



The Responsibility to Solve



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The Dadaab refugee camp in northeastern Kenya is the largest in the world, hosting more than 450,000 refugees. It is the third largest city in Kenya. The vast majority of refugees in Dadaab are Somalis who have fled years of conflict and drought.

This year Dadaab turns twenty. It is worth marking two decades of Kenyan generosity and its (largely) open borders to refugees—as well as the many years of support from donor states who have contributed hundreds of millions of dollars for the care of refugees in Dadaab. But one must also note—in addition to troubling issues of security at the camp—that Dadaab now counts among its residents 10,000 children born to refugees who themselves were born in Dadaab.¹

I. The problem of Protracted Refugee Situations

Let us begin by noting that most of the ways in which the world pictures “the refugee problem” is wrong. We imagine large groups of people streaming over borders, bound for camps built and supplied by the international community. If the turmoil that drove them from their homes ends relatively quickly, they return home to take up their lives where they left off. If conditions at home do not make safe return possible, they find a permanent home in their host country or are resettled to a new home in a new land.

To be sure, there is some truth to this common picture. In 2010, nearly 90,000 ethnic Uzbeks living in Kyrgyzstan fled violence targeting their community; they returned a few weeks later.² And last year over 150,000 Ivorians fled post-election violence in their

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¹ UNHCR, *Dadaab - World's biggest refugee camp 20 years old*, 21 February 2012, available at: <http://www.unhcr.org/refworld/docid/4f44d3782.html>.

² UNHCR, *Final Report on UNHCR Emergency Operations in the Republic of Uzbekistan*, 23 July 2010, at 1, available at: <http://www.unhcr.org/refworld/docid/4cfca7ae2.html>.

home country; the majority crossed into Liberia—and most of these stayed in dozens of villages close to the Cote d’Ivoire border and were aided by UNHCR and a number of other humanitarian organizations.³ With the successful installation of Alasane Ouattara as the President, thousands of Ivorians have returned to their homeland.⁴ So too tens of thousands of Libyans received temporary protection in neighboring Tunisia and returned home with the downfall of the Qaddafi regime.⁵ More than 90,000 Syrians have found safe homes in neighboring states over the past year.⁶ And nearly 100,000 Sudanese have received assistance after fleeing their homes in border areas in recent months.⁷ As to resettlement, about 100,000 refugees find new permanent homes in third countries each year (the majority in the United States).⁸

So the international community responds to situations of forced displacement. Countries in the developing world largely keep their borders open; and donor states from the developed world support the relief efforts of international organizations and NGOs. And sometimes, when the bullets stop or the drought eases, refugees return home; others may find new homes elsewhere. These are the so-called “durable solutions” for refugees: voluntary repatriation, local integration and resettlement.⁹ The durable solution restores what refugees—by definition—lack: legal and social membership in a national community.

But what has just been described is in fact the exception rather than the norm. Today, more than two-thirds of the world’s nearly ten million refugees are not on the road to a durable solution.¹⁰ Rather they are part of what UNHCR terms a “protracted refugee situation” (PRS)—defined as one in which “refugees continue to be trapped . . . for 5 years or more after their initial displacement, without immediate prospects for implementation of durable solutions.”¹¹ UNHCR has identified twenty-nine major PRSs around the world, involving 7.2 million refugees.¹²

³ UNHCR, *Côte d’Ivoire exodus into neighbouring countries swells to 150,000*, 11 April 2011, available at: <http://www.unhcr.org/refworld/docid/4da293f42.html>.

⁴ UNHCR, *UNHCR steps up repatriation from Liberia to Côte d’Ivoire*, 9 December 2011, available at: <http://www.unhcr.org/refworld/docid/4ee5b7922.html>.

⁵ UNHCR, *UNHCR Global Appeal 2012-13*, November 2011, at 139 (Tunisia) [hereinafter UNHCR, *Global Appeal*], available at <http://www.unhcr.org/ga12/index.xml>.

⁶ UNHCR, *Syria Regional Refugee Response Information Sharing Portal*, <http://data.unhcr.org/syrianrefugees/regional.php> (noting, as of 5 May 2012, 54,102 registered Syrian refugees in the Middle East region: 13,582 in Lebanon; 14,252 in Jordan; 23,298 in Turkey; and 2,970 in Iraq).

⁷ UNHCR, *UNHCR’s emergency response for Sudanese refugees in Ethiopia and South Sudan, 2012*, January 2012, at 3, available at: <http://www.unhcr.org/4f295ae69.html> (noting that 79,800 new Sudanese refugees arrived in Ethiopia and South Sudan in 2011 and an additional 105,200 were projected to arrive in 2012).

⁸ UNHCR, *UNHCR Global Trends 2010*, June 2011, at 19, available at: <http://www.unhcr.org/refworld/docid/4e01b00e2.html> [hereinafter UNHCR, *Global Trends 2010*] (noting that in 2010, 22 resettlement countries admitted 98,800 refugees; the United States admitted 71,400).

⁹ See UNHCR, *Framework for Durable Solutions for Refugees and Persons of Concern*, May 2003, available at: <http://www.unhcr.org/refworld/docid/4124b6a04.html>.

¹⁰ UNHCR, *Global Trends 2010* at 14. At the end of 2010, there were 10.55 million refugees under UNHCR’s mandate, which does not include Palestinian refugees. Including Palestinians, there were 15.4 million refugees. *Id.*

¹¹ UNHCR Executive Committee, *Conclusion on protracted refugee situations*, 22 December 2009, No. 109 (LXI) - 2009, preamble. However, for statistical purposes, UNHCR defines “major protracted refugee situations” as

These include:

- *As mentioned*, nearly half a million Somalis in Kenya and several hundred thousand other Somalis in Ethiopia, Djibouti, and Yemen.¹³
- *Eritreans in East Sudan*: We associate with Sudan those who have fled violence in Darfur (in the West of the country), and more recently those fleeing violence near the new international border that separates Sudan from South Sudan. But Sudan also hosts nearly 100,000 in its Northeast region, the vast majority from Eritrea.¹⁴ They live in twelve camps where UNHCR and Sudanese organizations have been providing assistance for more than forty years.¹⁵ Sixty percent of the refugees have in fact now been born in Sudan, yet they remain without Sudanese citizenship.¹⁶
- *Afghans in Iran and Pakistan*: Millions of Afghans have fled their homes over the past several decades. While 5.7 million have returned home, nearly three million registered refugees remain in neighboring Iran and Pakistan—many having fled the Soviet invasion and occupation of Afghanistan in late 1970s-80s.¹⁷ Most of these refugees live in urban or semi-urban settings, and many have found work (even if not legally authorized). The official policy of both Iran and Pakistan is that refugees should return home, but repatriation appears in question for hundreds of thousands

“refugee populations of 25,000 persons or more who have been in exile for five or more years in developing countries” while nonetheless cautioning that this “crude measure of 25,000 refugees in exile for five years should not be used as a basis for excluding other groups.” UNHCR, *The State of The World's Refugees 2006: Human Displacement in the New Millennium*, 20 April 2006, at 106-08, available at <http://www.unhcr.org/4a4dc1a89.html> [hereinafter UNHCR, *State of the World's Refugees*]. Indeed, for certain purposes, such as resettlement policy and planning, UNHCR defines a PRS more generally as “one in which refugees find themselves in a long-lasting and intractable state of limbo.” UNHCR, *UNHCR Resettlement Handbook*, July 2011, at 41, 288, available at: <http://www.unhcr.org/refworld/docid/4ecb973c2.html>; see also UNHCR, *Protracted Refugee Situations*, 10 June 2004, EC/54/SC/CRP.14, available at: <http://www.unhcr.org/refworld/docid/4a54bc00d.html>.

¹²UNHCR, *Global Trends 2010* at 14. This figure does not include Palestinian refugees who are not under UNHCR’s mandate. Cf. United States Department of State, Bureau of Population, Refugees, and Migration, *Protracted Refugee Situations*, 11 Feb. 2011, available at <http://www.state.gov/documents/organization/184200.pdf> (counting 30 PRS involving 10.3 million refugees).

¹³ UNHCR, *UNHCR Donor Update: Somalia Situation Response*, July 2011, available at: <http://www.unhcr.org/4e157f499.html>.

¹⁴ UNHCR, *Protracted Refugee Situations: High Commissioner's Initiative*, December 2008, at 14, available at: <http://www.unhcr.org/4937de6f2.pdf>. See also UNHCR, *UNHCR looks at solutions for Eritrean refugees of eastern Sudan* 22 August 2007, available at: <http://www.unhcr.org/46cc4a974.html>.

¹⁵ *Id.* Dating back to the 1960s, the situation of Eritreans in Sudan has been referred to as “one of the most protracted in the world.” Guido Ambroso, Jeff Crisp, and Nivene Albert, *No turning back: A review of UNHCR's response to the protracted refugee situation in eastern Sudan*, November 2011, at 1, available at: <http://www.unhcr.org/4eb3e5ea9.pdf>.

¹⁶ *Id.* at 16, 18.

