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World Refugee Council Research Paper No. 14 – May 2019

Innovations in Responsibility Sharing for Refugees

Tristan Harley



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About the Series

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About the Author

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Executive Summary

The search for more effective and equitable methods to share responsibility for refugees among states and other actors has been a key focus of global discussions on forced migration in recent years. Against the backdrop of large movements of refugees and migrants from Africa to Europe in 2015 and 2016, as well as the adoption of the 2016 New York Declaration for Refugees and Migrants (New York Declaration) and the 2018 Global Compact on Refugees (GCR), a variety of proposals and initiatives have been developed to innovate responses to refugees based on the concept and application of shared responsibility.

This paper examines the merits of these recent initiatives and proposals, and seeks to analyze their similarities, differences, strengths and limitations. It calls for a clearer understanding of the meaning and application of responsibility sharing for the protection of refugees, along with further examination as to how the international refugee regime interacts with other areas of international governance. It also highlights some of the opportunities associated with incorporating refugees within broader development or human mobility initiatives, but also reiterates the need to preserve the principal humanitarian purpose of refugee protection and the provision of durable solutions through effective responsibility sharing. This paper suggests, as one proposal for reform, the transition of refugee financing and refugee resettlement away from voluntary, ad hoc contributions and toward more concrete legal and financial commitments, while accounting for the differing capacities and resources of states. These changes, although difficult to implement in practice, could be approached by bringing together the actors who are most capable, most responsible and most vulnerable, within a mini-multilateral framework.

Introduction

There has been significant attention over the past few years directed toward the development of more effective and equitable methods for sharing responsibility for refugees among states and other actors. Most of this attention has arisen as part of global negotiations in relation to the New York Declaration and the GCR. However, there have also been numerous proposals from states, international organizations, civil society organizations and academics put forward alongside and in response to these negotiations.

The motivations for developing these proposals have been principally twofold. First, these proposals have emerged as a response to the significant failure of the international refugee regime to provide the necessary protection for refugees and solutions for the global refugee system. In recent years, access to asylum for many refugees has been marred by various government policies, including the closure of borders, offshore detention and boat turn-backs. Durable solutions have also become more elusive. As the United Nations High Commissioner for Refugees (UNHCR) reported in its 2018 annual report on forced displacement, close to 1.2 million persons needed resettlement as a durable solution specifically in 2017, yet only 102,800 refugees were resettled to third countries during the year (UNHCR 2018a, 30). Further, out of the 25.4 million refugees around the world at the end of 2017, only 73,400 were locally integrated into host communities, as determined by acquisition of citizenship through naturalization (*ibid.*, 31).

Second, these proposals have emerged due to the fundamental unfairness and inequity of the international refugee regime for specific host states and communities. At the end of 2017, a mere 10 states hosted more than 60 percent of the world's refugees; five of these states are least-developed countries (*ibid.*, 21). Countries in developing regions continued to host 85 percent of the world's refugees, due not only to these states' geographical proximity to refugee-producing countries, but also as a result of the deliberate efforts by Northern states to contain refugees in the Global South through non-arrival policies such as visa restrictions, carrier sanctions and interdiction at sea. The international refugee regime has also been plagued by severe and regular funding shortfalls, most notably to the UNHCR's programs. This has

led to either host states bearing the additional costs of the provision of refugee protection or refugees missing out on essential protection services. Two-thirds of the world's refugees have also been in a protracted refugee situation of five years or more, and three million of these refugees have remained in exile without resolution to their plight for at least 38 years (ibid., 22).

Innovation in responsibility sharing for refugees has been recognized as a matter of functional necessity in these circumstances. As the UNHCR indicated in June 2018, “whilst the prime cause of our work has not changed, the scale and the nature of the issues we seek to address has. Hence our ability to innovate becomes a core competence — new ideas, new ways of solving problems, new ways of engaging and relating become critical” (UNHCR 2018b, 1). At the same time, more effective and equitable responsibility sharing has also been presented as a means to reinstate more orderly and predictable responses to refugee movements, as well as a form of interstate insurance, should a state become overwhelmed if other states are not obliged or compelled to assist. Yet, how should states and other actors share responsibility for refugees, and what new ideas are being put forward to address this problem?

International cooperation in relation to the protection of refugees has long been recognized as a principle of the international refugee regime. In the Preamble to the 1951 Refugee Convention, there is a statement that considers that “the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation” (UN General Assembly [UNGA] 1951). Further, the principle of international cooperation is a core objective of the UN Charter and is repeatedly referenced in UNGA resolutions and in various regional agreements (Dowd and McAdam 2017; Wall 2017). However, it is widely accepted that the precise scope or nature of this concept with respect to refugees is unclear (Dowd and McAdam 2017).

Innovative Approaches to Responsibility Sharing: An Overview

Proposals and initiatives to innovate the ways states and other actors share responsibilities for refugees have taken several forms over recent years. Some proposals and initiatives seek to innovate the international refugee regime incrementally, through expanded normative commitments to refugee protection and improved efficiencies in the delivery of services. Other proposals call for more fundamental disruption and restructuring of the international refugee regime, on the basis that current approaches are incapable of meeting the needs of refugees and other persons in need of international protection.

For example, Volker Türk and Madeline Garlick of the UNHCR have proposed that while international cooperation to address human mobility and refugee protection would ideally be tackled through an additional Protocol to the 1951 Refugee Convention, in the short term, incremental reform, in the form of non-binding commitments, is more achievable and realistic (Türk and Garlick 2016). Türk and Garlick have been instrumental in facilitating the development of the GCR through significant engagement with states and other actors since 2016. The UNHCR indicated in its road map toward the GCR that this intergovernmental process would “not seek to impose additional obligations on States, but will rather seek to outline how existing obligations can best be fulfilled and — importantly — how the responsibility for performing those obligations can be more equitably shared” (UNHCR 2017, para. 17).

