

The Global Forum



UNHCR at 70

An Uncertain Future for the International Refugee Regime

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1 Introduction

Since its establishment in 1950, the UN High Commissioner for Refugees (UNHCR) has expanded significantly in terms of its size and geographical presence, as well as the range of policy concerns and operational activities in which it is engaged. But as the organization approaches its 70th anniversary, its limitations and constraints are being exposed in an unusually explicit way, raising important questions about the future of the international refugee regime.

In the past five years, UNHCR has made a concerted effort to bolster that regime, most notably through the formulation of a Global Compact on Refugees and by convening a Global Refugee Forum, both of which have been widely supported by states and other stakeholders. At the same time, however, the international environment has become increasingly hostile to the work of UNHCR and the task of refugee protection.

More specifically, we are witnessing a growing disregard for international law and disdain for multilateral cooperation, as well as a humanitarian system that has been stretched to its limits by a spate of major emergencies and the COVID-19 pandemic. In these circumstances, it will be increasingly difficult for UNHCR to sustain its role as an organization that is on the one hand mandated, governed, and funded by states, but on the other hand strives to safeguard people from the human rights violations perpetrated by governments.

2 An Expansionist History

UNHCR started life in a modest manner. When the inaugural UN High Commissioner for Refugees, Gerrit Jan van Heuven Goedhart, first visited his headquarters in 1951, he found “three empty rooms and a secretary.”¹ By the end of its first operational year, the organization had a budget of \$300,000 and employed just thirty-three staff, all based in Geneva. At that time, around 100,000 refugees came within the organization’s mandate, most of whom had been living in camps in Europe since the end of World War II.

UNHCR’s establishment reflected the determination of states to avert a repetition of events in the 1930s and 1940s, when Jews persecuted by the Nazis were impeded from seeking refuge in other countries. States also recognized that refugee movements were an inherently transnational problem, requiring multilateral cooperation and coordination. The international community had acknowledged as much in the 1920s, when the League of Nations appointed Norwegian diplomat and explorer Fridtjof Nansen to the position of High Commissioner for Refugees. His responsibility included those escaping from the Russian Revolution, the Graeco-Turkish wars, and the Armenian genocide.

In its early days, UNHCR’s primary purpose was to find long-term solutions for those camp residents and to encourage states to accede to the 1951 UN Refugee Convention, which limited the *refugee* definition to those forced to leave their own country “as a result of events occurring before 1 January 1951,” while also allowing signatory states to recognize only European refugees. By the end of the decade, twenty countries had ratified the convention and nearly all of the camps in Europe were closed.

Today, as UNHCR approaches its 70th anniversary, its profile has changed beyond recognition. Its annual budget is over \$8.6 billion, while the number of refugees and other “persons of concern” to the agency stands above 70 million. UNHCR now employs some 18,000 people, across 135 countries in every part of the world. Some 90 percent of its multinational workforce is based in the field, engaged not only in the central tasks of the UNHCR mandate—refugee protection and solutions—but also in the provision of food, shelter, water, sanitation, health care, social services, and security.

State engagement with UNHCR has also expanded over the years. The organization’s governing body, the Executive Committee, now consists of 106 states, compared to 79 in 2019 and just 24 when it was established in 1958. By the beginning of 2020, moreover, almost 150 states had signed the convention

1 Goedhart 1953.

and its 1967 Protocol, which removed the temporal and geographical restriction to the refugee definition.

3 Geographical Growth

UNHCR was established with a fixed term of three years, primarily to deal with unresolved refugee problems associated with World War II. But it quickly became evident that the international community would require UNHCR for a longer time and on a broader geographical basis. In 1956, it was enlisted to respond to the refugee emergency sparked by the Hungarian uprising and Soviet invasion of that country, thereby reinforcing the Communist bloc's view that UNHCR was essentially a tool of the West. The following year, UNHCR established a presence in North Africa, following requests from Morocco and Tunisia for assistance in managing refugees from the Algerian war of independence.

Refugee emergencies in subsequent decades required UNHCR to establish a presence in other parts of the world. In the 1960s, liberation struggles and post-colonial violence prompted the organization to launch operations throughout sub-Saharan Africa. In the 1970s and 1980s, UNHCR extended its activities to people forced to flee by the dictatorships of Latin America, the war for Bangladeshi independence, the establishment of authoritarian regimes in Indo-China, and the protracted armed conflict that followed the Russian invasion of Afghanistan.

