economic rights, and access to basic assistance and social services. In many low- and middle-income countries, however, refugees may struggle to receive legal recognition of their residence, exercise their right to work or own property, or obtain basic health care or permission to send their children to school. The result is a massive gap between the quality of life available to refugees in high-income countries and the rest of the world. As the duration of refugees' stay in low- and middle-income countries stretches on, they are often relegated to a state of limbo with no realistic hope of resuming anything close to their predisplacement lives, resulting in considerable wasted human potential.

This protection gap between countries is the result of three factors. First, the global distribution of responsibility is clearly unequal. Countries in developing regions host the vast majority (85 percent) of the world's refugees, and the level of international resettlement or humanitarian aid these countries receive does not come close to balancing the scales. Second, the governments of these countries are often unwilling or reluctant to afford refugees the full rights and benefits they are entitled to under international law; they may fear that doing so would encourage refugees to stay permanently, perhaps altering the country's demographic composition, or that refugees would take scarce jobs and resources from the local population. They may even see refugees as a potential security threat. Third, even where countries are willing to provide refugees with more comprehensive protection, they often lack the capacity to do so. Creating a fully fledged asylum system that grants refugees a recognized legal status with corresponding rights and access to already strained national services is a complex



and resource-intensive undertaking. In many countries, governments and public institutions (e.g., schools, employment offices) lack the knowledge, coordination structures, data management systems, legal frameworks, financial resources, or equipment needed to accomplish the task.

Establishing high-quality refugee protection systems, then, goes well beyond adopting an asylum law and setting up a process for applying for refugee status. Rather, it requires broad investment in the governance and service delivery capacity of the asylum country—something that necessitates both political willingness to invest on the part of the country’s government and sufficient financial and technical support from the international community. Recent international initiatives, including the Comprehensive Refugee Response Framework and the Global Compact on Refugees, are intended to address the comprehensive nature of the task at hand. Moreover, these initiatives recognize the valuable role that development partners—including UN and national development agencies, and development banks—can play in building nations’ capacity to receive and host refugees.

Indeed, these development actors have extensive experience building up many of the systems and capabilities that are critical to refugee protection. Their expertise can be leveraged to:

- **Generate buy-in among partners.** Commitment from relevant ministries, agencies, and local authorities is critical to effecting change in broader policies and public services that affect refugees, such as employment, housing, and the registration of life events (such as births and marriages). Where development actors have established relationships with specific government departments or agencies, they may be able to bring the right partners to the table and persuade them to give higher priority to refugee-related concerns.
- **Invest in the capacity of systems that benefit both refugees and host communities.** Many of the systems and capabilities required to operate an asylum system are those at the heart of development initiatives and investments, such as strengthening education services or enhancing access to the justice system. Development actors can thus be instrumental in guiding investment to priorities and projects that will benefit both refugees and their host communities.
- **Improve data collection and evaluation.** Data on refugee populations in most countries are patchy at best. Development actors have made extensive investments in recent decades in improving both data collection in low- and middle-income countries and in creating the capacity to carry out robust evaluations of their projects. The lessons learned in the process of building this capacity in the development field could be used to better monitor initiatives that aim to boost refugee protection, with the aim of capturing what works and where further improvements are needed.
- **Inform planning and needs assessments.** Development actors often have detailed knowledge of the capabilities and capacity gaps across governance sectors that affect a country’s ability to provide refugee protection. Closer coordination between development and humanitarian actors on assessing refugees’ conditions and needs before designing an intervention could lead to better-informed program goals and design, as well as reduce the duplication of efforts.

As development actors expand their role in supporting refugee protection, it will be equally important for them to learn from the humanitarian community, particularly regarding how to ensure that interventions account for the specific vulnerabilities that refugees face. The entry of new actors into the protection space also creates the risk of duplicating coordination structures and demands on asylum countries' administrations. As development actors deepen their involvement, it will be important to streamline coordination structures and ensure that ownership of them rests with the asylum country. Finally, while the World Bank has been a leading actor in expanding development support for protection capacity-building, investments by others in the development field have been more limited. For collaborative initiatives such as the CRRF to live up to their potential, collaboration will need to be expanded to a broader range of development actors.

I. Introduction

The number of refugees worldwide is unprecedented—25.4 million as of the end of 2017.¹ While much of the focus in recent years has been on the arrival of heightened numbers of asylum seekers in Europe and at the U.S. southern border, 85 percent of refugees live in countries in developing regions. At the top of the list of refugee-hosting nations in 2017 were Turkey (3.5 million), Pakistan (1.4 million), Uganda (1.4 million), and Lebanon (1.0 million). Some of these states have not ratified the 1951 Convention Relating to the Status of Refugees and do not formally recognize refugee rights, leaving refugees in a legal limbo that can last for years. And even in countries that apply the Refugee Convention, administrative limitations often make it difficult for asylum seekers to receive refugee status. While legal recognition is crucial to refugees' security and helps protect them from deportation, the difficulties they face extend far beyond legal issues. Many host countries do not allow refugees to work, often because of concerns about

how increased competition in the job market could affect citizens and other residents. Refugees also frequently face obstacles accessing education and health services through national systems—especially in countries where these services are inadequate even for citizens—and in many cases depend entirely on international assistance.