By contrast, other academics such as James Hathaway (2018) have suggested that taking such steps to reform the refugee regime are “grotesquely inadequate” and a disservice to the refugees they seek to protect. In a speech in May 2018, he labelled the GCR a “global cop-out on refugees” and proposed that what is needed instead is “something dramatically more fundamental” (Hathaway 2018). At the time of the adoption of the New York Declaration, Amnesty International similarly expressed concern that if we “end up with tentative half-measures that merely reinforce the status quo or even weaken existing protection...

we may have yet another nicely worded piece of paper authorizing inaction” (Shetty 2016, para. 4).

Between these competing proposals are a range of other ideas and initiatives offering alternative approaches to responsibility-sharing reform. For example, the Model International Mobility Convention¹ published by the *Columbia Journal of Transnational Law* presents a framework for human mobility that brings together the rights of migrants and refugees within a single document, while recognizing the particular protection needs of refugees. Among its many provisions, the convention proposes a binding mechanism for the distribution of “responsibility shares” among states for refugees and forced migrants. These responsibility shares are to include resettlement visas for refugees and forced migrants, along with a funding contribution for the following year.²

Taking a different tack, Patrick Wall has suggested that a Framework Convention on Refugee Responsibility Sharing could be developed as a third link alongside the 1951 Refugee Convention and 1967 Protocol, with the intention of establishing clearly stated objectives and principles on responsibility sharing, along with a new forum to review contributions to responsibility sharing and to prompt further negotiation (Wall 2017). Wall argues that such an approach, while not implementing binding commitments or quotas on states, would have the advantage of being “widely ratified, and thus able to serve as a forum for global efforts; principled; comprehensive; accountable; capable of linking issues so as to better serve the interests of States and refugees; and able to serve as a forum for the discussion and generation of new and innovative ideas” (ibid., 235).

Innovations have also been proposed to reform the governance structures of the international refugee regime, including the role of the UNHCR. For example, Alexander Betts and Paul Collier (2017, 219) have suggested that “an effective lead refugee agency is desperately needed to ensure collective action.” They suggest that while the UNHCR could play this role, given that “building

on what already exists may make sense,” it would need to substantially revise and restructure its approach to “lead states to outcomes that can be simultaneously ‘win-win’ for donors, hosts and refugees” (ibid., 220). Other proposals have also highlighted the possibilities of regional or “mini-lateral” forms of cooperation to overcome gridlock in responsibility-sharing efforts for refugees (Mathew and Harley 2016), while other suggestions focus on the centralization of refugees in decision-making processes as a key step for effective reform (Network for Refugee Voices 2018).

Alongside these ideas, there have also been proposals to develop more rigorous methodologies for determining the equitable distribution of responsibilities based on the contributions, capacities and resources of states. For example, DARA (Development Assistance Research Associates) is leading the development of a Refugee Response Index to measure the contributions states make to responsibility sharing. Preliminary work on this index suggests that it will examine six qualitative criteria, namely, how states:

- behave toward refugees in flight;
- provide legal recognition of their status;
- uphold the rights of refugees;
- create conditions for refugees’ self-sufficiency and integration;
- contribute to the international refugee system; and
- facilitate durable solutions (DARA 2018).

In 2017, Oxfam International also explored a proposal for determining and allocating a “fair share” of responsibility, which sought, by contrast, to measure the capacity of states. It considered objective and available indicators such as population density, GDP, the Human Development Index and the Fragile States Index; however, consensus on this issue was not achieved (Reynolds 2018). In October 2017, the UNHCR and the World Bank also agreed to establish the Joint Data Center on Forced Displacement to promote innovation in forced displacement data and to work toward a global data collection system on refugees and host communities; this work is still in its preliminary stages (Executive Committee 2018).

1 The convention was developed by the Model International Mobility Commission through the Columbia Global Policy Initiative’s International Migration Project and “represents a consensus among over 40 academics and policymakers in the fields of migration, human rights, national security, labor economics, and refugee law” (Model International Mobility Commission 2018, 1).

2 Ibid., art. 211(3).

There have also been innovations put forward for improving the delivery of services and durable solutions for refugees. Jesús Fernández-Huertas Moraga and Hillel Rapoport (2015), along with Will Jones and Alexander Teytelboym (2017), have proposed implementing a mathematical framework that matches the preferences of refugees with those of receiving countries for the purposes of resettlement. The benefits of this proposal, they argue, is that it not only better incorporates the choices of both refugees and potential receiving countries but also speeds up the resettlement process, makes it less arbitrary and ensures that resettlement places offered by states are actually filled (Jones and Teytelboym 2017, 672). So far, preference matching of this kind has been trialled in the United Kingdom for the resettlement of Syrian refugees, but it is plausible that such an approach could accompany broader mechanisms for responsibility sharing and even assist in areas other than resettlement, such as labour mobility programs or local integration opportunities in specific host communities.

Efforts have also been made to develop more substantial contributions to responsibility sharing by incorporating refugees within other areas of international governance that interact and overlap with the international refugee regime. This includes incorporating refugees into development-based initiatives and broader migration and trade frameworks. For example, at a high-level conference hosted by the United Kingdom, Germany, Kuwait, Norway and the United Nations in London in February 2016, a unique coalition of actors sought to transform “the Syrian refugee crisis into a development opportunity” (GOV.UK 2016, 1) by providing substantial humanitarian grants and concessional loans to Jordan, in return for Jordan committing to issue up to 200,000 work permits for Syrian refugees and opening up education opportunities (ibid., 2). As part of this deal, the European Union also committed to relax trade tariffs from 18 designated economic zones and industrial areas in Jordan to stimulate exports to the European Union, in return for Jordan businesses’ employing Syrian refugees (Barbelet, Hagen-Zanker and Mansour-Ille 2018).

