

EXPERTS INITIATIVE ON THE GLOBAL COMPACT ON REFUGEES

On October 2-3, 2017, the Zolberg Institute on Migration and Mobility of The New School convened a meeting of experts on refugee law and policy to deliberate on, and to make concrete recommendations for, the Global Compact on Refugees (GCR). The meeting was convened with support from the Open Society Policy Center and held at the offices of the Open Society Foundations in New York City.

The following is a working paper prepared for the Experts Group.

Development Finance: A Series of Proposals

(Prepared for the Experts Meeting on the Global Compact on Refugees,

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Observations

1. The standard account of “responsibility-sharing” tends to trace the concept to paragraph 4 of the Refugee Convention’s Preamble, or to derive it from post-1951 historical precedents like the Hungarian crisis response and the CPA. But to limit the range of relevant precedents to events that originated during or after 1951 is to excise from the record the largest, most successful, and most progressive example of financial [and physical] responsibility-sharing in refugee and development history: the Marshall Plan [plus mass resettlement].
2. The Convention provided no concrete responsibility-sharing mechanism because it did not aspire to. At the outset, it aimed merely to stipulate one component – responsibility for the “residual caseload” – of this larger sharing regime. It was the last component, historically, and in some ways the least significant one as well. By 1951, third states had already undertaken years of mass resettlement, while the Marshall Plan – which supplied asylum states like Germany with levels of funding no host state or responsibility-sharing scheme has ever seen since – was in full swing.
3. Situating the Convention within this broader context helps resolve some of its mysteries. The silence on solutions (beyond naturalization) and on financial burden-sharing begins to make sense – both were already occurring. As for the temporal and geographic limitations: mass resettlement was ending and the Marshall Plan would last only a few more years; asylum responsibilities were to be similarly circumscribed. All three elements of this CRR triumvirate were restricted to Europe(ans).
4. There is a perception that displacement only recently came to be seen as a development challenge. Viewing the Convention through the lens of the Marshall Plan makes clearer the extent to which that is not the case. It also serves as a reminder that “development” has no fixed meaning.

5. The Convention reflects – and in some sense requires – a particular conception of development. It is a conception borne atop the ruins not only of world war but of laissez-faire liberalism and its Great Depression. It is a paradigm that seeks a “New Deal” for citizens and refugees alike – one that endeavors (however imperfectly) to subordinate market forces to human wellbeing and to human rights; to provide decent work and also universal services; and to combat not only extreme poverty but mass inequality.

6. It is not a coincidence that Chapter IV of the Convention is entitled “Welfare”.

7. Nor is it an accident of history that the “golden age” of asylum ended – and camps became routine – just as a new global governance paradigm took hold. The Reagan-Thatcher revolution – financialization, privatization, deregulation, welfare cuts, wage suppression, “trickle down” – helped put an end to the era of solidarity.

8. The epoch of austerity that emerged in its place is now under challenge from a more equitable vision of human flourishing. The right to decent work; social protection floors; cash assistance; universal healthcare; not to mention commitments to end poverty and combat inequality – these have once more moved from the margins of global discourse nearer to its center.

9. But progress on the ground remains ad hoc and elusive. A redoubled global effort is needed to ensure that the costs of international protection do not fall on those who can least afford to bear it.

General Recommendations

1. Treat “support to host states” as a core component of responsibility-sharing. Ensure that existing aid commitments are met and that substantial additional resources are made available.

2. Focus also on the qualitative shortcomings of traditional assistance to host states, including, among others:

- The pro-cyclicality and unpredictability of disbursements;
- The tendency for large portions of bilateral aid to assume the form of a self-subsidy via tying and other methods;
- The resort to loans instead of grants even in contexts of over-indebtedness;
- The “non-system” of settling debt.