The United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations work to address these needs by distributing food rations, and providing shelter, education, and health care. But as the number of protracted humanitarian crises increases and refugees are displaced for long periods, the need to close the gaps in national asylum systems is becoming steadily more pressing. At the same time, humanitarian actors have found it increasingly difficult to get funding for their response plans, especially for decades-long crises.

These intersecting challenges call for new thinking on how international actors can best support refugees and the communities that host them, moving away from the delivery of short-term assistance to provide more comprehensive support. This policy brief begins with an analysis of the capacity gaps in the asylum systems in low- and middle-income countries, including the procedures by which refugees gain legal status and access to socioeconomic rights and core services. In doing so, the brief highlights discrepancies between the rights described in the 1951 Refugee Convention and those granted to refugees in practice, especially in states with strained resources and weak administrative processes.

The brief then examines how development actors can support these countries as they move toward a more comprehensive approach to refugee protection. Although they have not historically been involved in building the capacity of asylum systems, development actors' expertise in planning and coordination, public-service delivery, and the promotion of good governance could prove critical. To realize the vision of

several recent initiatives, including the Global Compact on Refugees that was endorsed by the UN General Assembly in December 2018 in parallel to the Global Compact for Safe, Orderly, and Regular Migration,² new forms of cooperation between humanitarian and development actors will be needed. Together, they can establish a systems approach to enhancing protection.

II. Hard Reality: The State of Refugee Protection

The foundation of most national asylum systems is the 1951 Refugee Convention and its 1967 protocol. The convention establishes a common definition of who is a refugee,³ the rights that accompany that status, and the obligations of states to protect those rights. The most fundamental of these obligations is the requirement that states not forcibly return refugees to a territory where they would face threats to their life or freedom—a principle known as nonrefoulement. Yet protection, as originally envisioned under the Refugee Convention, encompasses a range of state commitments that go beyond this basic principle. These commitments protect a refugee’s ability to exercise fundamental freedoms (of religion, free expression, and free association, for example); to earn a living, own property, move legally within their country of asylum and internationally; and to access basic services (e.g., education, health care, and housing assistance).⁴ Refugee protection thus consists of three core elements: (1) legal status, (2) the ability to enjoy key socioeconomic rights, and (3) access to core social services. In practice, however, many refugees live in conditions that are far from this vision.

The application of the 1951 Refugee Convention is the responsibility of signatory states. They must adopt legislation that translates their commitments into national laws, and they are responsible for developing the policies, procedures, administrative structures, and staff capacity to make these laws a reality. Yet the political willingness, knowledge, and resources (human,

financial, and material) to implement a robust protection system are lacking in the majority of low- and middle-income asylum countries. A number of governments have actively narrowed their protection framework by limiting the rights of refugees and introducing laws and policies to prevent them from owning property, working, or even moving freely, restricting them to camps. Other countries may be willing in principle to afford refugees more rights but lack the necessary legal frameworks, administrative structures, and service systems to offer much more than a guarantee of nonrefoulement. Indeed, implementing an effective asylum system is a complex undertaking, even for states with well-developed governance and administrative systems, as the 2015–16 migration and refugee crisis in Europe demonstrated.

The subsections that follow examine in turn the core dimensions of a robust protection system—access to legal status, socioeconomic rights, and core social services—and the primary challenges that low- and middle-income countries face in delivering them.

A. Access to Legal Status

The basis for refugee protection at the national level is a legal and policy framework that defines who is eligible, what legal status will be granted to them, what rights this status entails, how it can be renewed (if temporary), and the circumstances under which protection could cease. In a well-functioning protection system, administrative structures and a procedure for refugee status determination (RSD) must also be in place to determine who is eligible for protection and to issue documentation of protection, if granted. Without legal status, persons in need of protection can be at risk of deportation and refoulement. They may also find it impossible to register major life events such as birth or marriage.

Many low- and middle-income host countries have as yet been unable to establish an effective legal framework and RSD procedure, or to

ensure that refugees' legal status is recognized and accepted.

1. *Legal Framework for Protection*

Many states, including Refugee Convention signatories, have thus far neglected to take the first step toward establishing an asylum system: that is, adopting a legal framework.⁵ While UNHCR periodically reminds states that they need to take legal steps at the national level to implement the convention, doing so has remained low on the agenda of many.⁶ There are both political and practical reasons for this. Governments that face challenges securing the rights or fulfilling the basic needs of their own citizens may not view establishing a new category of rights for people who are not their direct constituents as a priority.⁷ For instance, though Kenya ratified the 1951 Refugee Convention in 1966, it did not pass a law to formalize who qualifies as a refugee and what this status entails until 2006.⁸

In addition to the political issues, establishing a legal framework is a complex undertaking. Such a framework must cover a range of issues, from clarifying the legal status refugees will receive to defining their residency and other rights, as well as policies regarding identity documents and civil registration, such as birth or marriage certificates. Where administrative capacity is already limited, this is likely to prove particularly challenging.

2. *Setting up a Fair and Efficient Refugee Status Determination System*

A well-functioning RSD procedure includes clear lines of responsibility, record-keeping facilities, and trained staff. Critically, it is both fair and efficient.⁹ These two dimensions are key for maintaining the trust of applicants awaiting a decision and the wider public in the process. Indeed, inefficient procedures can create opportunities for abuse (for example, a noncitizen without a valid claim to asylum might nonetheless apply, knowing that the wait period is extremely long and that they will be permitted to remain in the country in the meantime¹⁰). It

can also leave asylum seekers uncertain of their future as they await a decision and are delayed access to critical services, potentially incentivizing those in need of protection to continue their journey to another country and exposing them to more risks.