This agreement, known as the Jordan Compact, managed to unlock substantial new funding for both refugees and host communities. Compared to the US\$4.5 billion pledged by donors to support refugees and host communities in countries

neighbouring Syria as part of the United Nations’ humanitarian appeal, the 2016 London conference resulted in over US\$12 billion in grants pledged and a further US\$41 billion in concessional loans pledged between 2016 and 2020 (Supporting Syria and the Region Conference 2017). Further, the compact incentivized the Jordanian government to promote access to the formal labour market for Syrian refugees. Until that time, the government of Jordan had been reluctant to concede that “Syrians may be another (semi-) permanent refugee population, in a country in which divisions between populations of Palestinians and ‘East Bank’ ancestry are an important political fault line” (Lenner and Turner 2018, 5).

However, there have also been some challenges with this project. Veronique Barbelet, Jessica Hagen-Zanker and Dina Mansour-Ille (2018) have reported that most Syrian refugees have not been attracted to work in the special economic zones, due to their distance from urban centres and poor transport links; efforts to reinvigorate the Jordanian economy through greater exports to the European Union in specific industries have been negligible; and the provision of formal work permits has been limited, due to both the failure to properly consult with Syrian refugees and the nature of the Jordanian labour market, where informal employment is widespread and there are strong incentives to employ workers informally. These challenges indicate that should the compact model be exported to other countries and regions, as some have proposed (see Huang 2018), there is a need to consider local market conditions more fully and have realistic aspirations for economic change. There is also the need to incorporate refugee voices when designing and implementing policy (Barbelet, Hagen-Zanker and Mansour-Ille 2018).

Finally, there have also been efforts in the past few years to revive proposals first formulated during the 1990s. In 2014, Peter Schuck reiterated his earlier 1997 proposal for a market-based model for “burden sharing,” whereby an international organization, such as the UNHCR, would allocate states a nominal quota of refugees based on states’ capacity, but that states would then be permitted to trade their quota and pay others to fulfill their obligations (Schuck 2014). Schuck, in the original proposal, suggested that there were four principal benefits to a model based on tradeable quotas: “(1) maximization of protection resources; (2) observance of human rights

principles; (3) respect for political constraints; and (4) administrative simplicity” (Schuck 1997, 270). In determining the size of the pie, he suggested that the international organization in charge would need to calculate the “world-wide total of refugees who need temporary protection and a total of those who need permanent resettlement, and then allocate those totals among participating states by assigning a quota to each” (ibid., 278).

Significantly, this model does not include many of the other potential contributions that could be incorporated into a responsibility-sharing model, such as the provision of personnel, training or infrastructure; neither does it include efforts to address root causes or voluntary repatriation. This model also does not detail or consider how specific groups of refugees would be resettled and whether refugees would have any involvement in decision making. Many academics have also questioned the moral and ethical implications of Schuck’s market-based model, suggesting that it commoditizes refugees, corrupts the concept of asylum and reinforces the perspective of refugees as a burden on host states (Gibney 2007; Anker, Fitzpatrick and Shacknove 1998). Nevertheless, the idea of tradable quotas, in particular, those implemented in ways that resolve or ameliorate these concerns, is still under consideration today (Moraga and Rapoport 2015).

Hathaway has similarly sought to revive the proposal for reform he developed in 1997 with Alexander Neve, which they named the Reformulation Project. In this earlier proposal, Hathaway and Neve (1997, 210) argued in favour of a framework centred on “solution-oriented temporary protection” based on the comparative advantages of states. According to the authors, the provision of refugee protection solely for the duration of risk could both reduce pull factors for states in the Global North and ultimately open up protection space for more refugees, as those who no longer faced a well-founded fear of persecution would be returned and temporary protection places would be supposedly replenished. Resettlement could still play a residual role “in cases where safe repatriation remains impossible after a reasonable period of temporary protection” and “in special needs situations”; however, the key focus of the proposal “is dedicated to preparing refugees adequately for the eventuality of return” (ibid., 148, 156).

Many commentators have expressed concerns with this proposal. They have suggested that it undermines international human rights law, in particular, the right to leave any country, and is contrary to the Kantian duty of hospitality (Noll 2007). They have also argued that a framework based on temporary protection, primarily in the Global South, could lead to greater levels of *refoulement* and diminish respect for international human rights, even when one of the purposes of the proposal is to strengthen rights protections in countries of asylum (Anker, Fitzpatrick and Shacknove 1998). Today, it is difficult to imagine how this model would work, given that two-thirds of refugees now find themselves in a protracted refugee situation of five years or more and that the conditions that would enable the replenishment of temporary protection places through voluntary repatriation are the exception rather than the norm. There is also serious concern that states may cherry-pick aspects of such a proposal.

The aforementioned proposals are currently being canvassed as options to innovate the ways in which states and other actors work collectively to provide protection to refugees. They exhibit differences that relate not only to the level of ambition, as evidenced by their purpose, but also to the authors’ perceptions of what responsibility sharing involves, which actors they think should be involved in the implementation of responsibility sharing, how they think responsibility sharing can be measured and applied equitably, and how they propose it should be implemented, monitored and enforced in practice.

The following sections turn to the key recommendations for innovation that emerge from these varied proposals.

Defining Responsibility Sharing

The range of proposals outlined above highlights the need to build consensus for a clearer definition of responsibility sharing in relation to refugees. A definition will provide greater analytical clarity to discussions regarding responsibility sharing and ensure contributions to responsibility sharing can be more precisely measured and enforced.

Currently, under international law, states have binding legal obligations to refugees entering their territory or jurisdiction. However, it is generally accepted that there is no parallel international legal responsibility, in the sense of a binding obligation, to resettle refugees or finance their protection in other states. The concept of responsibility sharing for refugees seeks to address this lacuna in international law, but there is currently no agreement on the term's exact scope or meaning.