¹⁷ UNHCR, *Global Appeal*, at 176 (Iran); *id.* at 185 (Pakistan).

of Afghan refugees given both their long stays outside the country and the continuing conflict.¹⁸

- *Bhutanese in Nepal*: More than 100,000 Bhutanese have found refuge in UNHCR camps in southeastern Nepal in the early 1990s. Although UNHCR has worked with the international community to help resettle over 50,000 Bhutanese refugees,¹⁹ 60,000 more remain in camps in Nepal.²⁰
- *Burmese in Thailand*: Thousands of Burmese refugees have lived confined in nine closed camps over the border with Thailand since the 1980s. Despite the resettlement of over 70,000 Burmese since 2005, 100,000 registered refugees and more than 50,000 unregistered asylum seekers remain in the camps.²¹
- *Other Developing Protracted Refugee Situations*: In Eastern Chad, over 250,000 Darfurians live in twelve remote camps where they sought refuge after the conflict in Darfur escalated more than six years ago.²² There are more than 50,000 Colombian refugees in Ecuador, the majority in urban areas and the remainder in isolated regions near the border.²³ And in Syria, nearly 100,000 registered Iraqi refugees face an escalating political and economic crisis, as well as diminished prospects of resettlement and aid due to ongoing violence.²⁴

Each PRS has its own particular causes and characteristics. But overarching causes are similar to all: unresolved political instability at home, a host country set against local integration and an international community unwilling to increase resettlement opportunities. And so refugees wait, and wait—not necessarily for food or shelter, but for things less tangible but every bit as important: legal membership in a community, the opportunity to reconnect with family, the ability to get on with their lives.

* * *

Whatever the causes, the results of PRS are uniformly calamitous. We can mention these schematically, because they need little elaboration. They include the harms of:

¹⁸ UNHCR, *Return figures to Afghanistan down to 60,000 in first 10 months*, 28 October 2011 (noting that a “lack of livelihood opportunities and shelter, as well as insecurity, are the most frequently cited reasons for not returning”), available at: <http://www.unhcr.org/4eaa9d119.html>.

¹⁹ UNHCR, *Resettlement programme for refugees from Bhutan passes 50,000 mark*, 17 August 2011, available at: <http://www.unhcr.org/refworld/docid/4e51f0ee2.html>.

²⁰ UNHCR, *Global Appeal*, at 194-98 (Nepal).

²¹ UNHCR, *Global Appeal*, at 220-21 (Thailand).

²² UNHCR, *Global Appeal*, at 50-51 (Chad).

²³ UNHCR, *Global Appeal*, at 278-79 (Ecuador).

²⁴ UNHCR, *Regional Response Plan Iraqi Refugees 2012*, 24 February 2012, at 8-9, available at: <http://unocha.org/cap/appeals/regional-response-plan-iraqi-refugees-2012>; see also Integrated Regional Information Networks (IRIN), *Analysis: Syria's forgotten refugees*, 23 April 2012, available at: <http://www.unhcr.org/refworld/docid/4f9921ff2.html>.

1. children growing up in refugee camps²⁵
2. inadequate health care, and poor sanitary conditions²⁶
3. lost educational opportunities (resulting, over time, in a huge loss of human potential and capital)²⁷
4. risks to physical safety (including widespread sexual and gender-based violence and female genital cutting)²⁸
5. psychological impacts²⁹
6. the recruitment of child soldiers³⁰
7. tensions and conflict between refugees and host communities³¹
8. security concerns for states of asylum³²

This list—to which additional costs can be added—makes clear that it is time now for the international community to dedicate itself to getting people home. This is hardly a new idea. The UN General Assembly, UNHCR and its Executive Committee have urged and

²⁵ See, e.g. UNHCR, 1 Child Growing Up in a Camp: Girl seeks better future for peers, 27 June, 2011, available at: <http://www.unhcr.org/4e08a2146.html> (describing Sunita, a 16-year-old refugee who was born and raised in the Timai camp, one of five refugee camps in eastern Nepal that hosts nearly 66,000 Bhutanese refugees); see also Barbara Harrell-Bond, *Are Refugee Camps Good for Children?* UNHCR Working Paper No. 29, August 2000, at 5-9, available at: <http://www.unhcr.org/3ae6a0c64.html>.

²⁶ See e.g. Bart de Bruijn, *The Living Conditions and Well-being of Refugees*, United Nations Development Programme Human Development Reports Research Paper 2009/25, July 2009, at 18-37, http://hdr.undp.org/en/reports/global/hdr2009/papers/HDRP_2009_25.pdf; Jeff Crisp, *No solutions in sight: the problem of protracted refugee situations in Africa*, UNHCR Working Paper No. 75, January 2003, available at <http://www.unhcr.org/3e2d66c34.html> [hereinafter Crisp, *No solutions in sight*], at 13-15 (describing material deprivations in camp situations).

²⁷ See, e.g. UNHCR, *Refugee Education: A Global Review*, November 2011, at 48-53, available at <http://www.unhcr.org/4ebd3dd39.html> (noting that one of the urgent challenges for refugee education is the lack of post-primary educational opportunities); Crisp, *No solutions in sight*, at 29 (describing the challenges for children in African refugee camps in late 1990s and early 2000s, particularly the lack of educational opportunities in camps).

²⁸ See, e.g. Amnesty International, *"No place for us here": Violence against refugee women in Eastern Chad*, 30 September 2009, AFR 20/008/2009, available at: <http://www.unhcr.org/refworld/docid/4ac363a52.html>; Integrated Regional Information Networks (IRIN), *Chad: Tackling FGM in refugee camps*, 6 January 2010, available at: <http://www.unhcr.org/refworld/docid/4b45e2eac.html>.

²⁹ See, e.g. Crisp, *No solutions in sight*, at 15-17 (describing psycho-social and gender issues in African camps).

³⁰ See, e.g. Lisa Alfredson, *Child soldiers, displacement and human security*, 3 DISARMAMENT FORUM 17, 21, (2002), available at: www.unidir.org/pdf/articles/pdf-art1728.pdf.

³¹ See, e.g. Crisp, *No solutions in sight*, at 18-19; Jeff Crisp and Amy Slaughter, *A surrogate state? The role of UNHCR in protracted refugee situations*, UNHCR Research Paper No. 168, January 2009, at 10-12, available at: <http://www.unhcr.org/4981cb432.html>; Alexandra Fielden, *Local integration: an under-reported solution to protracted refugee situations*, UNHCR Research Paper No. 158, 30 June 2008, available at: <http://www.unhcr.org/refworld/docid/4c2325670.html> (discussing obstacles and potential benefits of local integration).

³² See, e.g. Gil Loescher & James Milner, *Security implications of protracted refugee situations*, 45:375 *The Adelphi Papers*, 23-34 (2005); Eric Morris and Stephen John Stedman, *Protracted refugee situations, conflict and security: The need for better diagnosis and prescription*, 69-84 in *PROTRACTED REFUGEE SITUATIONS: POLITICAL, HUMAN RIGHTS AND SECURITY IMPLICATIONS* (2008) (Gil Loescher, James Milner, Edward Newman and Gary Troeller, eds.).

supported policies to bring protracted refugee situations to a close.³³ While we can point to some successes (most recently, international cooperation in resolving the long-standing refugee situation that followed the Balkans conflict),³⁴ most other plans and projects remain “in progress” or have been abandoned (e.g., the 2005 still-born Comprehensive Plan of Action for Somali Refugees).³⁵

Making progress on PRSs will require two major changes in strategy. The first, which will be the primary focus of this paper, is finding a rhetoric, *a moral fulcrum*, that moves the international community into action. The second, which will be developed in another paper, requires moving beyond the existing categories of “durable solutions” (voluntary repatriation, resettlement, local integration)—not because they are the wrong goals (they are not) but because they now crowd out more flexible approaches that can help “unlock” PRS.

The moral fulcrum we are suggesting could be conceptualized in two ways. First, it could be argued that refugees have a *right to a solution* that is implicit in the concept of refugee protection—a right that the international community has a duty to recognize and fulfill. The second argument we will examine is that—whether or not a refugee has an individual right to a solution—the international community has a responsibility to work toward ending refugee situations. This approach will be called *the responsibility to solve* (or R2S).

II. A right to solutions?

It might be usual, in the public mind, to think of refugees as persons without rights (first in one’s home country, which a refugee has been forced to flee and then in a country of asylum, where he or she has no permanent status), and refugee camps as “rights-free zones.” But these characterizations are not correct. Indeed, in some ways, refugee status is a preferred status in international law. To see this, compare Syrians who have made it to

³³ See, e.g. UN GA, *Office of the United Nations High Commissioner for Refugees*, A/Res/64/127, 27 January 2010, (“[The General Assembly] Expresses concern about the particular difficulties faced by the millions of refugees in protracted situations, and emphasizes the need to redouble international efforts and cooperation to find practical and comprehensive approaches to resolving their plight and to realize durable solutions for them, consistent with international law and relevant General Assembly resolutions”); UNHCR, *State of The World’s Refugees*, at 105-97 (“The majority of today’s refugees have lived in exile for far too long, restricted to camps or eking out a meagre existence in urban centres throughout the developing world.”); UNHCR, *Protracted Refugee Situations*, UNHCR/DPC/2008/Doc. 02, 20 November 2008 (supporting the implementation of the High Commissioner’s Special Initiative on Protracted Refugee Situations); UNHCR Executive Committee, *Conclusion on Protracted Refugee Situations*, 22 December 2009, No. 109 (LXI) – 2009 (noting the harms of protracted refugee situations and urging further action).