Creating fair and efficient RSD procedures requires governments to:

- establish or assign agencies responsible for registering asylum seekers, assessing asylum claims, and hearing appeals;
- create clear processes for how asylum claims will move through the assessment system and coordinate the various agencies involved;
- set out procedures for how claims are to be assessed, including by determining what constitutes evidence that an individual has a fear of persecution; and
- staff agencies with qualified personnel and provide them with sufficient information (e.g., about conditions in refugees' countries of origin) to allow them to make informed decisions on asylum claims.

Establishing reliable procedures can prove a challenge in countries without large and well-functioning administrative systems. While an increasing number of governments have set up their own national commissions for assessing asylum seekers' claims, along with appeals courts, a number of issues continue to prevent many from implementing an effective RSD system. These national refugee commissions often lack a clear definition of their mandate, formal procedures, and, simply, adequate staff.¹¹ For instance, in the Horn of Africa, the level of expertise at refugee agencies is reportedly low, and a lack of resources often results in understaffing and delays in the RSD process.¹² Issues range from institutional gaps (e.g., in Kenya,

after the government disbanded the department in charge of RSD in 2016¹³) to very long delays (e.g., Djibouti’s refugee commission has accumulated a significant backlog) and negligence (e.g., in Kenya, there have been some reports of refugees’ names being spelled incorrectly on identity documents).¹⁴

Beyond these structural and resource issues, mass arrivals of newcomers in need of protection, a challenge common in many first-asylum countries, can make it difficult to adjudicate claims individually, as is usually standard practice for RSD. Faced with mass arrivals, host countries often prefer to grant refugee status to newcomers as a group for the sake of efficiency when it is likely that most have legitimate claims (known as *prima facie* status), though this approach still requires refugees to register their identity in order to document their status and receive assistance. Meanwhile, the mixed nature of many large-scale movements, comprising a combination of individuals migrating for humanitarian, economic, and other reasons, makes it complicated to assess who qualifies for protection. In some cases, national commissions may not have access to all the information they need about countries of origin to make a well-informed decision in an applicant’s case.¹⁵

As a result of these many factors, UNHCR frequently supports national agencies or takes the lead in deciding claims for refugee status and issuing associated documentation in low- and middle-income countries. This speeds the process, and saves governments scarce financial resources.¹⁶ But in an era of proliferating displacement crises, UNHCR’s resources are stretched thin, and backlogs are common.¹⁷ While national commissions rely on permanent staff, many of the RSD experts deployed by UNHCR are on short-term contracts, and their turnover can negatively affect the efficiency of case processing.¹⁸

Shifting responsibility for RSD to host-country actors is therefore a priority, where possible. However, this process is still ongoing: as of 2017, UNHCR conducted RSD jointly with host

governments in 20 countries and was involved in registering over 250,000 new asylum applications worldwide.¹⁹

B. Social and Economic Rights

In addition to protection from refoulement, the Refugee Convention states that refugees should have the right to work and own property, as well as the freedom to practice their religion and move within their asylum country. Without these rights, the opportunity for refugees to resume a normal life is limited. The right to work is particularly important as it enables refugees to support themselves and become self-sufficient. Yet access to this right is limited in many parts of the world. A 2014 UNHCR study found that RSD procedures pose less of a barrier to refugee protection than does “ensuring proper standards of treatment” after they receive legal status.²⁰

At the country level, these rights must be spelled out—or at least not limited—in national law. This does not necessarily involve new legislation. National declarations of basic rights that apply to legally resident non-nationals will also provide rights to refugees. Authorization to work, however, is an area that can prove more complicated. Legal frameworks that provide for refugee status will need to specify the labor rights that this status entails. If a work permit is needed in addition to a residence permit, states will need to establish the procedures and administrative capacity to grant these permits.

There are two main challenges to guaranteeing rights in practice. First, if host countries do not already have robust immigration systems, complete with legislation and administrative procedures that stipulate and grant rights to non-nationals, these systems will need to be set up from scratch, though these countries often lack the policy expertise to do so. Second, states may be reluctant or unable to allocate adequate resources to administer these systems.²¹ A regulation adopted in January 2016 in Turkey, for

example, allowed Syrian refugees to access work permits. But the process to issue the permits was complex and lengthy, and few refugees have managed to secure them.²² Similarly, in Kenya, Congolese can access work permits once they have gained refugee status, but the procedure for securing these permits is complicated, and many refugees have opted to enter the informal economy instead.²³

Beyond these operational issues, a number of countries explicitly restrict the social and economic rights of refugees, often as a result of political constraints. The governments of some refugee-hosting countries already face sharp criticism from their constituents for failing to sustain a dynamic economy or guarantee rights, for example, and fear that the presence of refugees may exacerbate tensions. Factors that shape these tensions often include the number of refugees, how long they have been in the host country, and whether host-country nationals feel their generosity has been tested. For example, Jordan initially had an open policy toward Syrian refugees, but beginning in 2014, the government restricted their right to work because of complaints by Jordanians about unfair competition in the job market. But policy may also respond to international influence. Jordan changed its policy again with the adoption of the Jordan Compact in 2016, an agreement between the kingdom and international donors to open the labor market to refugees in exchange for grants, loans, and trade agreements with the European Union.²⁴