Proposals that seek to establish a non-binding framework for responsibility sharing see value in defining responsibility sharing broadly, so that states and other actors can undertake a broad range of contributions. By contrast, proposals that seek to establish binding commitments for the sharing of responsibility for refugees among states require a clearer, and generally narrower, understanding of the scope and nature of responsibility sharing. Such an understanding is a prerequisite to reaching consensus and to apportioning responsibilities predictably and effectively, as well as to evaluating and monitoring the implementation of such commitments.

In the GCR, the UNHCR and states have taken the former approach, viewing responsibility sharing broadly without seeking to precisely define its scope. The GCR contains more than 50 paragraphs (in section III.B) detailing areas where contributions could be made for more effective and equitable burden and responsibility sharing, yet even this, the document suggests, “serves as a non-exhaustive guide” (UNGA 2018b, para. 18). The New York Declaration and the GCR also refer to each of the terms “responsibility sharing,” “burden sharing” and “international cooperation” on multiple occasions, but do not clearly define and differentiate them. Under the New York Declaration, for example, states have underlined “the centrality of international cooperation to the refugee protection regime,” recognized “the burdens that large movements of refugees place on national resources, especially in the case of developing countries” and have committed “to a more equitable sharing of the burden and responsibility for hosting and supporting the world’s refugees” (UNGA 2016, para. 68).

The concurrent use of these terms was employed as a drafting technique to reach consensus among states on this issue (Donoghue 2017). Historically, states and other actors have tended to adopt different terms, depending on their

contexts and ideologies. For example, states hosting large numbers of refugees often prefer the term “burden sharing” to highlight the significant pressures they have experienced due to the arrival of large movements of refugees (Gottwald 2014, 527). By contrast, civil society organizations and academics have commonly rejected this concept, since it overlooks not only the positive socio-economic contributions that many refugees make to host communities but also the ways that government policies often restrict refugees from making positive contributions, such as by denying refugees the right to work.

Among the proposals that seek to establish binding frameworks for the sharing of responsibility for refugees, several parameters for responsibility sharing have been articulated. Wall, for example, suggests that “States should share the responsibility for providing adequate protection to and durable solutions for the world’s refugees, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities” (Wall 2017, 226). The Model International Mobility Convention, by contrast, takes a narrower approach, limiting contributions to simply the resettlement of refugees and financial contributions (Model International Mobility Commission 2018, art. 211(3)). These definitions do not prohibit states from making other types of contributions to refugees outside of these frameworks. Rather, they simply aim to more precisely package the types of contributions that can fall directly within a responsibility-sharing framework.

Some academics have also explored the definitional challenges regarding these terms. Betts, Cathryn Costello and Natascha Zaun (2017, 20) suggest that international cooperation is the broadest of the three concepts and that it encompasses “all forms of coordinated and collaborative action undertaken by states,” whether for the benefit of refugees or not. They interpret responsibility sharing more narrowly, as “the contribution of states towards supporting refugees who are on the territory of another state through the redistribution of money or people” (ibid., 22). In a meeting organized by the UNHCR in Amman in 2011, a group of experts preferred the use of the term “international cooperation,” suggesting that it “can be manifested in many forms, including material, technical or financial assistance, as well as physical relocation of asylum-seekers and refugees” (UNHCR 2011a, 2).

Significantly, most of these interpretations omit, arguably, the most common contribution made to refugees globally, namely, the reception and protection of refugees in initial host states. This omission is problematic because it not only fails to showcase the wide range of contributions made, as Betts, Costello and Zaun (2017) acknowledge, but it also reinforces an oversimplified division between donor states and host states, which influences the way responsibility sharing for refugees is understood and negotiated. Further, this omission obscures not only the changing capacities of individual states to provide protection for refugees but also the constantly evolving nature of refugee movements. It also hides the reality that, in many cases, states simultaneously produce refugees, act as a state of first asylum and contribute to protection measures and durable solutions in other countries.

Recommendation One

Steps should be taken to build consensus for a clearer definition of responsibility sharing. This definition should include contributions that are rationally connected to the provision and financing of refugee protection and durable solutions for refugees, including voluntary repatriation, local integration, resettlement and other migration pathways. This definition should include states' commitments made to refugees both within their territory and elsewhere.

Establishing Appropriate Limits on Responsibility Sharing

In a push to expand the commitments of states to responsibility sharing, one area that is often overlooked is establishing appropriate limitations on states and other actors' capacity to share responsibility for refugees. Appropriate limitations on responsibility sharing are important to ensure responsibility-sharing efforts do not breach or erode international human rights obligations and to guarantee that responsibility sharing is consistent with its principal motivations: increasing the provision of protection to

refugees and fostering a more equitable distribution of responsibility among states.

As international human rights law requires, refugees should only be physically relocated to places where their protection is both legally enforceable and practically effective (Mathew and Harley 2016). Several courts around the world have found that the relocation of refugees to countries where their protection is not guaranteed violates international human rights law, including the obligation of *non-refoulement*.³ Consistent with the rights of refugees to live in dignity, refugees should also only be relocated to places where “family unity can be protected and family reunification achieved and the rights to practise their religion and enjoy their culture are protected” (ibid., 119). Refugees should also be permitted to remain in a host country if they have successfully established ties with that country over several years. Finally, as a fundamental principle, relocation of refugees should only occur when it leads to a more equitable distribution of responsibility. Otherwise, it undermines the key objectives of responsibility-sharing efforts and amounts to responsibility shifting.

In the GCR, states and the UNHCR have indicated that the compact is “guided by relevant international human rights instruments, international humanitarian law, as well as other international instruments as applicable” and “is grounded in the international refugee protection regime, centred on the cardinal principle of non-refoulement” (UNGA 2018b, para. 5). However, specific limitations on responsibility sharing are not detailed.