³⁴ See UNHCR, *UNHCR welcomes latest regional effort to end refugee displacement in Balkans*, 8 November 2011, available at: <http://www.unhcr.org/4eb96aca2.html>; UNHCR, *Donors pledge more than 300 million euros to help refugees in Balkans*, 25 April 2012, available at: <http://www.unhcr.org/4f9807ae9.html>.

³⁵ Cf. UNHCR, *Framework Document for the Comprehensive Plan of Action (CPA) for Somali Refugees*, 29 September 2005, available at: <http://www.unhcr.org/refworld/docid/437472902.html>; UNHCR, *Response to the Somali displacement crisis into Ethiopia, Djibouti and Kenya, 2011*, July 2011, available at: <http://www.unhcr.org/4e172ba19.html>.

Turkey or Lebanon or Jordan with those unable to leave their homes and now subject to shelling, shooting and civil disorder. Those who cross borders and are recognized as refugees receive “international protection”—which is more than assistance or physical safety. It is a guarantee of a bundle of rights provided by the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol to the Convention.³⁶ The Convention was specifically drafted to guarantee to refugees—who had no home country to which they could appeal to for such rights—the rights that citizens expect their governments to provide and protect. And of course persons recognized as refugees receive the crucially important right of protection against *refoulement*.³⁷ So the international refugee regime is fundamentally a *rights-based* regime.

But what about a right to a durable solution? A right, if you will, *not to be a refugee*?

It is difficult to find this right in the Convention itself. The Convention focuses on the recognition of refugees and the rights that follow from recognition.³⁸ Thus, while the principle of *non-refoulement* is the bedrock of modern refugee protection, it does not provide the foundation for the “solution” to the “refugee problem.” That *solution* is the cessation of refugee status through the (re)attachment of a person to a political and social community in which one has full status, full membership rights—precisely the very thing that refugees, no matter what rights they are guaranteed by the Convention—lack.

The closest the Convention gets to a right to a solution is in Article 34 (“Naturalization”):

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.³⁹

The Article imposes no binding duty of assimilation or naturalization and regards only one of the “durable solutions.” As UNHCR’s Assistant High Commissioner for Protection Erika Feller has written: “The Convention foreshadows various types of solutions, as refugee status is by definition temporary, but again envisages no special arrangements to ensure they are realizable in a timely and durable manner.”⁴⁰

³⁶ *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137 [hereinafter 1951 Convention]; *Protocol Relating to the Status of Refugees*, 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267. To be sure, these rights are not always fully respected in asylum countries, where refugees may not have freedom of movement, the right to work, or other rights that are guaranteed by the Convention.

³⁷ 1951 Convention, Art. 33.

³⁸ These are the rights that law students primarily learn about—the asylum process and *non-refoulement*. But a case can be made that refugee scholars and refugee courses have over-focused on these Convention rights. It is not that they are unimportant, but simply that they must be viewed as a stop-gap, a set of protections while one holds the status of refugee.

³⁹ 1951 Convention, Art. 34.

⁴⁰ Feller, *Asylum, Migration and Refugee Protection: Realities, Myths and the Promise of Things to Come*, 18 Int. J. Refugee L. 509, 525 (2006). See also Guy S. Goodwin-Gill and Jane McAdam, *THE REFUGEE IN INTERNATIONAL LAW*

If a right to a solution cannot be identified in the Refugee Convention, might it be found elsewhere in human rights law? One could begin such an argument with the claim that membership in a national community is a prerequisite to the effective assertion and protection of human rights.⁴¹ Hannah Arendt, at the dawn of the modern human rights era, wrote eloquently about the necessity of membership in a political society for the fulfillment and enjoyment of human rights: “The calamity of the rightless is not that they are deprived of life, liberty, and the pursuit of happiness, or of equality before the law and freedom of opinion—formulas which were designed to solve problems *within* given communities—but that they no longer belong to any community whatsoever.”⁴²

Of course, the lack of membership in a national community is intrinsic to the concept of refugeehood (hence the need for international protection). Thus the argument would be:

- membership is vital to the effective protection of human rights
- refugees lack membership (by definition)
- therefore, a commitment to human rights necessitates that refugees be provided membership (a right to a solution).⁴³

(2007) at 489 (“A refugee movement necessarily has an international dimension, but neither general international law nor treaty obliges any State to accord durable solutions.”).

⁴¹ One of the reasons behind the creation of the modern refugee regime was to address such a gap in human rights protection. See UN Ad Hoc Committee on Refugees and Stateless Persons, *A Study of Statelessness, United Nations, August 1949, Lake Success - New York*, 1 August 1949, E/1112; E/1112/Add.1, Preamble, available at: <http://www.unhcr.org/refworld/docid/3ae68c2d0.html> (“the fact of not having a nationality or not enjoying in practice the protection of a State places stateless persons, de jure or de facto, in a position of inferiority incompatible with the respect of human rights.”). This gap existed despite the fact that even prior to the 1951 Convention there were an array of treaties granting rights to refugees, albeit in a patchwork manner. See *id.*, Annex I (explaining existing protections). This is not to suggest that refugees and refugee communities are not able to actively achieve and protect some of their human rights—see, e.g., UNHCR, *Refugee-run school gives children a chance at education in Malaysia*, 7 January 2010, available at: <http://www.unhcr.org/4b45dcc29.html>; Integrated Regional Information Networks (IRIN), *Jordan: Civil society at heart of Syrian refugee response*, 11 April 2012, available at: <http://www.unhcr.org/refworld/docid/4f965ff72.html>—it is only to begin with the assumption that individuals must be members of a national community in order to assure the effective long-term protection of the full range of human rights under the international legal system.

⁴² THE ORIGINS OF TOTALITARIANISM (1951) at 295. She elaborates: “The conception of human rights... broke down at the very moment when those who professed to believe in it were for the first time confronted with people who had indeed lost all other qualities and specific relationships—except that they were still human. The world found nothing sacred in the abstract nakedness of being human.” *Id.* at 299. See also Gervase Coles, *The Human Rights Approach to the Solution of the Refugee Problem: A Theoretical and Practical Enquiry*, in HUMAN RIGHTS AND THE PROTECTION OF REFUGEES UNDER INTERNATIONAL LAW, Alan E. Nash, ed.(1988) at 205 (“The possession of a national community is important to an individual because of the social nature of the human being and because of the indispensable role of such a community in human well-being, development and security.”). The United States Supreme Court has also described the right of citizenship as “the right to have rights.” *Trop v. Dulles*, 356 U.S. 86, 101-02 (1958) (Warren, C.J.).

⁴³ Cf. UN GA, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), Art. 15.1 [hereinafter UDHR] (“Everyone has the right to a nationality.”). The right to a nationality may be seen as based on a similar recognition of the importance of political membership.

But a right not to be a refugee can only be secured if there is a corresponding duty on some country, some political association, to take a refugee in and make them a member. As just noted, such a right cannot be found in the Convention. Indeed, the regime refugee is notorious for not even including an express right to (physical) entry of a state—that is, persons granted refugee status have a right not to be returned to persecution but apparently no right to enter a state in order to make a claim that would make the right to *non-refoulement* enforceable.⁴⁴ If the claim to physical entry is deemed controversial, then it would be difficult to sustain the claim that states have assumed an obligation to grant “political” entry. (This is not to assert that states are not bound to respect the human rights of all persons, irrespective of status; rather it is to say that it is not easy to establish “a right to a solution” predicated upon the claim of a right to political membership.⁴⁵)

But perhaps we can take this argument one step further and say that at least for the class of persons recognized as refugees, the freedom of states to grant or withhold political membership should yield to the necessities of protecting human rights. To see this, contrast the situation of migrants and refugees. In holding that states have autonomy regarding physical entry and citizenship vis-à-vis migrants, the result is (usually) that the migrant can return to his or her home state and assert membership rights there. But this does not hold for refugees, who have, by definition, no home country in which they may safely claim the rights that normally accompany membership. So perhaps, in this special case, the privilege of a state to determine membership rules should yield and refugees should be provided an opportunity for membership (at least after some significant period of time).

We think this is not an implausible line of argument—indeed, it is consistent with the “soft” language of Article 34 of the Convention. But a “hard” right, assertable today, cannot be found in any legal instrument nor is it widely respected by state practice.⁴⁶ And, somewhat paradoxically, it is possible that recognition of such a right could in practice

⁴⁴ UNHCR takes the position that the right of *non-refoulement* applies extraterritorially to all persons within the control and authority of a signatory state. UNHCR, *Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol*, 26 January 2007, available at: <http://www.unhcr.org/refworld/docid/45f17a1a4.html>. The Universal Declaration of Human Rights (UDHR) includes a right to “seek and to enjoy” asylum, UDHR, Art. 14(1), but the Declaration does not purport to be binding international law. See Mary Ann Glendon, *The Rule of Law in The Universal Declaration of Human Rights*, 2 Nw. U. J. Int'l Hum. Rts. 5 (2004). There is an argument that aspects of the UDHR now have the status of customary international law, *id.* n.11, but state practice argues against the claim that the right to seek asylum now encompasses a right to enter a country to apply for asylum.

⁴⁵ In this way there is an interesting parallel between the weakness of claims to physical entry and political membership. States are bound to respect the *non-refoulement* principle but not bound to permit entry that would make assertion of the principle secure; likewise, states are bound to respect human rights of all persons but not bound to grant membership which would permit the better securing of such rights.