Another challenge is that asylum countries do not always consistently enforce limitations on work or other rights, creating further uncertainty for refugees. For example, an encampment policy might stipulate difficult-to-meet requirements for refugees who wish to reside outside camps. As a result, refugees may leave camps without formal authorization, and authorities may tacitly allow them to settle in urban centers.²⁵ This type of disconnect between policy and practice is behind situations such as one in Kenya, where over the years, tens of thousands of Somalis have moved from the Kakuma

and Dadaab refugee camps to Nairobi without papers.²⁶ However, after a series of terrorist attacks in 2013 and 2015, Kenyan authorities blamed the resident Somali population and began sending groups of refugees back to the camps—and even deported some to Somalia.²⁷

C. Access to Core Social Services

Refugees often find themselves in vulnerable situations due to the nature of their flight. They may have left most of their financial resources and property in the country they fled, along with their means to earn an income. They may also have experienced trauma or physical injury there or en route. Moreover, UNHCR estimates that 52 percent of refugees are children, who are in need of education while in displacement.²⁸ The 1951 Refugee Convention acknowledges the vulnerable conditions of refugees and encourages states to provide them with access to core public benefits and services. In high-income countries, states usually provide refugees with assistance—including free or subsidized housing, education, and health care.

But for refugees in low- and middle-income countries, the situation is often much different. A 2017 UNHCR report found that in low-income countries, 50 percent of refugee children were in primary school and just 9 percent were in secondary school.²⁹ Basic health care can be limited or difficult to access. In Lebanon, for example, a 2015 survey of Syrian refugees found that more than two-thirds lacked access to needed medical care.³⁰

The challenge of delivering services to refugees is complicated by the fact that these countries' capacity to deliver core services to their own nationals is generally limited. Public services such as education or health care may already be strained, and thus unable to absorb hundreds of thousands of additional beneficiaries. Core services are often particularly scarce in border regions, which are traditionally neglected by central governments, and where refugee settle-

ments tend to be concentrated (e.g., northern Uganda³¹ or Turkana in Kenya³²). Even where some form of public services do exist, such as local health centers in Djibouti,³³ refugees may find them difficult to access because of barriers such as fees or an inability to speak the host-country language. In high-income countries, service providers may complement services with add-ons (such as interpretation) to make them more accessible to refugees. But such adaptations may be out of the question where public services are struggling to meet even their core mission.

In practice, it is international organizations and nongovernmental organizations (NGOs) that provide services to refugees in many countries with limited public-service infrastructure.³⁴ UN agencies and NGOs usually take the lead in the delivery of food, water, sanitation, health care, and education. The result is what has been termed the “care and maintenance” model of protection, with UNHCR acting as a “surrogate state” for refugees.³⁵

Relying on international actors to this extent presents several problems. First, gaps in assistance from humanitarian agencies are widespread. Particularly as displacement situations become protracted, funding for international agencies tends to dry up. Donors rarely sustain their initial level of engagement in a crisis,³⁶ and often shift their priorities as their political agendas change.³⁷ Dadaab refugee camp in Kenya, for example, used to be the largest camp in the world and received extensive donor support—until other major crises erupted elsewhere. In the past few years, as donors directed their efforts to the Syrian and the Rohingya crises, humanitarian assistance dwindled in Dadaab, where food rations are now insufficient and health care is weak.³⁸ A second problem with this model is that it can raise tensions with host communities, particularly when international aid actors deliver better services to refugees than the host state does for its people. A survey conducted in Jordan in 2015, for example, indicated that more than 80 percent of Jordanians

thought the distribution of aid to Syrian refugees was unfair.³⁹ Such tensions may further limit government willingness to invest resources or political energy in improving refugees’ conditions.

III. Building Better Protection Systems: What Role Can Development Assistance Play?

The status quo is clearly not sustainable, for refugees or the countries hosting them. For refugee protection to be comprehensive and sustainable, the capacity of asylum countries must be strengthened across a range of sectors to enable governments not just to provide legal status, but also to grant access to basic rights and services. Efforts to support this process must take into account the functioning of the broader administrative and governance systems in an asylum country—also known as a “systems approach” to capacity building (see Box 1).

Yet efforts to build asylum capacity have often focused narrowly on legal frameworks and RSD procedures.⁴⁰ Thus, the focus has been on the agencies or commissions responsible for managing refugees in a country, with less attention to the other actors that may also have an effect on protection conditions. This limited focus has been challenged in the past several years, however. Recent international initiatives such as UNHCR’s Comprehensive Refugee Response Framework (CRRF) have been built on a recognition that for asylum systems to effectively protect refugees, they must encompass more than asylum laws and RSD procedures. The CRRF—as well as the Global Compact on Refugees—set out ambitious goals to improve refugees’ access to legal status, core rights such as employment and freedom of movement, and critical social services such as education.⁴¹ These initiatives bridge the divide between the development and humanitarian fields, which often operate in the same contexts but with limited coordination.