Recommendation Two

Establish appropriate limitations on responsibility sharing to ensure responsibility-sharing efforts are consistent with international human rights law and the principal motivations for responsibility sharing, namely, increasing the provision of protection and durable solutions to refugees and developing a more equitable distribution of responsibility among states.

³ See, for example, *M.S.S. v Belgium and Greece* (2011) European Court of Human Rights, Grand Chamber, Application No 30696/09, January 21; *Plaintiff M70/2011 v Minister for Immigration and Citizenship*; *Plaintiff M106 of 2011 v Minister for Immigration and Citizenship* (2011) 244 CLR 144.

Building a Methodology to Measure Responsibility Sharing

The aforementioned proposals recognize the need to build consensus on a methodology to assess the fairness and equity of responsibility-sharing measures. This issue has become increasingly important; since the adoption of the New York Declaration, states have made a commitment, albeit not legally binding, “to a more equitable sharing of the burden and responsibility for hosting and supporting the world’s refugees, while taking account of existing contributions and the differing capacities and resources among States” (UNGA 2016, para. 68).

The selection of appropriate indicators to measure the fairness of responsibility sharing raises several challenges. With regards to measuring contributions, one issue is equivalency. For example, how can the financial contributions of states to a refugee emergency be weighed against the contributions made by initial host states providing asylum to refugees without creating a price per head for refugees? Or, when comparing the contributions made by states hosting refugees, should the value assigned to hosts that provide refugees with housing, health care and the right to work be equal to that assigned to those hosts that do not?

A second issue relates to the methodological challenges of such a task. As the UNHCR reports, “there are currently no accurate global data and statistics available that capture all contributions (humanitarian assistance, development assistance, non-government and private sector contributions) to a given refugee situation” and “not all countries capture and record their direct fiscal expenditure on refugee situations consistently or follow the same approach” (UNHCR 2018c, paras. 10–12). There are also challenges in determining whether contributions should be measured by inputs, such as the financial amount given to a refugee situation, or by outputs, such as the extent to which a financial contribution transfers into protection outcomes for refugees (Betts, Costello and Zaun 2017, 21). Further, how should state actions that undermine the protection of refugees, such as boat turn-backs and non-

arrival policies, be accounted for? Should they be measured as negative contributions?

Measuring capacity introduces the challenge of determining the accuracy, legitimacy and appropriate weight of each indicator. For example, the most commonly accepted capacity indicator of population density appears in most proposals and is justified on the basis that it is more likely that less-populated states will be able to absorb refugees because there is likely to be more living space for residents and less impact on the environment. But even this indicator is challenged by demographers, due to the ways the impact of population can be mediated by social organization, technology, culture and consumption (de Sherbinin et al. 2007, 345). It may be more appropriate to look at the availability of housing more specifically, or particular impacts on the environment, such as deforestation or pollution levels. The objectivity and impartiality of data used to determine the size of refugee populations can be called into question, given the ways in which different actors seek to inflate or deflate refugee numbers for their own political interests (Crisp 1999, 8). The more contentious the proposed indicators, the greater the challenges. For example, to what extent should subjective, ever-changing indicators, such as integration potential, be considered when determining state capacity, if at all? Also, how can these measures recognize and incorporate the benefits that refugees provide to host societies?

The binding mechanism the Council of the European Union adopted on September 22, 2015, for the relocation of 120,000 refugees from Italy and Greece to other European states is a rare example of the utilization of indicators in relation to refugee responsibility sharing.⁴ Under this relocation mechanism, the European Commission recommended a distribution key based on “objective, quantifiable and verifiable criteria that reflect the capacity of the Member States to absorb and integrate refugees” (European Commission 2015, Annex). This distribution key included three indicators measuring capacity: size of population (weighted at 40 percent); total GDP (also weighted at 40 percent); and unemployment rate (weighted at 10 percent) (ibid.). The distribution key also included one

⁴ See Council Decision (EU) 2015/1601 of 22 September 2015 on establishing provisional measures in the area of international protection for the benefit of Italy and Greece [2015] OJ L 248/80, online: <https://eur-lex.europa.eu/eli/dec/2015/1601/oj>.

indicator considering the contributions of states, namely, the average number of spontaneous asylum applications and the number of resettled refugees per one million inhabitants over the period 2010–2014 (weighted at 10 percent) (ibid.).

While a majority of EU member states supported these criteria, states such as Poland, Hungary and Slovakia challenged the application of the Council Decision. In the *Cases C-643/15 and C-647/15*, Poland pleaded that the application of these criteria should be rejected because it placed disproportionate burdens on countries that are “virtually ethnically homogeneous, like Poland.”⁵ The European Court of Justice ultimately rejected this plea, stating that “considerations relating to the ethnic origin of applicants for international protection cannot be taken into account since they are clearly contrary to EU law.”⁶ Significantly, despite the relocation mechanism and the distribution key being binding on EU member states, most states did not relocate their assigned quotas of refugees. By the end of its two-year operational life, roughly only 29,000 refugees were relocated (European Commission 2017).

The GCR moves away from the idea of a binding distribution key, and instead proposes that each state and stakeholder determine their respective contributions to burden and responsibility sharing, “taking into account their national realities, capacities and levels of development, and respecting national policies and priorities” (UNGA 2018b, para. 4). Some efforts are underway to develop indicators to assess and measure contributions as part of the Global Refugee Forum proposed in the GCR; however, it is difficult to see how individual determinations of respective contributions, in accordance with national priorities, will move us beyond the inconsistency and unfairness of the current refugee regime. Instead, the most predictable outcome is the continuing unpredictability of response.

Recommendation Three

Improve data collection and build consensus on a methodology for the distribution of responsibilities among states, to increase the fairness and predictability of responsibility-sharing efforts

⁵ *Slovak Republic and Hungary v Council of the European Union*, C-643/15 and C-647/15 (2017) Court of Justice of the European Union at para. 302. www.refworld.org/cases,ECJ,59c8dac04.html.