After the Cold War, UNHCR finally established a presence in Russia and in other successor states of the Soviet Union, as well as former Communist bloc countries in eastern and central Europe. UNHCR's role in the Middle East had for its first five decades been limited by the exclusion of Palestinian refugees from its mandate. That situation has changed dramatically in the past fifteen years, and it is now a major actor in responding to population displacements across Iraq, Jordan, Lebanon, Syria, and Yemen.

4 Beyond Refugees

In addition to the growing cost, size, and scale of its operations, UNHCR has engaged in a more subtle form of expansion, extending its services to groups of people beyond those defined as refugees in the 1951 Convention.

UNHCR has worked with people displaced within their own country since the 1970s. But its involvement with them was for many years intermittent

in nature, described in a critical 2005 evaluation report as being “uncertain, inconsistent and unpredictable.”² The following year, this “pick and choose” approach was replaced by a more systematic engagement. UNHCR assumed a leading role in relation to the protection of the internally displaced, extending to emergency shelter, camp coordination and management. Today, some 40 million of the people identified as being “of concern to UNHCR” are internally displaced, twice as many as the number of refugees that are on its books.

UNHCR’s role in relation to *asylum seekers* (individuals and families who are waiting for their refugee claims to be assessed) has expanded significantly since the 1990s, when growing numbers of people from developing countries moved to and sought refuge in the industrialized states. Today, in regions such as the Aegean, Caribbean, Gulf of Aden, and Mediterranean, UNHCR is confronted with four related issues: “mixed and maritime migration” (refugees, asylum seekers, and others moving by boat); “irregular migration” (people crossing borders without authorization and documents); “stranded migrants” (those trapped in transit countries, unable to move on or go home); and “survival migrants” (people who do not qualify as refugees, but who have left their country of origin as a result of serious economic, social, or political disruption).

According to a policy statement issued by the organization in 2009, “Climate change is a humanitarian problem. As such, it is of direct interest to humanitarian agencies, including UNHCR.”³ In the years since, the organization has devoted considerably more effort and resources to the issue of disaster displacement, by drawing international attention to this dimension of the climate crisis, and by providing emergency relief for people uprooted by catastrophic events such as tsunamis, cyclones, floods, and droughts. UNHCR also played a leading role in the establishment of the Nansen Initiative (now the Platform on Disaster Displacement), an entity devoted to data collection and analysis, as well as the formulation of more effective global, regional, and national policies in this domain.

In 1975, UNHCR was given a formal mandate in relation to *stateless people*, those who are not recognized as citizens in their country of residence or by any other state; as such, they are especially vulnerable to persecution, expulsion, and other human rights violations. Initially, UNHCR did not exercise this responsibility very actively, with a 1988 report concluding that “UNHCR has remained somewhat indifferent when it comes to the plight of the stateless.”⁴

2 Mattar and White 2005.

3 UNHCR 2009.

4 Independent Commission on International Humanitarian Issues 1988, 112.

But its engagement intensified following the dissolution of the Soviet Union and Yugoslavia, which left millions of people without an effective nationality. From that point on, it was increasingly recognized that stateless people were present in many countries. In 2020, UNHCR is halfway through a decade-long campaign to prevent and eliminate statelessness, which affects between 10 and 12 million people globally.

A final group of people to have benefited from UNHCR's expanding range of activities are *returnees*—former refugees who have gone back to their country of origin, usually because the armed conflicts and human rights violations that forced them to leave have ended or subsided. Until the 1990s, the organization did little for such people, other than providing them with transport home and a modest assistance package on arrival there.

Since that time, UNHCR has become much more engaged, recognizing that reintegration can be an extremely challenging process in situations where the economy and infrastructure have been shattered by armed conflict, where public services are weak or nonexistent, and where the labor market is unable to absorb returnees. It is now UNHCR's standard operating procedure to remain in countries of origin for months or even years following a repatriation movement, working with local authorities and development organizations to ensure that reintegration succeeds.

5 Visibility and Recognition

As it approaches its 70th year, UNHCR has gained a degree of international visibility that is the envy of many other UN agencies. This should come as no surprise. It is at the frontline of world events, responding to high-profile emergencies and disasters that receive worldwide media coverage. It has an extensive field presence; has invested heavily in branding, marketing, and social media; and has successfully enlisted the support of many global and regional celebrities including, most prominently, the actress Angelina Jolie.