⁴⁶ The US policy of routinely granting “green cards” to refugees and persons granted asylum comes close (In fact, US law has been interpreted to *require* refugees, though not asylum seekers, to apply for a “green card” after a year. See 8 U.S.C. 1159(a).). Refugees in Austria, Germany, Hungary, and Spain possess a legal entitlement to naturalization after a period of legal and uninterrupted residence ranging from three to six years. Sara Wallace Goodman, *Naturalisation Policies in Europe: Exploring Patterns of Inclusion and Exclusion*, (November 2010) at 62-64. However, refugees still have to fulfill various legal requirements including language and citizenship tests. *Id.*

work to undermine refugee protection: if states were found to have a duty to admit recognized refugees to full membership, they might well close their borders or establish a form of “subsidiary relief” short of refugee status by which they could avoid the obligation.

III. The Responsibility to Solve

So we conclude that it will be difficult to sustain the argument that there is a “right to a solution” that refugees can assert or that the international community, at this time, would be willing to recognize. But perhaps there is another way to provide the moral fulcrum that would be important to the resolution of protracted refugee situations—one that focusses on the *responsibility* of the international community, rather than a *right* of a refugee.⁴⁷

We will present three kinds of arguments in support of R2S. The first flows from the human harms imposed on those left in the limbo of refugee status for an extended period of time; the second focusses on principles that underlie the international refugee regime (the goal of a solution, and burden-sharing); and the third derives from specific commitments of members of the UN General Assembly and signatories to the Convention to cooperate with UNHCR in seeking solutions. And finally we will suggest pragmatic considerations that may make states open to recognizing R2S.

1. *Responsibility to promote human security and human rights*

We have identified above the obvious dramatic negative impacts of long-term refugeehood.⁴⁸ Some are quite specific: refugees in many parts of the world are unable to fully enjoy rights guaranteed by the Convention, either because the host country is not a signatory or because, even if a signatory, the state does not fully comply with the Convention’s norms. Thus, refugees frequently are not permitted freedom of movement, a right to work, and other civil, economic and social opportunities on a par with those provided to non-citizens or citizens in the host country as mandated by the Convention. Refugees living outside of camps in urban areas often face discrimination and marginalized existences. And refugees in camps rarely are afforded treatment that accords with international standards on health, water, nutrition and sanitation;⁴⁹ sexual and gender

⁴⁷ There is an obvious echo here of the Responsibility to Protect (R2P), which itself was a shift from the “right of humanitarian intervention” in cases of mass atrocities. See Int’l Comm’n on Intervention & State Sovereignty (ICISS), *THE RESPONSIBILITY TO PROTECT* 1-3 (2001), available at:

<http://www.responsibilitytoprotect.org/ICISS%20Report.pdf>. The right of humanitarian intervention and R2P both start with recognition of the fundamentality of human rights and limits on sovereignty in cases of massive abuse of human rights. *Id.* at 12-16. But R2P is thought preferable because it foregrounds the responsibility of states to respect human rights while at the same time refashioning the role of international community when states are unwilling or unable to do so. *Id.* at 17. The proffered R2S differs from R2P in important respects: the former does not override national sovereignty or propose coercive action; rather it represents a collective act of sovereignty, so there is no doubt about the legitimacy of concerted action.

⁴⁸ See *supra* text accompanying notes 25 to 32.

⁴⁹ See *supra* note 26.

based violence is widespread (including FGM);⁵⁰ furthermore, education, skills training and livelihoods are usually significantly constrained.⁵¹ UNHCR estimates that in some camps only about half of all primary school-aged refugee children attend school; a far lower percentage of refugee children attend secondary schools.⁵² Refugee camps have become largely places of “care and maintenance,” with refugees receiving enough to survive but surely not enough to thrive.

That refugees would score low on a “human security”⁵³ scale is lamentable but should not be entirely surprising. First, the communities in which refugee camps are placed are themselves frequently places of substantial hardship; indeed, it is often noted that conditions inside a refugee camp may be better than those for the local community outside the camp—hence, efforts are regularly made to open in-camp resources, such as schools and medical facilities, to the local community.⁵⁴ Second, the assistance that UNHCR and other international and local NGOs can provide to refugees depends on the funds they receive from donors. For the past several years, UNHCR has conducted a global needs assessment for all refugees and other persons of concern to UNHCR and has calculated the funding it would need to provide them with levels of assistance and services consistent with minimum international standards. In 2011, UNHCR calculated that amount at around \$ 3.5 billion; yet the funds made available to UNHCR were more than \$1 billion short of that amount.⁵⁵ Accordingly, it is a certainty that UNHCR and allied organizations will not be able to fully provide refugees with levels of assistance that would meet minimum levels of human security.

⁵⁰ See *supra* note 28.

⁵¹ See *supra* note 27.

⁵² See, e.g., UNHCR, *Refugee Education: A Global Review*, November 2011, at 26-27, available at <http://www.unhcr.org/4ebd3dd39.html> (noting a Gross Enrollment Ratio (GER) of 56 percent for primary-age children in Dadaab and 21 percent at the secondary level; the average primary school GER for refugees of 6 to 11 year-olds was 76 percent, in comparison with a global GER of 90 percent for the primary school in the same age-group).

⁵³ The “human security” concept aims to shift debates on security from a state-centered focus on “state security” to an understanding of security that includes individuals’ “freedom from fear and freedom from want.” UN GA, *2005 World Summit Outcome: resolution / adopted by the General Assembly*, 24 October 2005, A/RES/60/1, ¶143 [hereinafter UNGA, *2005 World Summit Outcome*]. Its current iteration derives from a 1994 UN Development Programme report and encompasses seven security components: economic, food, health, environmental, personal, community and political security. UN Development Programme, *Human Development Report 1994: New Dimensions of Human Security*, at 22 (1994) [hereinafter UNDP Report 1994], available at <http://hdr.undp.org/en/reports/global/hdr1994/>. Additionally, the Commission on Human Security has recognized the importance of national membership to an individual’s human security: “Having a nationality and being recognized a citizen of a country is a key element of human security” Commission on Human Security, *Human Security Now*, 2003, at 31, available at: <http://reliefweb.int/node/21617>. As Alice Edwards notes, the human security concept has the potential to contribute to refugee protection debates by focusing policymakers on the link between human harms and global security and the need for a multilateral solution. Alice Edwards, *Human Security and the Rights of Refugees: Transcending Territorial and Disciplinary Borders*, 30 Mich. J. Int’l L. 763, 802-05 (2009).

⁵⁴ See, e.g., UNHCR, *Refugee infrastructure benefits local population in east Sudan*, 6 October 2004, at 31, available at: <http://www.unhcr.org/4163ad5e4.html>.

⁵⁵ UNHCR, *UNHCR Global Appeal 2011 Update*, 1 December 2010, at 70-72 (Identifying Needs and Funding Requirements), available at <http://www.unhcr.org/4cd919b19.html> [hereinafter UNHCR, *Global Appeal 2011 Update*].

It would of course be unrealistic to assume that the international community could meet all necessary standards during or shortly after a humanitarian emergency. But the question we are dealing with here concerns *protracted* refugee situations; so we talking about persons who for extended periods of time—possibly their whole lives—have been living in a state of significant deprivation. These cumulative harms cry out for amelioration, as is true for the poor and underprivileged everywhere. But for refugees, the need is even greater, because refugees live lives largely bereft of the kinds of community and human relationships recognized as necessary for human flourishing: family unification, community self-definition and development, self-reliance and self-determination, political participation, effective protection against violence.

These kinds of serious deprivations, which stunt human capabilities and social and economic development, figure high on the international policy agenda. Conferences, declarations, and pages and pages of reports all pledge international action in support of human security⁵⁶ and achievement of the Millennium Development Goals.⁵⁷

These commitments and processes are the most recent concrete manifestations of the more general, hortatory provisions of the UN Charter that affirm the duty of states to cooperate toward universal observance of human rights and solutions to international economic and social problems. Thus Article 56 commits member states to take “joint and several action” to achieve the goals declared in Article 55, namely:

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote: a. higher standards of living, full employment, and conditions of economic and social progress and development; b. *solutions of international economic, social, health, and related problems*; and international cultural and educational cooperation; and c. *universal respect for, and*

⁵⁶ See, e.g., UN GA, *2005 World Summit Outcome*, ¶143 (“We recognize that all individuals, in particular vulnerable people, are entitled to freedom from fear and freedom from want, with an equal opportunity to enjoy all their rights and fully develop their human potential.”); UN GA, *Human Security: Report of Secretary-General*, 8 March 2010, A/64/701, ¶14 (“The broad understanding of human security, as contained in paragraph 143 of the World Summit Outcome and further defined in the present report, is at the centre of the work of the United Nations.”); Commission on Human Security, *Human Security Now*, 2003, available at: <http://reliefweb.int/node/21617>.