⁶ *Ibid.* at para. 305.

while taking into consideration states’ differing capacities and contributions. This methodology should be consistent with an agreed definition of responsibility sharing and should incorporate contributions made by states to refugees both within and outside their territory. This methodology will help in developing more predictable and equitable responsibility sharing; it will also assist in determining the equitable distribution of the UNHCR’s program expenditure and other financing arrangements, as well as the appropriateness of different solutions for particular refugees.

Involving Refugees in Broader Initiatives

One significant change that has occurred in recent years as part of innovations in responsibility sharing for refugees is the growth of proposals that incorporate refugees within broader development or human mobility initiatives. This development can be seen clearly in the Jordan Compact and the Model International Mobility Convention. The GCR also recognizes the potential for this type of responsibility sharing, indicating, for example, that “humanitarian and development actors will work together from the outset of a refugee situation and in protracted situations. They will develop means to ensure the effective complementarity of their interventions to support host countries and, where appropriate, countries of origin, including in those countries that lack the institutional capacities to address the needs of refugees” (ibid., para. 35).

While attempts to include refugees within broader development frameworks have a long history, the mainstreaming of these ideas in the GCR, along with innovative proposals to expand and reconfigure these ideas — through, for example, reducing trade tariffs and increasing the use of concessional loans and development grants — has the potential to open up new avenues for greater responsibility sharing and to increase the provision of protection and durable solutions for refugees. In relation to broader migration and mobility initiatives, there is also significant opportunity to explore the ways refugees can benefit from protection initiatives outside of the international refugee legal framework.

For example, the 2018 Global Compact for Safe, Orderly and Regular Migration (GCM) outlines 23 objectives “to achieve safe, orderly and regular migration along the migration cycle” (UNGA 2018a, para. 16). Many of these objectives, such as the provision of identity documents, the reduction in remittance transfer fees, the enhancement of regular pathways for migration, the use of migration detention as a last resort and the promotion of the right to work, will have significant benefits for refugees if implemented. Although the GCM states that “migrants and refugees are distinct groups governed by separate legal frameworks,” there is recognition within the document that “refugees and migrants are entitled to the same universal human rights and fundamental freedoms, which must be respected, protected and fulfilled at all times” (ibid., para. 4). States should be encouraged to remove various non-arrival measures, in particular, barriers on visa applications from countries producing large numbers of refugees. Such measures are inconsistent with efforts to facilitate safe, orderly and regular migration and are a key barrier to effective responsibility sharing for refugees.

Recommendation Four

Explore avenues where refugees can be incorporated within broader development or human mobility initiatives, while simultaneously preserving the unique rights of refugees established under international law.

Harnessing the Contributions of New Actors

The inclusion of refugees within broader development and human mobility initiatives has also created the opportunity to harness the contributions of new actors involved in responsibility-sharing efforts. These include local authorities, international organizations, development actors, the private sector, the media and refugees, among others. For example, the World Bank has increased its attention to forced displacement, in response to the large number of refugees entering Europe in 2015 and as part of

the World Humanitarian Summit (International Council of Voluntary Agencies [ICVA] 2018, 3). In 2016, it launched a global concessional financing facility to provide US\$6 billion in concessional loans by 2021 for refugees and host communities in middle-income countries. In addition, there is also a US\$2 billion funding instrument implemented by the World Bank’s International Development Association (IDA), known as the IDA18 regional sub-window for refugees and host communities, which is designed for lower-income countries.⁷

To be eligible for IDA18 funding, states must, *inter alia*, host at least 25,000 refugees, or refugees must amount to at least 0.1 percent of the states’ population. States must also have “an adequate framework for the protection of refugees,” although current grants under this funding instrument indicate that being party to the 1951 Refugee Convention is not necessarily a requirement (World Bank 2018). For eligible states, the World Bank offers 100 percent grant terms for countries at high risk of debt distress and a hybrid model of 50 percent in grants and 50 percent in applicable credit terms for countries at moderate and low risk of debt distress. As well, 100 percent grant terms for countries with moderate or low risk of debt distress are considered for projects focused solely on benefiting refugees and not host communities.⁸

Both financial instruments have the capacity, if implemented effectively, to greatly increase the provision of financial assistance to states hosting large numbers of refugees. For example, in June 2018, as part of the IDA18 funding instrument, the World Bank committed an additional US\$50 million in grants-based support to Bangladesh, to provide critical health services for Rohingya in the Cox’s Bazaar District (ibid.). It is anticipated that this funding will be the first of a series of payments totalling US\$480 million. Five-sixths of this funding is provided as a grant, while the remaining sixth is provided as a loan to Bangladesh. In an innovative form of financial assistance, the Government of Canada has committed to fund the repayment obligations of Bangladesh to the IDA stemming from the credit portion of the funding (ibid.). This is a model that could be considered for replication elsewhere.

⁷ See <http://ida.worldbank.org/replenishments/ida-18replenishments/ida18-regional-sub-window-for-refugees-host-communities>.

⁸ Ibid.

The GCR proposes that the private sector, in collaboration with states and other actors, explore a diverse range of tasks, including “opportunities for private sector investment, infrastructure strengthening and job creation in contexts where the business climate is enabling; development of innovative technology, including renewable energy, particularly with a view to closing the technology gap and supporting capacity in developing and least developed refugee-hosting countries; and greater access to financial products and information services for refugees and host communities” (UNGA 2018b, para. 32). Betts and Collier also highlight the increasingly important role the private sector plays in refugee policy, most notably with contributions from multinational corporations, such as IKEA, but also at the grassroots level with local entrepreneurs and small businesses (Betts and Collier 2017, 214).