Box 1. A Systems Approach to Asylum and Protection

Because asylum and protection infrastructure are truly *systems* that depend on and affect the operation of broader governmental functions and societies, efforts to build asylum and protection capacity must extend beyond agencies specifically responsible for refugees. Unless the government as a whole has the capacity to perform essential functions—such as registering vital events (e.g., births), issuing residence permits that are recognized by relevant actors (including local service providers and employers), and providing basic education—refugee status determinations will have little impact.

A systems approach to asylum and protection capacity-building should thus:

- focus on implementation as well as on policy, and be aware of likely capacity gaps, including those outside the immediate asylum system;
- acknowledge the potential downstream effects of policy changes and have a plan for how to address them;
- ensure that ancillary systems and policy areas incorporate asylum and protection goals into their work; and
- convene the right actors to coordinate and consult on capacity-building efforts, including those from relevant ministries and agencies at all levels of government.

Analyses of how to improve the functioning of asylum processes increasingly recognize the importance of considering the broader “system” within which they operate. Assessments of the Canadian asylum infrastructure and of the Common European Asylum System (CEAS), for example, found that both suffered from gaps in efficiency and fairness, among other reasons, because policymakers had given too little attention to how broader systems were operating while focusing on particular dimensions.

Sources: Immigration, Refugees, and Citizenship Canada (IRCC), *Report of the Independent Review of the Immigration and Refugee Board: A Systems Management Approach to Asylum* (Ottawa: IRCC, 2018), www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/report-independent-review-immigration-and-refugee-board.html; Hanne Beirens, *Cracked Foundation, Uncertain Future: Structural Weaknesses in the Common European Asylum System* (Brussels: Migration Policy Institute Europe, March 2018), www.migrationpolicy.org/research/structural-weaknesses-common-european-asylum-system.

The growing emphasis on comprehensive approaches to refugee protection suggests that development actors could play an important role. In the area of capacity-building in particular, development experts—including UN and national agencies, and multilateral development banks—bring several strengths to the table:

- **Familiarity with national systems, governance capacity, and needs.** Development actors with an established presence in an asylum country often

have valuable knowledge about how its national systems and governance structures operate. They are thus well positioned to identify gaps in capacity that may have an impact on the effectiveness of the protection system.

- **Experience fostering local ownership.** For a protection system to be sustainable, the government agencies responsible for implementing it must be committed to its success. Fostering local

leadership, capacity, and commitment has long been a core part of development efforts,⁴² and development actors have valuable experience working in cooperation *with* partner governments that humanitarian agencies have sometimes lacked.

- **Ability to plan for the long term.** The development community operates on a longer timescale than humanitarian actors. Robust protection systems are unlikely to emerge within the space of one to two years; rather, significant investment will be needed over the course of several years or even decades. Not only are development partners better able to access funding on longer timescales, they are also used to designing strategies to address mid- and long-range goals and to bring about the structural changes necessary to accomplish these goals.
- **Specialized knowledge and expertise.** Development actors have deep expertise in building cross-government coordination platforms, civil registries, and documentation structures. These are the types of governance and service infrastructure necessary to operate a comprehensive protection system. Such expertise is particularly important where large gaps in government capacity need to be addressed for a protection system to function.

The CRRF and similar initiatives have sought to better incorporate development partners in efforts to build capacity relevant to refugee protection. The World Bank has been particularly active, issuing a comprehensive report in 2017 that laid out a roadmap for how it could support refugees and other migrants forced to move by conflict, a natural disaster, or other events.⁴³ In line with this agenda, the World Bank's International Development Association (IDA) set up a dedicated line of funding for refugees and host communities to support the implementation of the CRRF in several countries.⁴⁴ World Bank

representatives also serve on CRRF steering committees at the national level and provide support to other development projects benefiting refugees and host communities that are separate from but aligned with CRRF aims.⁴⁵ Through its work on the CRRF, the World Bank has developed a much stronger and more collaborative relationship with UNHCR, the agency in the lead on CRRF implementation.⁴⁶ This represents a shift in the role of development actors in this field, which to date has usually been limited to small-scale programs to support forcibly displaced migrants' livelihoods or vulnerable host communities. The experience of the CRRF and other recent initiatives suggests that development actors have more to offer in building the capacity of asylum countries to provide meaningful protection.

A. Informing Planning and Implementation of Interventions

Comprehensive capacity-building initiatives, such as those included as part of the CRRF, that truly seek to build full *systems* are ambitious undertakings. Nearly 20 years of efforts to establish robust asylum systems across all EU Member States demonstrate how difficult such initiatives can be, even under the best of circumstances.⁴⁷ A 2014 evaluation of UNHCR's efforts to build RSD capacity indicated that for many countries, operating a fully fledged asylum system is a very long-term goal.⁴⁸ To succeed, such efforts must be carefully planned and targeted on the basis of a strong understanding of present capabilities and gaps.

Comprehensive assessments of institutional needs, and careful planning, are central principles of development actors' efforts to help build the capacity of low- and middle-income governments,⁴⁹ and development partners have established robust methodologies to support such work.⁵⁰ These frameworks provide a way to assess the policy, organizational, and operational gaps that must be filled in order to achieve a particular development goal in a specific national and local context.