⁵⁷ See, e.g., UN GA, *United Nations Millennium Declaration, Resolution Adopted by the General Assembly*, 18 September 2000, A/RES/55/2 (affirming the Millennium Development Goals (MDGs) and affirming that “We recognize that, in addition to our separate responsibilities to our individual societies, we have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level”); UN GA, *World Summit on Sustainable Development: Resolution adopted by the General Assembly*, 21 February 2003, A/RES/57/253 (reaffirming the MDGs after the Johannesburg World Summit); UN GA, *Keeping the promise: a forward-looking review to promote an agreed action agenda to achieve the Millennium Development Goals by 2015: Report of the Secretary-General*, 12 February 2010, A/64/665 (summarizing commitments, progress towards commitments, and plans for achieving MDGs in 2015).

*observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.*⁵⁸

Moreover, many of the harms addressed by the MDGs and human security involve the rights to food, education, health, work and adequate living standards that are enshrined in the International Covenant of Economic, Social, and Cultural Rights (ICESCR).⁵⁹ Similar to the Charter, the ICESCR commits states to progressively realize these rights not only through individual steps, but also “through international assistance and co-operation, especially economic and technical, to the maximum of its available resources.”⁶⁰ The Charter, ICESCR and the MDGs have not established specific, enforceable commitments to provide international assistance toward the goals of human and social development. But surely they are strong statements about the responsibility of states to pursue collective action towards these goals, both for the sake of human beings and in the self-interested pursuit of global peace and prosperity. And these stakes seem particularly high in the case of protracted refugee situations.

2. Principles of the international refugee regime that support a Responsibility to Solve

Let us begin with recognition that an international refugee regime exists, constituted by overlapping and interrelated instruments, norms, processes and practices—including the Statute of UNHCR, the Refugee Convention and Protocol (with 149 signatories to one or both), General Assembly resolutions, Conclusions of the Executive Committee on UNHCR’s Programme, regional instruments, domestic laws, international judicial decisions, regional “processes,” soft law principles, and state practice.

⁵⁸ *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, Arts. 55, 56 (emphasis added). The General Assembly endorsed the responsibility to cooperate among states in a 1970 General Assembly Declaration: “States have the duty to cooperate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of nations and international cooperation free from discrimination based on such differences.” *Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations*, UN GA Res. 2625(XXV), 24 Oct. 1970, Annex, Principle (d): The duty of States to cooperate with one another in accordance with the Charter. See also Blaine Sloan, *The United Nations Charter as a Constitution*, 1 Pace Y.B. Int’l L. 61, 123 (1989) (noting that it “now seems clearly established that there are legal obligations in Article 56”).

⁵⁹ *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, arts. 6, 11, 12, 13, 14, [hereinafter ICESCR]; see also Philip Alston, *A Human Rights Perspective on the Millennium Development Goals* 27, Millennium Project Task Force on Poverty and Economic Development (2004), available at <http://www2.ohchr.org/english/issues/millennium-development/resources.htm>.

⁶⁰ ICESCR, art. 2.1. Over the last two decades, the Committee on Economic, Social and Cultural Rights has stressed the mandatory nature of the obligations to assist and cooperate. See, e.g., UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 3: The Nature of States Parties’ Obligations (Art. 2, Para. 1, of the Covenant)*, 14 December 1990, E/1991/23, at 14. Notwithstanding those generic commitments, there is no evidence in practice suggesting that a state could have a specific, callable obligation of assistance. See Alston, *supra* note 59 at 46-47.

At the core of the legal infrastructure of the regime is (1) the Convention's definition of a refugee, (2) norms of protection (*non-refoulement* and rights that accompany asylum-seeker and refugee status), and (3) the search for solutions (as part of the mandate of the Office of the High Commissioner established by UNHCR's statute). The international policy community, refugee lawyers and refugee law scholars primarily address the first two elements, a focus that misses the important *teleology* implicit in the international refugee regime.⁶¹ That process can be summarized as *flight* (crossing an international border), *non-refoulement*, *assistance*, and *solution*. And this conceptualization flows from the very nature of the refugee problem: it is not simply the danger of being persecuted if returned; it is also fundamentally the fact of having been forced from one's home. Thus the solution to the refugee problem must be one of the durable solutions that re-attach a refugee to a community. To say this another way, *non-refoulement*—in fact, the idea of international protection—is merely a way-station to the ultimate purpose and goal of the regime: solutions. Gervase Coles has stated the idea this way: "In the refugee situation, international protection should be seen as a temporary holding arrangement between the departure and return to the original community or as a bridge between one community and another."⁶² (We might see this better by analogizing to the situation of women who are victims of domestic abuse. For them, the security supplied by a "safe house" is often crucial, but it is not the solution to problem, which demands that women be able to resume normal lives in dignity and safety.)

The centrality of solutions to the international regime is made clear in the first paragraph of UNHCR's founding Statute. It states that the High Commissioner "shall assume the function of providing international protection [to refugees] *and of seeking permanent solutions* for the problem of refugees by assisting Governments and, subject to the approval of the Governments concerned, private organizations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities."⁶³ This emphasis is affirmed in repeated resolutions of the General Assembly⁶⁴ and conclusions of UNHCR's Executive Committee.⁶⁵

⁶¹ This is not to suggest that a focus on Convention rights may not link to a solutions strategy. Securing the rights protected by the Convention can prepare refugees for sustainable return, resettlement or local integration and can also ensure the voluntariness of refugees in solution plans.

⁶² Coles, *supra* note 42 at 209. Similarly, Guy Goodwin-Gill defines refugee protection as "the use of legal tools to secure the rights, the security and the welfare of refugees," and states that the objective "beyond the immediate needs of refugees, is solutions, either the voluntary return of refugees to their country in conditions of security; or assimilation in a new national community." Guy S. Goodwin-Gill, *UNHCR's Duty to Provide International Protection*, January 1987, at 13. Thus he concludes that there exists a "symbiosis of protection and assistance and protection and solutions." *Id.* at 17.

⁶³ UN GA, *Statute of the Office of the United Nations High Commissioner for Refugees*, 14 December 1950, A/RES/428(V), Annex, I.1 [hereinafter UNHCR Statute]. The link between protection and solutions is found in General Assembly resolutions concerning the preceding international refugee organization. The first General Assembly resolution addressing refugees stated that a new international refugee body must consider solutions for refugees in addition to protecting them from *non-refoulement*. UN GA, *Question on Refugees*, 12 February 1946, A/RES/8, (c)(ii) ("The future of such refugees or displaced persons shall become the concern of whatever international body may be recognized or established...."). Shortly thereafter, the General Assembly created the International Refugee Organization (IRO), whose constitution required that it assist refugees in finding solutions. UN GA, *Refugees and Displaced Persons*, 15 December 1946, A/RES/62, Annex,

A second principle of the international refugee regime that supports R2S is the concept of *international burden-sharing*. UNHCR's Executive Committee has made this linkage explicit in a Conclusion dealing specifically with protracted refugee situations:

[T]he status quo is not an acceptable option and, while every situation is unique, all feasible and practical efforts should be taken to unlock all continuing protracted situations especially through the implementation of durable solutions in the spirit of international solidarity and burden sharing.⁶⁶

The teleological argument finds its source in regime responsibilities that the international community owes to particular refugees; the argument based on burden-sharing is derived from obligations that states owe to one another in establishing and maintaining the regime.

The idea of burden-sharing might be constructed from notions of fairness—that is, justice would argue for no one state to be disproportionately affected by refugee flows because it is likely that the burdened state was not the cause of the flow and it is burdened simply because of propinquity. But in the context of the international refugee regime, burden-sharing means more than this; it is in fact a *sine qua non* of a well-functioning

Preamble (“genuine refugees and displaced persons should be assisted by international action, either to return to their countries of nationality or former habitual residence, or to find new homes elsewhere”).

⁶⁴ Since adopting UNHCR's Statute, the General Assembly has continued, from the 1950s through until today, to reiterate the urgency and importance of UNHCR's mandate to provide solutions. *See, e.g.*, UN GA, *International assistance to refugees within the mandate of the United Nations High Commissioner for Refugees*, 21 October 1954, A/RES/832 (finding that UNHCR must “in accordance with his Statute, to undertake a programme designed to achieve permanent solutions”); UN GA, *International assistance to refugees within the mandate of the United Nations High Commissioner for Refugees*, 26 November 1957, A/RES/1166 (requesting the UNHCR “to intensify the United Nations Refugee Fund programme to the fullest extent possible in order to achieve permanent solutions....” and reaffirming “the basic principle laid down in paragraph 1 of the Statute of the High Commissioner's Office regarding forms of permanent solution of the problems of refugees....”). *Cf.* UN GA, *2005 World Summit Outcome*, ¶133 (“We commit ourselves to safeguarding the principle of refugee protection and to upholding our responsibility in resolving the plight of refugees, including through the support of efforts aimed at ... finding durable solutions for refugees in protracted situations”); UN GA, *Office of the United Nations High Commissioner for Refugees : resolution / adopted by the General Assembly*, 28 February 2011, A/RES/65/194, ¶20 (explaining that “international protection of refugees is a dynamic and action-oriented function that is at the core of the mandate of the Office of the High Commissioner and that it includes... the ensuring of durable, protection-oriented solutions”).