While non-state actors such as the World Bank and the private sector present new opportunities and initiatives for more effective and efficient responsibility sharing, there are risks associated with this approach. There are several concerns about the appropriateness of the World Bank’s financing mechanisms for addressing the needs of refugees. For example, arrangements where host states are required to take on additional loans to finance the protection of refugees, rather than receiving in-kind financial support from the international community, may lead to further inequity in the apportioning of responsibility among states. For example, Tanzania withdrew from the Comprehensive Refugee Response Framework in 2018, expressing concerns that it would have to borrow money from the World Bank to receive further financial assistance to support refugees (Betts 2018). There are also concerns about development-based solutions possibly undermining humanitarian action. The ICVA has indicated that “as much as early development interventions are important in the crisis phase, continuing humanitarian assistance is equally vital as long as pockets of extreme vulnerability exist within refugee communities” (ICVA 2018, 10).

It is essential that private sector engagement is consistent with international human rights standards and that relationships are entered into transparently and with a clear understanding of respective roles and responsibilities. Private sector contributions should supplement or support humanitarian efforts and not simply lead to the privatization of the international refugee

regime. There is already concern that states are increasingly involving non-state actors to avoid taking on additional responsibilities for the protection of refugees themselves. Ultimately, states should remain primarily responsible for the protection of refugees and the provision of durable solutions. States enjoy a unique and uniform legal personality under international law, and exercise jurisdiction over territory and populations.

Recommendation Five

Future innovations in responsibility sharing should harness the contributions and opportunities of new actors, drawing on their comparative strengths. These new relationships need to be evaluated to ensure that they adhere to international human rights standards and are consistent with the core purposes of responsibility sharing.

Addressing the Main Components of Responsibility Sharing

In light of the significant challenges that remain between states in defining and implementing responsibility sharing, it may be preferable to address each of the main components of responsibility sharing separately, as an additional next step to the normative framework outlined in the GCR. As the GCR and other proposals have shown, there are various ways states can contribute to protecting and providing solutions for refugees. However, not all contributions are equal. The functioning of the global refugee regime would arguably be most improved through adequate financing of refugee protection programs and more equitable sharing of the physical hosting of refugees, particularly through the significant scale-up of resettlement and alternative migration pathways. Both of these contributions have long been recognized as forms of responsibility sharing, but they remain critically underprovided. The development of more concrete legal and financial commitments in these areas would significantly improve the equitable and predictable sharing of responsibility for refugees within the global refugee regime, as well as potentially

open up other durable solutions, including local integration and voluntary repatriation.

In relation to financing, in 2016, an expert panel appointed by the UN Secretary-General proposed a variety of recommendations to reduce the cost of humanitarian aid, mobilize additional funds through traditional and innovative mechanisms and improve efficiencies in humanitarian financing (UN High-Level Panel on Humanitarian Financing 2016, v). Their report influenced the development of the Grand Bargain later that year. Many of the ideas developed in this humanitarian report are beginning to filter into discussions about and approaches taken to financing in the international refugee regime.

There is still much more that can be done to mobilize new funding through social impact bonds, micro-levies on corporations, private sector finance and Islamic social finance, among other avenues. However, it is also necessary to ensure that core humanitarian assistance is adequately provided and not undermined by these efforts. As such, it is recommended that some areas of refugee financing transition from a system of voluntary, ad hoc contributions to a more binding arrangement, whereby core humanitarian funding for refugees can be secured.

There are different ways in which such an arrangement could be achieved. One option is that the UNHCR's funding model could be altered, as Guy Goodwin-Gill (2016) has proposed, from voluntary contributions to a system whereby the known costs of existing refugee and displacement situations are guaranteed through payment via the UNGA. Currently, paragraph 20 of the 1950 Statute of the Office of the UN High Commissioner for Refugees requires all UNHCR programs to be financed by voluntary contributions, with the only exception being administrative expenditures relating to the functioning of the Office of the High Commissioner (UNGA 1950).

For UNHCR financing to transition from voluntary to assessed contributions, states would need to agree to an amendment to paragraph 20 of the UNHCR's Statute. There would also need to be discussion of the implications of assigning funding in this way for other UN organizations, in particular for funds and programs such as the World Food Programme, the United Nations Children's Fund and the United Nations Development Programme, each of which receives

similar levels of funding through voluntary contributions. An independent auditor would likely need to be appointed to determine the size of the payment required. The UNHCR currently undertakes its own needs assessments in its annual appeals and financial reports; however, if such payments were to become mandatory, its partiality might be more rigorously questioned. Nevertheless, it is not entirely unfeasible for such a reform to occur, given the diverse legislative frameworks already in place among the different organizations of the UN system. States already make mandatory assessed contributions to UN peacekeeping missions based on their capacity to pay, and there is a strong moral argument that the provision of protection and durable solutions to refugees is a similar global public good warranting proper and predictable financing not based on optional, ad hoc commitments.

States and other actors could also support refugee financing through the creation of a global refugee fund to cover the financial costs of refugee protection from which the UNHCR, along with non-governmental organizations and other actors, could seek funds. Contributions to this fund could be determined by an independent assessor, and states could make contributions based upon their capacity to pay, with additional consideration given to domestic financial contributions already made to the protection of refugees. Non-state actors could also be called upon to provide additional funding. Notably, this fund would have a broader mandate than the UN Central Emergency Response Fund, which is already established. Financial support from the proposed global refugee fund could be provided to all areas rationally connected to responsibility sharing for refugees, not just to rapid responses to emergencies and underfunded crises.

In relation to the substantial increase of resettlement and alternative migration pathways, several initiatives have been put forward in recent years to promote human mobility using alternative legal pathways for refugees. These pathways include labour-mobility programs, community or private sponsorship, family reunification, student visas and humanitarian admission programs. Such proposals, if implemented effectively and in accordance with international human rights obligations, have the potential to significantly enhance the options available to refugees. However, the delivery of alternative pathways needs to be complemented with the development of more predictable and

expanded uses of traditional resettlement as a core protection tool and durable solution.