While these frameworks have been created with an eye toward development needs, the same planning and assessment principles apply to building protection capacity. Evaluations of efforts to build RSD capacity, for example, have found that by limiting their focus to policy and legislative gaps, they have failed to attend to the basic capacity needs of national governance structures (such as interagency communication structures, budgeting procedures, and data management systems).⁵¹

The early results of efforts under the CRRF confirm the need for more comprehensive capacity assessments and planning. Feedback from international NGOs on the progress of the CRRF in East Africa, for example, suggested that initial efforts focused heavily on policy development and did not pay sufficient attention to implementation capacity on the ground, particularly in the ministries and other government bodies responsible for ancillary policy areas that nonetheless affect refugee protection.⁵² A 2018 report examining the protection situation in Ethiopia found similar gaps.⁵³ Yet the process of assessing institutional needs is often siloed, rather than done in cooperation between protection and development actors.⁵⁴ Greater involvement of and coordination with development actors in assessing the capacity-building needs of asylum systems could improve the extent to which broader governance and structural gaps are accounted for in efforts to build these systems.

B. Strengthening Ownership and Political Buy-In

For low- and middle-income asylum countries, the case for investing often scarce public resources in expanding refugee protection is not always clear, particularly as governments simultaneously face pressing challenges delivering on core policy functions for their own nationals such as security, education, and health care. Where governments see refugees as a threat to national security or to relationships between resident ethnic groups, the case is even

harder to make. Across the board, suggestions by international organizations that governments alter their priorities to improve refugee policies are usually met with resistance. For example, the International Centre for Migration Policy Development (ICMPD) has often struggled to convince governments to include issues related to asylum and refugee protection in their migration strategy documents.⁵⁵ Moreover, although international donors and aid agencies have a clear interest in transferring responsibility for the care of displaced populations to host-country governments, these countries may fear (rightly) that doing so could result in a decline in international support, leaving them to pick up the bill.

Recent large-scale protection and development initiatives, such as the CRRF and Jordan Compact, have overcome this challenge in two ways. First, the initiatives have leveraged additional funding from outside the humanitarian sector—as well as trade incentives, in the case of the Jordan Compact—to persuade asylum countries that making potentially risky policy changes will be worth their while. In the case of the CRRF, additional funding has primarily come from the World Bank IDA mechanism for refugee situations. Bilateral donors and the European Union have also contributed funds to specific projects and priorities. As this funding is connected to development projects that generally benefit host communities as well as refugees, and operate on a somewhat longer timescale, governments have the opportunity to address issues that are a domestic priority (such as limited access to health care) as well as improve refugee protection. Second, these initiatives have brought asylum countries some international prestige. Djibouti, for example, has received much more attention—and funding—from international donors since joining the CRRF. And Ethiopia sees itself as an emerging leader in East Africa and stands to benefit from the international platform that its participation in the CRRF provides.

But for capacity-building efforts to be successful, they must have the buy-in of not only the national agency responsible for refugee policy, but also of the ministries, agencies, and other stakehold-

ers that will be affected by and responsible for implementing changes elsewhere in the system. The wide range of institutions whose portfolios touch on refugee protection can complicate this process, especially where responsibilities are split between more than one body. In Uganda, for example, a 2018 report found that the CRRF had encountered challenges encouraging relevant ministries to include refugees in their portfolios.⁵⁶ While these ministries are, as a rule, included in the CRRF's steering and technical committees, they were accustomed to considering refugees as an isolated issue outside their purview, and thus had been slow to take over responsibilities from the Department for Refugees, a goal of the CRRF. To help address this issue in Uganda and elsewhere, the World Bank is doing more to encourage these ministries to take ownership of refugee issues that fall within their portfolios.

The concentration of refugees in certain regions, particularly near national borders, also means that it is critical to involve subnational governments in conversations on protection. In Lebanon, a recent study found that the implementation of the government's refugee education policy has struggled in practice, in part because it was largely driven by international agencies in collaboration with the national government.⁵⁷ Though local schools tend to have a great deal of autonomy in how they implement policy, they were not consulted during the development of the policy. To create better buy-in, it could be useful to draw on the existing relationships that development actors often have with relevant ministries, agencies, and local governments, as well as their expertise in designing and implementing interventions in a collaborative way.

C. Building up Complementary Governance Structures and Service Delivery Systems

A comprehensive protection system relies on strong governance and social services across a range of sectors at both the national and local levels. Indeed, improving the documentation

provided to refugees, fostering their self-sufficiency, and ensuring their access to education involve a wide range of government functions, from planning and public-service delivery to governance and job creation.

Development partners have much to offer in these areas. Many of the issues prioritized under CRRF plans are already mentioned in national development strategies (such as expanding social services and access to documentation). Development agencies and donors can play an important role in helping governments adapt these strategies to incorporate refugees' needs in a way that makes sense in the national context. Amending national development strategies to incorporate refugees can also guide donors to where national systems and services need more support to improve their capacity to serve this group.

Beyond assistance in planning and strategizing, development partners are well positioned to strengthen the capacity of the broader structures upon which asylum systems rely. In many cases, development actors may already have set up relevant initiatives that can be adapted to incorporate protection priorities. Ethiopia's 2017 decision to expand vital events registration to refugees is an example of the important role development actors can play. While the 2017 decision came as part of the government's CRRF commitments, it built on a long-standing effort supported by the UN International Children's Emergency Fund (UNICEF) to create a national vital events registration system in the country.⁵⁸ The Vital Events Registration Agency (VERA), which first launched a national registry system in August 2016, is now available to register refugees throughout Ethiopia, in coordination with refugee registration offices in camps.