3. Expand the narrative that limits financing discussions to the resources donors provide (or should provide) by acknowledging and publicizing the substantial amounts of funding that flow the other way.ⁱ

4. Take action to reverse those outflows as well as to address other exogenous constraints on refugee and host community welfare (unregulated global finance; volatile commodity prices; unfair trade rules; climate change). Ensure that the conditions, terms, and policy advice attached to aid do not exacerbate those constraints (e.g., advice to mine or produce or sell what faraway markets want at the expense of what refugees or host communities need).
6. Ensure that host states retain the policy space to engage in “local heresies”, especially those that put domestic markets, local firms, progressive taxation, capital controls, and the welfare state front and center (as developed states did during the postwar boom years, to historic success).
7. Ensure that “self-reliance” does not become a pretext for shifting the costs and burdens of international protection onto refugees or host communities. Encourage the growing emphasis on the right to work and rights at work. But further underscore that, for the majority of refugees (children, disabled, sick, or elderly refugees, refugee care-givers, refugees for whom no decent work is available), insertion into private labor markets is insufficient and in some cases inappropriate, whereas inclusion in public welfare, education, and healthcare systems is vital.
8. Discourage temporary, highly targeted, or means-tested social programs, especially in places where a majority is poor, unless and until such programs are additional to a universal minimum.

A Menu of Proposals; some More Modest than Others

1. Turn “voluntary” pledges into binding commitments via legislation (as the UK has done) or via securitization (along the lines of the International Financial Facility).
2. Refrain from counting in-donor refugee costs as ODA. Provide the equivalent of the amount diverted toward that end in 2016 (\$15.4 billion; more than 10 percent of total ODA) to a new global refugee development fund.
3. Ensure that aid to host states and funding for comprehensive responses is “untied”. Prioritize support to host states’ small- and medium-sized firms.
4. Include refugees and host communities in decision-making about aid, including at the global level. Create a Platform for doing so.
5. Align external support with national development priorities and with human rights norms. In particular, minimize the use of traditional conditionality and instead condition aid on respect for refugees’ rights and inclusion of refugees in economies and welfare systems (as well as anti-corruption and other fiduciary principles, as appropriate).
6. Scrutinize the role in host countries of the IMF.

7. Ensure predictable and counter-cyclical aid flows; delink aid from donor countries' business cycles by providing development ministries with endowments (via bonds with no maturity date – an idea UNCTAD has proposed) and/or by establishing a Super-CERF based on assessed contributions (as the former HC now SG suggested in 2014).
8. Provide grants instead of loans.
9. To the extent lending continues: provide a higher proportion of loans in local currencies (devise an appropriate return-to-risk by creating a diversified portfolio of host states' local currency assets) and/or index loan repayments to GDP or to commodity prices (e.g., France's "counter-cyclical loans"; Argentinian GDP-linked securities), so as to lessen host states' exposure to foreign currency risks, financial crises, and commodity price shocks. Note that commodity-linked and other forms of "innovative" financing were once a common element of international public finance (e.g., the IMF's Compensatory Finance Facility).
10. Cancel host states' official debts, both as compensation and incentive for the global public good they provide and to ensure that "support to host states" within a CRR goes toward development rather than debt repayment.ⁱⁱ Short of that (or in the meantime), establish a debt-servicing moratorium (like the moratoriums that followed the 2005 tsunami and the 2008 financial crash) for host states that are the focus of CRRs. Embrace creditor co-responsibility (as Norway has done); support debt audits (Ecuador and others). Ensure that public-private partnerships are not pursued as a means to borrow "off book". Fund a legal support facility to assist host states to defend against aggressive litigation by vulture funds; adopt legislation on this topic (Belgium and the UK).
11. Support host states' tax authorities. Support host states' rights to establish appropriate regulations and controls on "hot money". Support host states in increasing corporate taxes and in abolishing harmful tax concessions.ⁱⁱⁱ At a minimum, ensure that policy advice to host states does not encourage regressive taxation or taxation that otherwise undermines development and social protection.^{iv} Help host states to staunch and reverse illicit capital flows (perhaps via an expanded Stolen Asset Recovery (STAR) Initiative).
12. Establish minimum standards for private sector partnerships. Ensure that partnerships pursued in the course of a development scheme do not unduly socialize risks and privatize profits. Require showings of financial and developmental "additionality". Avoid partnering with corporations that use tax havens or that engage in tax evasion. Refrain from supporting the privatization of essential public services or the imposition of user fees on those services.^v Ensure that investments do not prop up or perpetuate "cheap labor" or "enclave" economies in host states, such as those linked to special economic zones. Require disclosure of all relevant information related to profits (the Extractive Industries Transparency Initiative could serve as a

model). Condition all subsidies or guarantees on full respect for human and labor rights and environmental standards.