⁶⁵ UNHCR Executive Committee Conclusions 22, 29, 33, 41, 89, 95 all reiterate the importance of durable solutions. UNHCR Executive Committee, *General Conclusion on International Protection*, 20 October 1983, No. 29 (XXXIV) - 1983, (l) (noting the “essential need” for durable solutions); UNHCR Executive Committee, *Protection of Asylum-Seekers in Situations of Large-Scale Influx*, 21 October 1981, No. 22 (XXXII) - 1981, I.2; UNHCR Executive Committee, *General Conclusion on International Protection*, 18 October 1984, No. 33 (XXXV) - 1984, (k); UNHCR Executive Committee, *General Conclusion on International Protection*, 13 October 1986, No. 41 (XXXVII) - 1986; UNHCR Executive Committee, *Conclusion on International Protection*, 13 October 2000, No. 89 (LI) - 2000; UNHCR, *General Conclusion on International Protection*, 10 October 2003, No. 95 (LIV) - 2003, (i)-(j), (p)-(s).

⁶⁶ UNHCR Executive Committee, *Conclusion on protracted refugee situations*, 22 December 2009, No. 109 (LXI) - 2009.

system because effective protection of refugees demands collective action. Were one state to accept and support refugees and none other, it would be overwhelmed and would ultimately cease to provide protection and assistance. Erika Feller has said this eloquently: “Refugee protection is global concern and a common trust. This means that responsibility for it is shared, not individual. It also means that, unless this is shouldered widely, it may be borne by none.”⁶⁷ It is thus not surprising to find reference to the necessity of burden-sharing in the Refugee Convention’s Preamble:

Considering 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.⁶⁸

Burden-sharing, in today’s world, is primarily rendered in fiscal terms. The vast majority of refugees receive asylum in countries in the developing world,⁶⁹ and the monetary costs for their protection and assistance are largely (but not exclusively⁷⁰) borne by developed states.⁷¹ To be sure, without this financial support, the system could not function. But in important respects the burdens are not equal. A 1998 UNHCR paper on burden-sharing noted:

There is increasing recognition of the extent to which large refugee and returnee populations may impede or jeopardize the development efforts of developing countries. Some of the largest refugee and returnee concentrations are to be found in countries which already suffer from weak economies and poor infrastructure, as well as widespread and chronic poverty. National and regional authorities in these countries are often compelled to divert considerable resources and manpower to deal with issues relating to these populations, detracting from the pressing demands of their own development.⁷²

⁶⁷ UNHCR, *Sixty-first Session of the Executive Committee of the High Commissioner's Programme, Agenda item 5(a): Statement by Ms. Erika Feller Assistant High Commissioner - Protection: Rule of Law 60 Years On*, 6 October 2010, available at: <http://www.unhcr.org/4cac7f2f9.pdf>.

⁶⁸ 1951 Convention, Preamble. UNHCR’s Executive Committee has also highlighted the importance of burden-sharing. See UNHCR Executive Committee, *Conclusion on International Protection*, 9 October 1998, No. 85 (XLIX) – 1998, (d). (“Reiterat[ing] that refugee protection is primarily the responsibility of States and that it is best achieved through effective cooperation between all States and UNHCR, as well as other international organizations and pertinent actors, in a spirit of international solidarity and burden-sharing.”).

⁶⁹ UNHCR, *Global Trends 2010*, at 2 (finding that 80 percent of world’s refugees are hosted in developing countries).

⁷⁰ Asylum countries bear costs related to infrastructure, security, land, legal systems, and other needs. UNHCR has recently engaged academic institutions to provide a methodology for estimating the costs borne by asylum countries.

⁷¹ Nineteen developed states and the European Commission contributed approximately 90 percent of the funds raised by UNHCR in recent years. States also contribute to NGOs that aid refugees. UNHCR, *UNHCR Global Appeal 2011 Update*, at 70-72.

⁷² UNHCR, *Annual Theme: International Solidarity and Burden-Sharing in all its Aspects: National, Regional and International Responsibilities for Refugees*, 7 September 1998, A/AC.96/904, 2-3, available at: <http://www.unhcr.org/refworld/docid/4a54bc2f0.html>.

The report identified a number of significant impacts on hosting states, including

(1) *economic* impact: (substantial demands on food, energy, transportation, employment and public services such as education, health and water facilities; administering asylum procedures)

(2) *environmental* impact: (unexpected and massive demand for scarce natural resources such as land, fuel, water, food and shelter materials, with long-term implications for their sustainable regeneration)

(3) *social and political* impact: (particularly where refugees or returnees are from different cultural, ethnic, religious or linguistic groups from the local population)

(4) impact on national, regional and international *peace and security*: (problems of politicization and militarization of refugee camps; placing of substantial demands on the police and armed forces of countries of asylum (Kenya/Dadaab)⁷³)

Burden-sharing may be most apparent in emergencies in which the international community mobilizes resources that assist host countries in dealing with sudden and large influxes of forced migrants.⁷⁴ But over time—and particularly when refugee situations become protracted—outside resources are often reduced as the world focusses on other crises, and the burdens (financial, environmental, social) escalate in countries of asylum.

Sometimes host states may act unilaterally to end PRS, by invoking the cessation clause of the Convention or simply forcing refugees back over the border.⁷⁵ But in the typical PRS, assistance goes on at a sub-standard level while countries of asylum request—but do not receive—additional financial support. Taking steps to *solve* the refugee situation would best meet the commitment to burden-sharing, and it is appropriate to see such measures as a responsibility that all states in the regime owe to hosting states.

3. *Specific commitments of member states to cooperate for solutions*

The General Assembly resolution that establishes UNHCR makes a specific call upon states to cooperate with the High Commissioner in the pursuit of solutions.⁷⁶ The duty to

⁷³ *Id* at 3.

⁷⁴ See UNHCR Executive Committee, *Protection of Asylum-Seekers in Situations of Large-Scale Influx*, 21 October 1981, No. 22 (XXXII) - 1981, I.2 (concluding in mandatory language that “States shall, within the framework of international solidarity and burden-sharing, take all necessary measures to assist, at their request, States which have admitted asylum seekers in large-scale influx situations.”).

⁷⁵ See, e.g. UNHCR, *2012 Regional Operations Profile - Central Africa and the Great Lakes*, <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e45c4d6> [accessed 5 May 2012] (noting that Gabon unilaterally invoked the cessation of refugee status for refugees from the Congo in 2010).

⁷⁶ The resolution reads:

cooperate is affirmed in Article 35 of the Convention: “The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees . . . in the exercise of its functions . . .”⁷⁷ And as seeking solutions is explicitly one of UNHCR’s functions, states are accordingly specifically committed to assisting the High Commissioner’s work in this regard.

This straightforward legal argument has potentially profound implications. But the legally binding commitment of states cannot be enforced nor is it robustly monitored. UNHCR actively seeks to increase the number of resettlement slots each year; and while the number of states taking refugees for resettlement has increased,⁷⁸ the total number resettled each year is just a very small fraction of the overall number of refugees worldwide.⁷⁹ Similarly, in recent years refugee returns have declined and efforts at local integration have largely stalled.⁸⁰ Under both the Statute and the Convention, UNHCR is

[The General Assembly] [c]alls upon Governments to co-operate with the United Nations High Commissioner for Refugees in the performance of his functions concerning refugees falling under the competence of his Office, especially by

...

- (d) Assisting the High Commissioner in his efforts to promote the voluntary repatriation of refugees
- (e) Promoting the assimilation of refugees, especially by facilitating their naturalization;
- (f) Providing refugees with travel and other documents such as would normally be provided to other aliens by their national authorities, especially documents which would facilitate their resettlement;
- (g) Permitting refugees to transfer their assets and especially those necessary for their resettlement;

UN GA, *Statute of the Office of the United Nations High Commissioner for Refugees*, 14 December 1950, A/RES/428(V), 2.

⁷⁷ 1951 Convention, Art 35. *See also id.* at Preamble (“Noting that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner.”).

⁷⁸ Currently twenty-five countries regularly offer resettlement places, including two beginning in 2012: Argentina, Australia, Brazil, Bulgaria (implementation as of 2012 onwards), Chile, Czech Republic, Denmark, Finland, France, Hungary (implementation as of 2012 onwards), Iceland, Ireland, Japan (pilot programme), Netherlands, New Zealand, Norway, Paraguay, Portugal, Romania, Spain, Sweden, Uruguay, United Kingdom, and United States of America. UNHCR, *Projected Global Resettlement Needs 2012*, 4 July 2011, at 5, available at: <http://www.unhcr.org/4f0fff0d9.html>.

⁷⁹ In 2010, 98,800 refugees were resettled to 22 countries—less than one percent of the 10.55 million refugees worldwide, and only a small fraction of the 7.2 million refugees in protracted situations. *UNHCR Global Trends 2010*, at 2-3.