Similar efforts are needed in many asylum countries to strengthen core social services such as education and health care, and to open them to refugees. In Uganda, which has suffered from a chronic lack of school capacity, the Education Cannot Wait initiative that launched in 2018 committed USD 11 million to building 100 new

classrooms and training 1,000 additional teachers to serve schools that will be open to both refugee and Ugandan students.⁵⁹ The initiative is based on an Education Response Plan developed by the government of Uganda, in cooperation with UNHCR and development partners.⁶⁰ Similarly, in Djibouti, investments under the CRRF aim to strengthen access to universal health care in the country, which is extremely limited at present, and to open the system to refugees and asylum seekers.⁶¹

As national and local services are built up and made available to refugees, it is important to keep in mind that refugee populations may have special needs or vulnerabilities—for example, those related to post-traumatic stress. Service providers will also need to consider how to best serve refugees who do not speak the same language as their host community.⁶² And they may need to be trained on the rights that refugees have to access services and how to identify special needs. Close collaboration between development actors and humanitarian agencies will be critical to ensuring that refugees benefit from investments in national service systems, including by drawing on humanitarian actors' knowledge of refugee populations and their needs.

Development actors can play an important role in improving governments' management capacity. In the Horn of Africa, for example, the World Bank's Development Response to Displacement Impacts Project seeks to strengthen the capacity of local institutions to take on the coordination, oversight, and financial management of both protection and development projects.⁶³

Local governance is another area where development experts can make a critical difference. Local governments and service agencies will be on the frontline of implementing new protection policies but may not have the capacity to do so effectively. For instance, the districts that host the majority of Uganda's 1.4 million refugees receive a budget calculated using the population census from 2014, prior to the refugees' arrival.⁶⁴ Not only do these localities lack funding to assist refugees and their host communities as

a result of this approach to budgeting, but they also do not have the technical expertise needed to manage the funds received. Development agencies' experience in advising on devolution processes can be useful in mapping out capacity gaps and adequate approaches to address them.⁶⁵ Recent discussions between Ugandan stakeholders acknowledged this critical gap,⁶⁶ and a new EU-funded project now aims to strengthen the capacity of local governments to plan and deliver social services, and better coordinate with other institutions.⁶⁷ Similarly, the World Bank is funding a Municipal Infrastructure Development Program that aims to improve urban service delivery in Uganda, including in municipalities that host refugees.⁶⁸

D. Supporting Data Collection, Monitoring, and Evaluation Capacity

Comprehensive data on refugee populations are notoriously patchy—yet critical to developing effective and well-targeted protection strategies. Similarly, evaluations of efforts to build protection capacity have at times been criticized for focusing too closely on inputs into the system, such as whether or not technical assistance was provided (e.g., the number of refugees enrolled in training programs) rather than on outcomes (whether refugees were able to earn a living afterward).⁶⁹ Development actors may be well placed to contribute on both points.

In many low- and middle-income asylum countries, development agencies and donors are already engaged in efforts to improve the collection of social, economic, and population data at the national level. Such initiatives could be expanded to include refugee populations or to target refugee-hosting areas. In Jordan, for example, the 2017–18 Household Expenditure and Income Survey was expanded to include Syrians and other non-Jordanian residents, with the support of the World Bank and UNHCR.⁷⁰ And there are plans to expand upcoming household surveys in other asylum countries—including Bangladesh, Chad, Pakistan, Tanzania,

and Uganda—to include refugees. In addition to collecting new data, improved collaboration between development and humanitarian agencies could allow for better targeted programing and reduce redundancies in data collection.⁷¹ The new Joint Data Center launched by UNHCR and the World Bank at the end of 2018 will aim to bring together the data resources of both agencies to address some of these issues.⁷²

Development actors could also deploy their expertise in evaluating projects' impacts, particularly over the medium and long term, to strengthen the evaluation of capacity-building initiatives focused on refugee protection. While the development community has not been immune to critique of its own monitoring and evaluation efforts, considerable investment and growth over the last ten years have furthered the extent to which development projects are subject to rigorous assessment.⁷³ Several initiatives support the incorporation of robust evaluation into development planning and build local capacity to conduct monitoring and evaluation.⁷⁴ For instance, the Refugee and Host Population Empowerment (ReHoPE) strategic framework in Uganda, which includes strategic indicators that track outcomes based on project goals, is a good example of a protection-focused capacity-building project that has conducted meaningful evaluation from its inception.⁷⁵

IV. Conclusions and Recommendations

The international framework for refugee protection established by the 1951 Refugee Convention leaves it to individual states to grant refugees legal status, protection from refoulement, and access to basic socioeconomic rights. In practice, the capacity and willingness of states to deliver on these obligations vary widely. Many countries lack the national legal regimes necessary to implement the protections described in the convention. And even where comprehensive asylum legislation exists, the experiences

of refugees will depend on the ability of host countries to implement the commitments made on paper. Assessing refugees' claims, providing documentation of their status, and educating service providers about the rights of refugees and other forced migrants requires human resources, training processes, and physical infrastructure—and this means more funding. And national service systems, from education to health care, are often not prepared to receive large influxes of new clients with complex needs. As a result, asylum systems in many countries are still a work in progress.