13. Explore non-conditional, semi-automatic collective insurance schemes along the lines of: an expanded IMF Catastrophe Containment and Relief Trust (which provided rapid, grant-based support to Haiti after its 2010 earthquake and to Guinea, Liberia, and Sierra Leone during and after the Ebola crisis); a host-state version of the Caribbean Catastrophe Risk Insurance Facility; a host-state version of the Chiang Mai Initiative.

14. Sell IMF gold to fund any/all of the above (as happened in 1970s to fund concessional lending trusts; during the HIPC initiative; and after the 2008 crash).

15. Implement a financial transactions tax to fund a “Marshall Plan for Refugees,” as Philippe Douste-Blazy has recently proposed.

16. Provide additional “special drawing rights” (SDRs – the IMF reserve asset and unit of account) to host countries. Note the pressure host states face to self-protect against exogenous shocks by amassing ever-more international reserves.^{vi} Note the opportunity costs of diverting scarce public funds toward reserve accumulation rather than toward development and social protection. Note, too, the extent to which the current global monetary system is a system of “reverse aid”: the interest host states earn on their reserves is significantly lower than the interest they pay to borrow from developed countries – a direct transfer of funds from developing to hard currency countries that rivals total ODA.^{vii} Note further that SDRs are a largely costless way of creating immediate, unconditional liquidity; that they can be exchanged for hard currencies or used to pay down IMF debts; that their creation requires no new ODA expenditures; that any plausible amount that might be created would have no inflationary impact; that new reserves can be generated with approval from the IMF Board; that the current allocation of SDRs (according to country quotas; see below) is grossly inequitable and that, as a form of responsibility-sharing and economic justice, donor countries could agree to donate a portion of their SDRs to host states. Pending the creation of new SDRs, a transfer of at least 20 percent of the SDRs they received in 2009 would be welcome.^{viii}

*2009 allocations (SDRs in millions) to current ten top donors to UNHCR
and ten top refugee hosting states (by refugees per GDP per capita)^{ix}*

United States	30,416.2	Pakistan	818.6
Japan	11,393.3	Bangladesh	463.3
Germany	10,848.4	DR Congo	424.5
United Kingdom	8,221.1	Kenya	222.7
Canada	5,208.8	Yemen	203.5
Netherlands	4,306.3	Uganda	143.7
Australia	2,612.6	Tanzania	159.1
Sweden	2,002.4	Ethiopia	116.8
Norway	1,395.3	Burundi	60.2
Denmark	1,352.6	Chad	44.2

ⁱ [In 2011](#), new loans to developing countries totaled \$340 billion; those same countries paid \$500 billion in capital and interest payments on loans that year. They lost \$630 billion in illicit financial outflows. They received \$472 billion in foreign direct investment, but lost \$420 billion of it to profit repatriations. Similarly, [in 2016](#), net flows to developing countries were negative – to the tune of roughly \$(-)500 billion. *Neither year is an outlier.*

ⁱⁱ As but one example of the urgent need for movement on debt, Moody’s 2016 credit analysis of Lebanon reports: “Historically, public resources have primarily been deployed towards servicing the cost of debt.... [*P*]ayments consumed around 47% of the government’s total revenues in 2015, higher than the 41% recorded on average in 2010-14 ... and crowded out more productive forms of public expenditures.” The government has met its debt payments in recent years by, e.g., “a decrease in transfers to the National Social Security Fund (NSSF) and lower spending on maintenance.” Most of the debt was incurred in the 1990s as a means of financing recovery and reconstruction following the end of the civil war. *See* Moody’s Investor Service, “Government of Lebanon – B2 Negative,” Annual Credit Analysis, 8 June 2016. (The analysis is paywalled on Moody’s website but is available without a paywall on the Lebanese finance ministry’s website, [here](#).) *See* especially pages 8-11.