The recognition accorded to UNHCR and the resulting soft power that it wields are reinforced by several other factors. First, while UNHCR has had its fair share of operational failures, and has attracted regular criticism from non-governmental organizations and academics, it enjoys a firm reputation among states for being able to fulfill the twin responsibilities of its statute; namely to “assume the function of providing international protection to refugees and of seeking permanent solutions for the problem of refugees by assisting governments” (per Article 1). Had UNHCR's Executive Committee and other components of the UN not been satisfied with the organization's ability to deliver its

core mandate, then it seems highly unlikely that it would have been authorized to expand and extend its activities in the ways described above.

Second, UNHCR has benefited from unusually effective leadership. Prince Sadruddin Aga Khan, for example, served as Deputy High Commissioner and High Commissioner between 1962 and 1977. His non-Western origins positioned him ideally for the task of reorienting the organization's activities from Europe to the developing world.

From 1991 to 2000, UNHCR was led by Sadako Ogata, a Japanese international relations expert who hailed from an eminent diplomatic family and who had completed her studies in the United States. Relatively unknown when she took up the High Commissioner's position, Ogata skillfully navigated the post-Cold War terrain, with UNHCR's profile and reputation rising to new heights as a result of large-scale operations in regions such as the Balkans, the Caucasus, the Great Lakes Region of Africa, and Southern Africa.

UNHCR's influence as an international actor was further enhanced between 2005 and 2015, when the High Commissioner's post was occupied by former Portuguese prime minister and president of the Socialist International, António Guterres. Making full use of his worldwide political connections, formidable linguistic skills, and forensic analytical capacity (he was an engineer by training), Guterres carefully balanced the competing demands of donor states in the Global North and refugee-hosting countries in the Global South, while maintaining good relations with all five permanent members of the Security Council. With such attributes and experience, Guterres smoothly ascended to the position of UN Secretary-General in 2016—an appointment that also consolidated UNHCR's reputation within the international community.

Finally, UNHCR's visibility and recognition have been reinforced by the fact that refugee, migration, and humanitarian issues have risen to the very top of the international agenda, providing the organization with access to decision-makers and guaranteeing the new High Commissioner, the experienced Italian humanitarian Filippo Grandi, a seat at the table for high-level policy discussions across the world. Of particular note here is the armed conflict in Syria, which from 2013 gave rise to one of the largest refugee emergencies ever seen, as well as the subsequent (2015–2016) mass influx of Syrians and other refugees into Europe from Turkey and other Mediterranean countries.

Alarmed by these events, and seized by the perception of a “global refugee crisis,” the international community agreed to review and renew its approach to human displacement and mobility. In September 2016, the UN General Assembly hosted a high-level summit to address the question of large-scale refugee and migratory movements, leading to the December 2018 Global Compact on Refugees that elaborated key objectives and principles for future responses to

cross-border displacement. A year later, the first Global Refugee Forum was held in Geneva, a multistakeholder gathering of some 2,000 people, intended to support the implementation of the Global Compact and its accompanying plan of action, the Comprehensive Refugee Response Framework (CRRF).

UNHCR, which played a leading role in all of these initiatives, could not have been more enthusiastic about them. In the words of statements made by the organization in 2018 and 2019, the Global Compact and CRRF constituted “a game changer,” “a paradigm shift,” “a milestone for global solidarity and refugee protection,” and even “a minor miracle.” As for the Global Refugee Forum, it was said to be “a unique opportunity to put in place the elements needed to accelerate our transformation of the global response to refugee flows.”⁵

6 Reality Bites Back

But to what extent can UNHCR's optimistic vision of the future be realized? Unfortunately, serious doubts must be expressed in this regard. The initiatives taken since 2016 to review and reinvigorate the refugee regime have in several respects been oversold and their potential impact exaggerated. In the four years since that process was initiated, the international environment has also become increasingly hostile to UNHCR's objectives, aspirations, and principles.

With respect to the Global Compact on Refugees, it was certainly a major achievement to formulate a document that was endorsed by the vast majority of governments, reaching a consensus on issues that had become so contentious, both within and between UN Member States. But the Global Compact has a number of important limitations. It is nonbinding and does not impose any specific or measurable obligations on the countries that approved it, especially in terms of responsibility sharing. It makes numerous references to pursuing long-term and developmental approaches to the refugee problem, yielding benefits for both refugees and host communities.