Building sufficient capacity to protect refugees thus requires much more than the creation of legal frameworks, or procedures for determining refugees' status. Without investments in regulations, staff, and infrastructure to implement protection frameworks, laws and policies will remain ineffective. Rather, building strong protection systems requires comprehensive investment in the capacity of government and service infrastructure across a range of sectors to perform essential functions, coordinate on policy implementation, and sufficiently resource necessary public services.

Although development actors have not traditionally been part of refugee protection efforts, their expertise on related issues could be leveraged to strengthen protection systems. Many of the capacity gaps that hinder the effective implementation of protection-relevant policies, such as a lack of civil documentation systems or school capacity, are also development priorities. Development actors that are intimately acquainted with these systems and their needs could be valuable partners in planning and targeting interventions to address these gaps. Moreover, if coordinated with humanitarian goals, development investments could have the dual advantage of strengthening national systems and improving protection conditions for refugees. Finally, the relationships development partners have with national and local governments could ensure critical buy-in from these actors in any necessary policy or programmatic changes.

Development actors' involvement in efforts to build protection capacity has the potential to be beneficial, particularly if several key principles are applied:

- ***Maintain local ownership of efforts to expand protection capacity.*** Both development and humanitarian actors should ensure that refugees' host countries retain ownership of and are politically invested in projects that aim to build protection capacity. Ensuring that investments benefit both host and refugee communities will go a long way toward addressing potential tensions. And ensuring that asylum countries take a leading role in driving, conceptualizing, and implementing capacity-building projects will be essential (and requires that international agencies resist the temptation to dominate these processes). The principles of co-design that have been widely adopted in the development field can be instructive in ensuring this crucial local ownership and buy-in.
- ***Streamline coordination structures.*** Both development and humanitarian actors should be wary of proliferating parallel initiatives and coordination structures. As recognition of the importance of building protection capacity has grown, so too have the demands on asylum countries to implement new projects, each of which comes with its own management and coordination structure that places demands on precious time and staff resources. Moreover, the leadership of new comprehensive protection initiatives is not always clear, with each international agency often preferring to retain ownership of a project whose scope may overlap others. A more efficient, and sustainable, approach might be to combine existing coordination structures into one central committee that is chaired by the national government, with the most relevant

international agency providing support as a co-chair.

- ***Ensure that development interventions are designed and implemented with protection needs in mind.*** While development actors have much to offer in terms of expertise and experience, serving displaced populations with unique vulnerabilities presents challenges unfamiliar to many in the field. Close cooperation and information sharing with humanitarian agencies that understand a particular displacement situation and have experience working with the refugee population is critical. Development agencies should also consider adopting additional safeguard mechanisms within their implementation plans to help them screen refugee populations for potential risks and vulnerabilities. Ensuring projects have the proper safeguards will require development and humanitarian actors to forge relationships with each other on the ground that go deeper than the broad strategic coordination that currently exists.

In the past few years, development actors have begun to take a more active role in contributing to the building of asylum capacity in some of the countries and regions that host the lion's share of the world's refugees. The CRRF, now part of the Global Compact on Refugees, is the main umbrella under which these initiatives will be piloted. Development partners can bring much needed expertise to the protection field, but at the same time stand to benefit from humanitarian agencies' understanding of the complexity of refugee situations. The CRRF has inspired significant advances in cooperation between these two fields. The World Bank and UNHCR, in particular, have taken important steps toward deeper collaboration. But more national and international development agencies, NGOs, and development banks will need to be engaged if the full potential of these efforts is to be realized.

Endnotes

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About the Authors



Susan Fratzke is a Policy Analyst and Program Coordinator with the Migration Policy Institute (MPI) International Program, where she primarily works with the Transatlantic Council on Migration. Her research areas include forced migration, asylum, and resettlement policy, with a particular focus on Europe.

Before joining MPI, Ms. Fratzke worked for the U.S. Department of State's Bureau of Population, Refugees, and Migration. Prior to that, she worked with an adult literacy program serving immigrant and refugee students in Minnesota.

Ms. Fratzke holds an MA in German and European studies, with a concentration in European migration policy, from Georgetown University's School of Foreign Service, where she received the 2012 Jill A. Hopper award for Excellence. She has also earned a certificate in refugees and humanitarian emergencies from Georgetown's Institute for the Study of International Migration and holds a BA in political science (with honors) from Iowa State University.



Camille Le Coz is a Policy Analyst at MPI Europe, where she primarily works on EU migration issues. Her research areas include EU policies on asylum, resettlement, legal migration, and integration.

Ms. Le Coz came to MPI Europe from Altai Consulting, a research and consulting organization, where she was a Project Director responsible for the migration practice. She was based in Kenya and Afghanistan, where she managed various research projects for institutions such as the European Union, the UN High Commissioner for Refugees, and the International Organization for Migration. At Altai, she researched trafficking and smuggling, protection issues along migratory routes, as well as return and reintegration projects. She has conducted fieldwork in countries including Senegal, The Gambia, Niger, Libya, Morocco, Ethiopia, Djibouti, Somalia, Kenya, and Afghanistan.

Ms. Le Coz holds a dual master's degree in international relations from Sciences Po Paris and the London School of Economics. She also holds a bachelor's degree from Sciences Po Paris.

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