⁸⁰ *See id.* at 5 (noting that refugee returns have continuously decreased since 2004 and overall refugee numbers remain high). However, there have been some successes, including programs Tanzania and Sierra Leone, *see* UNHCR, *The Benefits of Belonging: Local integration options and opportunities for host countries, communities and refugees*, 29 July 2011, available at: <http://www.unhcr.org/refworld/docid/4e56170b2.html> [hereinafter UNHCR, *Benefits of Belonging*] at 6 (noting that “[m]ore than 100 refugee-hosting countries around the world, from Argentina to Sierra Leone, offer at least some of their refugee populations local integration as a durable solution”), and other new plans are underway. *See* UNHCR, *Global Appeal*, at 66 (discussing Transitional Solutions Initiatives in eastern Sudan and Colombia).

given authority to supervise state compliance with their commitments.⁸¹ It may now be time to exercise that authority in a more active manner to call attention to state responsibility to assist in finding solutions.⁸²

* * *

It might be argued that asserting a Responsibility to Solve will be unsuccessful or even perhaps counter-productive. The argument would be based on the recognition that many members of the international community already think they are doing enough, if not too much, to help refugees and that they are unlikely to assume any additional responsibilities. Thus host states can properly say that they have kept their borders open, provided safety, and borne substantial burdens; they can further note that refugees often receive more assistance than members of the local community, and that if they have any additional responsibility it would be to their own citizens first. Donor states are likely to assert that they have provided and continue to provide millions of dollars in assistance each year, and that nothing in the Convention or other norms of the regime requires them to take refugees in if they can be safely provided for in countries of asylum. They would further argue that the primary solution for refugee situations is return, so it makes sense to provide assistance to them close to home.

These are frequently heard arguments, and we think they can be made in good faith. But we also think one can analyze PRS from another perspective and see that there can be “interest convergence” for hosting and donor states in working towards solutions.⁸³ For donor states, solutions should ultimately mean a decrease in funding needs (even if solution strategies require a short term infusion of extra funds). Plainly host states benefit from solutions under which refugees return home or are resettled. But well-crafted plans

⁸¹ UNHCR Statute, Art. 8(a) (“The High Commissioner shall provide for the protection of refugees falling under the competence of his Office by ... [p]romoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto”); 1951 Convention, Preamble (“noting that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner”); *id.* Art. 35(1) (The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.”). *See also* Volker Turk, *UNHCR’s supervisory responsibility*, UNHCR Working Paper No. 67, October 2002, at 20, available at: <http://www.unhcr.org/3dae74b74.html> (analyzing UNHCR’s supervisory role and arguing that it “needs to be consolidated and strengthened”).

⁸² While we stress in our argument the responsibility of the international community to solve protracted refugee situations, we should make explicit that the sharing of responsibilities should also include the country of origin. Nations have a duty to accept the return of their nationals, see Art. 13, UDHR, and frequently the most “durable” solution is repatriation and reintegration.

⁸³ On the issue of interest-convergence in refugee law, see James C. Hathaway & R. Alexander Neve, *Making International Refugee Law Relevant Again: A Proposal for Collectivized and Solution-Oriented Protection*, 10 Harv. Hum. Rts. J. 115, 119-20, 143 (1997) (describing the disappearance of Cold War interest-convergence and arguing that there is an “untapped interest-convergence” that can be channeled through responsibility-sharing within associations of states).

for local integration would also benefit countries of asylum, if aid is directed at developing and rehabilitating areas that have hosted refugees.⁸⁴

Another argument against a focus on solutions is provided by James Hathaway, a leading scholar on refugee law. Professor Hathaway has suggested that an emphasis on solutions “pathologizes” refugees and may be used to undercut enforcement of rights under the Refugee Convention:

Th[e] very simple notion—that the recognition and honoring of refugee rights is itself a fully respectable, indeed often quite a desirable response to involuntary migration—can too easily be eclipsed by the rush to locate and implement so-called durable solutions . . . Rather than propelling refugees towards some means of ending their stay abroad, the Refugee Convention emphasizes instead the right of refugees to take the time they need to decide when and if they wish to pursue a durable solution.⁸⁵

We agree with Hathaway on the importance of preserving and fostering support for rights protected by the Convention, and we appreciate that effective realization of Convention rights may enhance the opportunities for and durability of solutions. We are also well aware of examples of refugees being forcibly returned in violation of Convention rights. But refugees trapped in protracted situations—some of which have lasted their entire lives—are not likely to need additional time to decide if they wish to pursue durable solutions. Thus we caution against arguments that appear to privilege Convention rights over the search for solutions.

IV. The path to solutions

We believe that recognition of a Responsibility to Solve would provide an impulse for renewed attention to solutions, which could lead to enhanced funding for returns and local integration as well as more resettlement opportunities. It would also remind us that the principle of *non-refoulement*—while at the core of refugee protection—is not the ultimate goal of the international refugee regime. That is, the responsibility of the

⁸⁴ One example of such a plan is the Refugee-Affected and Hosting Areas (RAHA) Programme, an initiative between UN agencies and the Pakistani government to provide development assistance to areas in Pakistan that have hosted millions of Afghan refugees over the last thirty years. Joint UN Programme on Disaster Risk Management, *Joint Programme Component 2: Refugee-Affected and Hosting Areas Programme*, May 2009, 4-5, available at: http://www.undg.org/docs/10249/DRM-JPC-2---RAHA_7May09.pdf; see also UNHCR, *Pakistan helping communities that have hosted Afghan refugees*, 24 August 2011, available at: <http://www.unhcr.org/4e5508b16.html>. See also UNHCR, *Benefits of Belonging*, at 12-13 (noting “a range of initiatives including livelihood support, housing, land and community development projects” that simultaneously support local integration and help develop host communities in Tanzania).

⁸⁵ James C. Hathaway, *Refugee Solutions, or Solutions to Refugeehood?* 24 *Refuge* 3, 4 (2006); see also James C. Hathaway, *Forced Migration Studies: Could We Agree Just to ‘Date’?* 20 *J. Refugee Stud.* 349, 363-65 (2007) (arguing that “as we join in the call to ‘find solutions’, we impliedly acquiesce in official efforts to ‘de-refugee’ the refugee population, and to turn them into little more than persons to be managed”).

international community to refugees is not simply to support camps or other arrangements that provide assistance to refugees; it is to in fact end the condition of being a refugee.

The important issue that remains is how that impulse might be channeled and amplified to make serious progress on PRS. For, as has been repeatedly mentioned, PRSs exist not because there is no interest in solving them but because they are quite difficult to solve.⁸⁶

In the past, UNHCR has sought to rely upon so-called Comprehensive Plans of Action to resolve PRS. CPAs are a sort of “grand bargain” in which sending countries, asylum states and other members of the international community participate. The most notable examples are two CPAs launched in 1989—CIREFCA, for Central American refugees; and the CPA for Indo-Chinese refugees.⁸⁷ These efforts have generally been hailed as successes,⁸⁸ but other such comprehensive plans have largely failed—including the International Conference on Assistance to Refugees in Africa (ICARA) process of the early 1980s⁸⁹ and the effort toward a CPA for Somali refugees in 2005.⁹⁰ The difficulty, of course,

⁸⁶ As refugee scholars have observed: “[T]he underlying causes of PRS are rooted in ‘impasses’, themselves closely related to other issues such as security, human rights, democracy and peacebuilding. The key to finding solutions to PRS, therefore, lies in linking the refugee issue with these other issues and overcoming the impasses that give rise to the particular PRS.” Gil Loescher, James Milner, Edward Newman and Gary Troeller, *Introduction*, 3, 7 in *PROTRACTED REFUGEE SITUATIONS: POLITICAL, HUMAN RIGHTS AND SECURITY IMPLICATIONS* (2008) (Gil Loescher, James Milner, Edward Newman and Gary Troeller, eds.).

⁸⁷ *Declaration and Concerted Plan of Action in Favour of Central American Refugees, Returnees and Displaced Persons (CIREFCA)*, 31 May 1989, available at: <http://www.unhcr.org/refworld/docid/3fbb5d094.html>; UN GA, *Declaration and Comprehensive Plan of Action of the International Conference on Indo-Chinese Refugees, Report of the Secretary-General (A/44/523)*, 22 September 1989, A/44/523.

⁸⁸ See, e.g., Alexander Betts, *Comprehensive Plans of Action: Insights from CIREFCA and the Indochinese CPA*, UNHCR Working Paper No. 120, January 2006, at 5, available at: <http://www.unhcr.org/43eb6a152.html> (noting that CIREFCA and the Indochinese CPA are “widely regarded as the two most significant examples of successful UNHCR-led international cooperation in the recent history of the refugee regime”). See also Gil Loescher & James Milner, *Responding to protracted refugee situations: Lessons from a decade of discussion*, University of Oxford Refugee Studies Centre: Forced Migration Policy Briefing 6, at 8, available at <http://www.rsc.ox.ac.uk/publications/policy-briefings/RSCPB6-RespondingToProtractedRefugeeSituations.pdf> (noting that both the CIREFCA and Indochinese CPA were successful because they were “conceived as sustained political processes with ongoing dialogue and negotiation, recognised the range of states’ linked interests in the regions in issue-areas such as security, migration, trade or development, and channelled them into a commitment to refugee protection and a solutions-oriented approach.”).

⁸⁹ UN GA, *International Conference on Assistance to Refugees in Africa (ICARA I): Report of the Secretary-General*, 11 June 1981, A/36/316; UN GA, *Office of the United Nations High Commissioner for Refugees Second International Conference on Assistance to Refugees in Africa (ICARA II): Report of the Secretary-General Addendum*, 10 December 1984, A/39/402/Add.2. For an analysis of ICARA I and II and application of their lessons to more recent initiatives, see Alexander Betts, *International cooperation and the targeting of development assistance for refugee solutions: Lessons from the 1980s*, UNHCR Working Paper 107, at 6-12, available at: <http://www.unhcr.org/415d0d982.pdf>.