But it is much more reticent on basic protection principles such as the right to seek asylum, the notion of *nonrefoulement* (which prevents expulsion to countries where life or liberty would be at risk), and the norm that refugee repatriation should occur only in a voluntary, safe, and dignified manner. Neither the Global Compact nor the CRRF contain any particularly new ideas and do

5 Crisp 2020.

not address the plight of internally displaced people, despite the fact that they vastly outnumber the world's refugees.

In terms of the international environment confronting UNHCR, the current outlook has arguably never been bleaker. The UN Security Council has become increasingly dysfunctional, while the notions of global governance, multilateralism, and international cooperation are being challenged by powerful states and authoritarian leaders who also share a common disdain for human rights and humanitarian law. Such circumstances will make it exceptionally difficult to prevent new humanitarian crises from erupting and to resolve those refugee situations that already exist.

There has never been a golden age of refugee protection. But the evidence suggests that governments now feel increasingly free to flout the norms and standards enshrined in international refugee law. It is common practice for states to prevent refugees from leaving their homeland and gaining access to other countries, as well as inducing the repatriation of refugees before it is safe for them to do so. Refugee policies in the Global North are increasingly based on the notion of *externalization*, whereby the task of migration control, including interception and detention, is outsourced to failing or authoritarian transit states in the Global South.

The current weakness of the international refugee regime has been exacerbated by two additional considerations. On one hand, a large proportion of the world's refugees are now in countries that are not signatories to the 1951 Convention or who maintain strict limits on its application. This includes Middle Eastern states that host some 5 million Syrian refugees, as well as Bangladesh, which hosts a million Rohingya refugees from Myanmar.

On the other hand, the United States, which has traditionally acted as a (if not the) mainstay of the international refugee regime, has set a negative example by demonstrating its overt hostility to the tasks of refugee protection and solutions. It has slashed its refugee resettlement quota; made it increasingly difficult to seek and gain asylum; entirely defunded the UN Relief and Works Agency for Palestine Refugees; and refused to endorse the Global Compact on Refugees.

While the United States continues to be the single-largest contributor to the UNHCR budget, providing some 40 percent of its financial resources, the organization is clearly anxious that such funding might diminish in the future, especially if President Donald Trump secures a second term in office. To make up for the consequent shortfall, UNHCR would have to turn to its other major donors, the European Union (EU) and its Member States.

But that is also highly problematic, given the EU's increasingly restrictive refugee and migration policies, epitomized by its deals with Turkey and Libya

to obstruct the movement of asylum seekers bound for Europe. Apparently unwilling to offend such an important paymaster, UNHCR has consistently declined to criticize the EU for supporting the Libyan coast guard in its efforts to intercept and return refugees leaving that country by boat, despite the fact they are subsequently incarcerated in exploitative, abusive, and sometimes murderous detention centers.

In 2020, the perfect storm that was already gathering around UNHCR and the international refugee regime has been intensified further by the COVID-19 pandemic. As well as representing a very direct threat to the lives of refugees around the world, especially those living in overcrowded camps and squalid urban settlements, the coronavirus has placed serious constraints on the organization's staff and field operations. It threatens to divert scarce resources from other humanitarian programs, including those managed by UNHCR, and to distract attention from the long-term and developmental approach to refugees endorsed in the Global Compact.

The pandemic and the associated risks allegedly posed by the arrival of foreigners may provide the perfect alibi for governments and politicians determined to close their borders and exclude or expel refugees. UNHCR has provided states with practical suggestions to manage their borders effectively and allow access for asylum seekers, while accommodating health screenings and quarantine arrangements. But it is uncertain that developing countries, where 85 percent of the world's refugees are present, will have the capacity to implement them. With President Trump withholding US funding from the World Health Organization, the ability of those states to do so may be further constrained.

7 Conclusion

At the end of his term in office in 1955, Gerrit Jan van Heuven Goedhart traveled to Oslo to accept the Nobel Peace Prize on behalf of UNHCR. He explained to the audience that his first challenge as High Commissioner had been “to get recognition of the fact that the refugee problem still existed and that something had to be done about it.”⁶

As the organization reaches its 70th anniversary, there is widespread recognition that the refugee problem exists, and that it is in many respects becoming more serious. Getting something done about it seems likely to be a much more

6 Goedhart 1955.

challenging task for UNHCR at a time when the future of the international refugee regime is so uncertain.

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