The provision of resettlement to refugees, defined as “the selection and transfer of refugees from a State in which they have sought protection to a third State which has agreed to admit them — as refugees — with permanent residence status,” has long been recognized as a tangible and significant contribution to responsibility sharing in the international refugee regime (UNHCR 2011b). Indeed, most of the innovative proposals outlined above still consider resettlement an important component of any responsibility-sharing framework. Yet, for most refugees, resettlement to a third country is highly unlikely. As indicated previously, in 2017 only 102,800 out of 25.4 million refugees were resettled to third countries (UNHCR 2018a, 30). This equates to roughly one out of every 247 refugees.

For resettlement to work effectively in responsibility-sharing efforts, there needs to be a substantial increase in the provision of resettlement places around the world. This increase should most likely meet the UNHCR’s annual projected resettlement needs, although other benchmarks could be considered. Steps could also be taken to transition the provision of resettlement away from voluntary contributions and toward a more concrete legal commitment for states to resettle refugees. This commitment would ideally be developed through an additional protocol on resettlement, or alternatively, as an intermediary step, through a framework convention akin to Wall’s proposal (2017). While the details of such a proposal would need to be elaborated further, states willing to exercise leadership toward implementing more equitable and predictable contributions to refugee protection could commit to resettlement quotas based on agreed fairness indicators, potentially using preference matching to facilitate such an arrangement. The aim of this resettlement framework would be to both increase the provision of refugee resettlement and make the process of resettlement more transparent, efficient and equitable.

This proposal shares some similarities with the binding 2015 EU relocation initiative, in that it would assign quotas of resettlement places among states based on agreed indicators. However, there are also some significant differences. First, this proposal would operate at the universal level. One of the criticisms levelled against the EU

relocation initiative is that it focused solely on relocating refugees from Greece and Italy and ignored the broader needs of refugees and states in the Global South. Second, the proposal would focus on targeting the needs of refugees first and foremost, not the pressures or political interests of states. Finally, only states that become party to the framework would be required to participate.

This approach to reform may be more feasible than pursuing a more holistic binding framework on responsibility sharing, for several reasons. First, there is a clearer normative understanding among states on the scope and meaning of resettlement than on the more contested concept of responsibility sharing. Second, it is not an all-or-nothing approach. It is possible for states wishing to highlight their humanitarian commitment to refugees to become early adopters of this innovation. The proposal does not require critical mass among states before it becomes operational. Finally, this approach is complementary to the work already undertaken in the New York Declaration and the GCR. It can serve as one pathway to the realization of states’ commitments under the New York Declaration, while still allowing states significant flexibility in other areas of responsibility sharing.

Recommendation Six

Consider addressing each of the main components of responsibility sharing separately, and take steps to transition core refugee financing and refugee resettlement away from voluntary, ad hoc contributions and toward more concrete legal and financial commitments, taking into account the differing capacities and resources of states.

The Way Forward

This paper has presented several recommendations for taking responsibility sharing forward in the refugee context. These recommendations range from building consensus on the meaning and application of responsibility sharing, to recommendations proposing states take steps to transition refugee financing and resettlement away from voluntary, ad hoc contributions and toward more concrete, legal commitments. Among these ideas, there are also recommendations to

pursue opportunities for responsibility sharing in other areas of international governance and with a broader range of actors. Some of these recommendations are clearly aspirational and will require sustained political engagement to build consensus. Other recommendations are more practical and can be developed almost immediately. In some cases, steps have already been taken to implement these recommendations by various actors. With all the proposals to more effectively and equitably share responsibility for refugees discussed in this paper, the transition from policy to practice is likely to be extremely difficult. This is primarily because states are generally unwilling to relinquish discretion in determining the extent to which they wish to support refugees.

It is likely that these recommendations will be best pursued by bringing together the smallest number of actors required to produce the largest possible outcome (Naím 2009). This approach, which is a variation of mini-multilateralism, could be done inclusively, by incorporating contributions by the actors most capable, most responsible and most vulnerable (Eckersley 2012). In the international refugee regime, this would, depending on the context and purpose, include particular host states, resettlement states, UN organizations, civil society, the private sector and refugees, among others. Historically, more substantial commitments to responsibility sharing with respect to refugees have arisen in contexts where coalitions of actors like these have been present. This includes the CIREFCA arrangement,⁹ which benefited from not only regionwide participation in Central America, but also extra-regional support from the European Union and Italy. The Jordan Compact similarly benefited from this type of cooperation.

Importantly, it is necessary that refugees are given a say in all decisions that affect them. This involves including refugees in the development and design of responsibility-sharing measures, along with considerations as to the appropriateness of different solutions for individual refugees. Innovations in the development of preference matching is one example where refugee voices may be more effectively incorporated, along with the interests of states. The Network for Refugee

Voices (2018) has also outlined numerous steps to better include refugee perspectives in all facets of policy making and implementation. Enabling refugees to have choices in the determination of policy responses often leads to more successful outcomes, for both refugees and states.

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⁹ CIREFCA is the Spanish acronym for International Conference on Central American Refugees. The CIREFCA arrangement was developed to provide durable solutions for over two million refugees and other displaced persons in the Central American region between 1989 and 1994 (for more, see Mathew and Harley 2016, chap. 6).

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Our research programs focus on governance of the global economy, global security and politics, and international law in collaboration with a range of strategic partners and support from the Government of Canada, the Government of Ontario, as well as founder Jim Balsillie.

À propos du CIGI

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

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

About the World Refugee Council

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

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

Bold Thinking for a New Refugee System

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

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

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

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

À propos du Conseil mondial pour les réfugiés

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

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

Des idées audacieuses pour un nouveau système de protection des réfugiés

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

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

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

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

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