⁹⁰ UNHCR, *Framework Document for the Comprehensive Plan of Action (CPA) for Somali Refugees*, 29 September 2005, available at: <http://www.unhcr.org/refworld/docid/437472902.html>. On the reasons for failure, see Gil Loescher & James Milner, *The Long Road Home: Protracted Refugee Situations in Africa*, 47 *Survival* 153, 169 (Summer 2005) (noting that the plan “does not adequately link humanitarian factors with the underlying and crucially important economic, political and security factors”); UNHCR, *State of The World's Refugees* at 124-26 (also noting a failure to integrate economic and political issues).

is finding the alignment among the many actors (international, national, funding organizations) necessary to make a CPA work.

Other strategies have been less “comprehensive” (in the sense of involving fewer international actors) but nonetheless fairly successful in producing results. Naturalization programs, for example, require simply the action of a single hosting state. The 2010 naturalization by Tanzania of more than 160,000 Burundian refugees (deriving from the flow of 1972) demonstrates the potential reach of this option.⁹¹ PRS may also be resolved through exercise of the Convention’s “cessation clause,” coupled with assistance to refugees returning to their home states and aid to long-term hosting states for environmental and other rehabilitation efforts.⁹²

Adopting the perspective of a Responsibility to Solve could help produce the political will and garner the resources necessary for these kinds of solution strategies. But more than a new narrative is needed: R2S should help us explore new strategies for making progress on intractable refugee situations. The idea would be not to press for immediate implementation of one or more of the traditional durable solutions (return, resettlement, local integration), but rather to devise strategies and plans of intermediate steps that foster “confidence-building” toward comprehensive solutions in the future.⁹³

A good example is provided by the recently developed plan for Afghan refugees, with the participation of Afghanistan, Iran, Pakistan and UNHCR.⁹⁴ While the primary goal remains the voluntary repatriation of Afghan refugees, it is well-recognized that return of perhaps as many as 3 million refugees is not possible under current circumstances. Yet it is also recognized that steps should and can be taken toward greater self-reliance for Afghan refugees in Iran and Pakistan and enhanced international burden-sharing. So the plan identifies funding needs for development and rehabilitation programs in Iran and Pakistan, recommends continued support for the extension of health insurance to refugees in Iran, and suggests work authorization and student visas for certain refugees in countries of

⁹¹ See UNHCR, *Benefits of Belonging*, at 8-13. However, the mass naturalization in Tanzania has not been without its problems. See UNHCR & Ministry of Foreign Affairs of Denmark, *Joint Evaluation of the Protracted Refugee Situation (PRS) for Burundis in Tanzania*, October 2010, available at:

<http://www.unhcr.org/4cdd4bc29.pdf>. Naturalization was contingent on relocation within Tanzania, but many refugees lacked information about the process and feared that relocation “could lead to loss of family ties, traditions and culture and have negative economic consequences.” *Id.* at 13 Although the original target was to integrate naturalized refugees in new host communities by the end of 2010, the process has been extended until 2014, leaving many of the newly naturalized Tanzanians in a state of “limbo.” *Id.* at 37.

⁹² UNHCR is currently implementing such comprehensive strategies for Angolan, Liberian and Rwandan refugees. See UNHCR, *UNHCR working to help conclude three African refugee situations*, 7 Feb. 2012, available at: <http://www.unhcr.org/4f3125cc9.html>. See also UNHCR, *Implementation of the Comprehensive Strategy for the Angolan Refugee Situation, including UNHCR’s recommendations on the applicability of the “ceased circumstances” cessation clauses*, 15 January 2012, available at: <http://www.unhcr.org/refworld/docid/4f3395972.html>.

⁹³ We would also note that refugees frequently undertake “self-help” in moving towards solutions. For example, they may move to cities and find (often informal) employment, intermarry with nationals in the host community, or acquire identity or other documents in the country of asylum. These can constitute “soft” forms of local integration. (We thank Jeff Crisp for suggesting these examples to us.)

⁹⁴ UNHCR, *Afghan Conference: Delegates endorse solutions strategy for refugees*, 3 May 2012, available at <http://www.unhcr.org/4fa28abb9.html>.

asylum.⁹⁵ One might view these proposals as “softer” versions of the traditional durable solutions—measures that, if undertaken successfully, might make the durable solutions ultimately achievable.⁹⁶

UNHCR has also launched several plans under its newly-minted Transitional Solutions Initiative (TSI).⁹⁷ The core of the TSI plans is development assistance to refugee-hosting areas that will move refugee camps from dependence to self-reliance while at the same time providing support for the hosting regions.⁹⁸ In the longer-term—even without a declared goal of local integration—refugee-specific assistance can be withdrawn as refugee camps begin to look like villages and largely merge with local communities.⁹⁹

Other elements of this kind of new thinking might include labor migration for refugees,¹⁰⁰ and greater involvement of diaspora communities in terms of providing support or perhaps sponsoring refugee relocation.¹⁰¹ All of these ideas must be context-specific and thought through with care to ensure that they do not produce an unacceptable dilution of rights guaranteed refugees by the Convention and other instruments. But the general thrust should be clear: a PRS remains a PRS because immediate recourse to the traditional durable solutions is not possible; thus, other kinds of measures ought to be examined for their potential to create movement toward the eventual implementation of

⁹⁵ For a general summary of the plan, see UNHCR, *International Conference on the Solutions Strategy for Afghan Refugees to Support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries*, May 2012, available at <http://www.unhcr.org/4fa7e0ea9.html>.

⁹⁶ Cf. Ewen Macleod, *Afghan refugees in Iran and Pakistan*, 333-50, in PROTRACTED REFUGEE SITUATIONS: POLITICAL, HUMAN RIGHTS AND SECURITY IMPLICATIONS (2008) (Gil Loescher, James Milner, Edward Newman and Gary Troeller, eds.). (arguing against a overdependence on traditional durable solutions in the Afghan refugee context).

⁹⁷ UN Development Program, UNHCR, & the World Bank, *Concept Note: Transitional Solutions Initiative*, October 2010, available at: <http://www.unhcr.org/4e27e2f06.html>; UNHCR, *Global Appeal*, at 66 (discussing specific TSIs in eastern Sudan and Colombia); UNHCR, *2012 Regional Operations Profile - South Asia: Bhutan*, <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e487646> [accessed 5 May 2012] (noting the implementation of the multi-year, interagency Community-Based Development Programme in Nepal as part of UNHCR’s Transitional Solutions Initiative).

⁹⁸ *Id.* Cf. Crisp and Slaughter, *supra* note 31 at 12 (arguing that UNHCR should reject the care and maintenance model of refugee camps, encourage positive interactions between host state community and refugees, and challenge assumptions of refugees as dependent through advocacy and research on the efforts that refugees take to establish self-sufficient livelihoods).

⁹⁹ For example, in eastern Sudan, UNHCR will consolidate twelve camps hosting Eritrean refugees into self-reliant villages with improved infrastructure for health services, schools, and water. UNHCR, *Global Appeal*, at 66. See also *id.* (discussing plan to improve five IDP communities in Colombia).

¹⁰⁰ See Katy Long, *Extending protection? Labour migration and durable solutions for refugees*, UNHCR Research Paper No. 176 (2009) at 7, 23 (noting that while labour migration cannot replace durable solutions, it can complement them and may “better reflect the complexity of long term refugees’ relationship with both their original and host communities and the reality of historical transnational migration patterns”). See also Caitlin Sturridge, *Mobility and durable solutions: a case study of Afghan and Somali refugees*, UNHCR Research Paper No. 204 (2011) at 21 (discussing how the case studies show mobility to be “relevant, constructive and workable” in certain instances but nonetheless limited as a durable solution due to variability and the potential for negative implications.”).

¹⁰¹ See generally United Nations Development Programme, *Cash and Compassion: The Role of the Somali Diaspora in Relief, Development and Peace-Building*, December 2011, available at: <http://www.so.undp.org/docs/Cash%20and%20compassion.pdf>.

durable solutions.¹⁰² The concept of a Responsibility to Solve can serve as a catalyst for a commitment to these new forms of action.

V. Conclusion

For more than sixty years, UNHCR has helped the international community provide solutions for literally millions of refugees—five million Afghans who have returned,¹⁰³ more than one million refugees who have resettled in the past fifteen years,¹⁰⁴ and over one million refugees who have been granted citizenship by their asylum country in the past decade.¹⁰⁵ But millions more continue to live in a seemingly permanent state of displacement. It is now time to recognize that the international community has a Responsibility to Solve these long-term refugee situations and to commit to new strategies for doing so. It is unacceptable that children grow up in refugee camps, and it is a human tragedy when their children are forced to do so as well.

¹⁰² One particular protracted situation that urgently calls for new rhetoric and strategies is the plight of Somali refugees. See UNHCR, *UNHCR chief seeks more international support to solve the Somali refugee situation*, 7 October 2011, available at: <http://www.unhcr.org/4e8f2ae99.html>.

¹⁰³ UNHCR, *Global Appeal*, at 171 (Afghanistan).

¹⁰⁴ See UNHCR, *UNHCR Statistical Yearbooks*, <http://www.unhcr.org/pages/4a02afce6.html> [accessed 5 May 2012] (providing compiled statistics of displacement, protection and solutions from 1994).

¹⁰⁵ UNHCR, *Global Trends 2010* at 19.