ⁱⁱⁱ Statutory corporate tax rates have plummeted over the last three decades, from roughly 40 percent to 25 percent on average. Effective rates have fallen even more precipitously. [As the IMF notes](#), they are almost zero within many special economic zones. As a result, revenue-to-GDP in some host countries, including Bangladesh and Pakistan, is barely 10 percent (compared to more than 30 percent in OECD countries). [In 2012](#), tax holidays and other enticements collectively cost the public sectors of Kenya, Rwanda, Tanzania, and Uganda almost \$3 billion. Uganda loses roughly \$265 million each year due to tax incentives, double what the country spends on health.

There is little evidence that the benefits of tax concessions outweigh these costs (see e.g. [here](#)). A case in point is Kenya, where tax concessions within its SEZs include: a 10-year corporate tax holiday; customs duty exemptions; a 10-year tax holiday on dividends and interest payments; a personal income tax exemption for non-resident employees; a perpetual duty and VAT exemption on raw materials, machinery, and other imported inputs; a 100 percent investment deduction allowance over 20 years on the initial investment; and unlimited allowance for repatriation of profits and invested capital. As a 2010 parliamentary [report](#) puts it, “the scheme appears to be more costly to revenue performance compared to the overall economic gains accruing from the EPZs.” Or as the Special Rapporteur on Human Rights and Extreme Poverty [has noted](#) about low corporate taxes more generally, “low levels of revenue collection have a disproportionate impact on the poorest segments of the population and constitute a major obstacle to the capacity of the State to finance public services and social programmes.”

^{iv} The 2017 edition of the World Bank’s enormously influential *Doing Business Report* is notable in this regard. It welcomes Jordan’s increased allowance of corporate tax deductions while lamenting Tanzanian legislation “introducing a workers’ compensation tariff paid by employers”; knocks Greece and Cameroon for “increasing the corporate income tax rate” while praising Senegal for “reducing the maximum cap for corporate income tax” and South Africa for reducing “the rate of social security contributions paid by employers”; chides countries including Turkey and Uganda for introducing environmental levies or for taking measures to reduce tax evasion; and so on.

^v As one example: Jordan imposed new fees on healthcare in 2014. [Studies](#) since then have found that roughly 60 percent of Syrian adults with chronic medical problems cannot afford medicines or medical care. A [2016 report](#) on health access among Iraqi refugees likewise found that “inability to afford user fees is the main barrier to proper care.” Similarly, [in a survey](#) of 4,000 refugee households in Lebanon, roughly 40 percent reported that they are foregoing medical care because of the high costs of treatment and drugs.

^{vi} Until the 1980s, developing countries’ foreign exchange reserves equaled less than 5 percent of GDP. By 2007, China held non-gold reserves equivalent to almost 47 percent of its GDP; for middle-income countries, excluding China, that figure exceeded 20 percent; and for low-income countries it stood at roughly 16 percent of GDP.

^{vii} This point, and the term “reverse aid”, were first encountered in the [2001 report](#) of the Zedillo commission as prepared for the 2002 Monterrey Conference.

^{viii} In 2009, the IMF approved a general allocation of SDRs worth \$250 billion. Since the SDRs were distributed to all member states based on their IMF quotas, the vast majority flowed to developed countries. But the Fund allocated additional SDRs on a “special” basis that same year: it distributed SDRs only to those countries that had joined the Fund since the last SDR allocation in 1982. That special allocation required an amendment to the Fund’s

Articles of Agreements. But a similar result could be obtained if developed countries simply agreed (collectively or individually) to transfer all or a portion of new SDRs to host states. Such a move could achieve substantial “additionality” without the need for new budgetary outlays; without the conditions that come with normal IMF lending; and with the “double dividend” of helping move the global monetary system away from excessive dollar-dependence.

^{ix} SDR figures can be found [here](#) from the IMF. The same trend is clear if countries hosting the largest number of refugees (rather than refugees/GDPpc) are used. E.g., Turkey received SDR (in millions) 959.0; Lebanon 188.9; Jordan 145.2.