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GLOBAL FORCED MIGRATION
THE POLITICAL CRISIS OF OUR TIME

A MINORITY STAFF REPORT

PREPARED FOR THE USE OF THE

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LETTER OF TRANSMITTAL

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, June 18, 2020.

DEAR COLLEAGUES: The United States must revive its global and moral leadership to address the urgent plight of millions of people forced to flee their homes due to conflict, violence, persecution, and severe climate-related events. This global forced migration crisis is one of the most profound and least understood challenges of our time. More than ever before, conflict and violence are driving people from their homes and forcing them to live decades in displacement. Warring parties are consistently ignoring humanitarian laws designed to protect civilians during conflict, leading to civilian casualties, the destruction of critical infrastructure, and mass displacement. Other drivers of forced migration, including generalized violence and severe climate-related events, such as droughts, flooding, extreme weather, and rising sea levels, show no signs of abating. Meanwhile, the global response has not kept pace with the enormity of need. The international community and national authorities have failed to address these causes of displacement. International organizations and host countries are struggling to protect and facilitate solutions for a growing population of forced migrants. More than ever before, U.S. leadership is needed to foster and catalyze a global coalition to address this crisis.

Since its founding, the United States has offered freedom and opportunity to people around the world fleeing danger. Our history of welcoming desperate people with open arms—from European Jews following World War II to Indochinese boat people to Kosovar victims of ethnic cleansing—has reinforced our reputation as a place of refuge. Many of those who originally came to the United States seeking protection have gone on to become shining beacons for our nation—artists, innovators, public servants, and even representatives of the U.S. government. The Trump administration, however, has departed sharply from this historical precedent, abdicating U.S. leadership and undermining a global response. Available legal pathways for asylum, refugee resettlement, and protection in the United States have been severed. Refugees from Muslim-majority countries, including those fleeing atrocities in Syria, have been barred. Small children have been forcibly separated from their families and held in detention centers. Migrants fleeing violence and threats to their lives have been returned by the United States to dangerous border encampments in Mexico, waiting for decisions on their applications for months or even years.

Given this challenging landscape, I directed my senior Senate Foreign Relations Committee (SFRC) staff member for Migration & Human Rights, Charlotte Oldham-Moore, and SFRC Democratic Staff to prepare a comprehensive report on the global forced migration crisis. In conducting research for this report, SFRC Democratic Staff interviewed dozens of migration and humanitarian experts, analyzed key documents and reports, and carried out research trips to Colombia, Tunisia, Egypt, Bangladesh, Mexico, and Ethiopia, meeting with U.S. and national, provincial, and municipal government officials, United Nations and international nongovernmental organization representatives, as well as forced migrants and their host communities. I also want to thank Marisa Lowe, Judith Williams, and the SFRC Democratic Staff for their work on this report.

The result of this research is a comprehensive report that lays bare the facts of today's global forced migration crisis, the drivers of displacement, the trends impacting the situations of forced migrants, the international community's response, and the Trump administration's retreat. It describes a global forced migration crisis that is, at its crux, a political crisis requiring political solutions to confront the drivers of forced migration, as well as address the large numbers living in displacement.

This report makes the case for urgent and sweeping action on the global forced migration crisis and argues the need for the United States to make a dramatic course correction in leading this global response. The report also makes timely recommendations for Congress, the Executive Branch, the United Nations, and other stakeholders to improve policies on forced migration. Today, there must be a bipartisan sense of urgency for renewed U.S. efforts to reform our domestic policies and international engagement relating to migration. Ignoring the plight of millions of forced migrants worldwide will only ensure that our future—the world's and the United States'—will be far less secure and far bleaker. As the world grapples with global crisis, we must come together in global solidarity and remember those among us who have experienced the utmost dangers and require protection.

Sincerely,

ROBERT MENENDEZ,
Ranking Member.

A young Afghan girl waits to receive assistance at her returnee and refugee village on the outskirts of Farah City in western Afghanistan. Lt. j.g. Matthew Stroup, 130209-N-LR347-329, U.S. Navy, Feb. 9, 2013.

EXECUTIVE SUMMARY

A girl born in a refugee camp lives her whole life in a temporary shelter, waiting to return home to a community she has never known, a community repeatedly ravaged by war. A farmer leaves his village when insurgents arrive, then searches and fails to find shelter, water, and food. He is told to return home and is then displaced again by conflict, cycling back and forth in continuous, destitute movement. A nurse, terrorized by gang violence outside her home and domestic violence inside her home, fears for her and her daughter's lives and leaves. They are turned away at the border, forced to wait, living in perilous tent encampments on the border, and finally deported back to danger. A fisherman is forced from their coastal community due to rising sea levels—they are no longer able to find sufficient potable water for their family to drink. They move to an urban slum to live amongst thousands of others who have suffered the same plight. A local official is forced to leave her island after tropical storm after tropical storm forces her to come to terms with the fact that her home is no longer inhabitable. She struggles to not only find somewhere for herself and her family, but for her whole island's population—now forced to flee. No one is willing to provide them safe haven. The rich countries have closed their borders and erected walls that thousands of individuals attempt to circumvent daily. The poorer countries are inundated,

less stable, and unable to provide services or safety. Thousands die each year attempting to find some place that will accept them. Millions are subjected to violence and abuse. Millions of children go uneducated.

These are the stories of forced migrants today. The exponentially increasing number of men, women, and children forced from their homes due to conflict, persecution, and severe climate-related weather events is one of the most profound and least understood challenges facing the world. Despite the global upheaval this crisis presents, too few political leaders, policymakers, and members of the public are aware of the facts. By the end of 2018, 70.8 million people were forcibly displaced across the world, including 25.9 million refugees, 41.3 million internally displaced persons (IDPs), and 3.5 million asylum seekers.[1] These figures may not include, however, forced migrants who are not recognized under the 1951 Refugee Convention and its accompanying international legal framework, such as those fleeing generalized violence or severe climate-related events. The forced migrant crisis will continue to swell as existing conflicts continue, new conflicts arise, and the impacts of climate change spur new conflicts, render communities uninhabitable, and cause severe weather events. In the absence of swift, effective action, the number of forced migrants could climb to more than 300 million over the next decade—a population nearly equal to that of the entire United States.[2]

Faced with the magnitude of today's global forced migration crisis, many countries, including the United States, have chosen to turn their backs on these desperate and resilient people. The loss of support from key world leaders has dealt a startling blow to an international community already struggling to address the drivers of forced migration, and to protect and find permanent solutions for forced migrants. Without a significant course correction towards robust U.S. leadership and an engaged international community, the global forced migration challenges we face today will compound in coming decades. If we fail to act, the crisis will not only pose serious risks to the many million forced migrant lives at stake, but will inevitably challenge global stability, economic growth, and U.S. national security.

Today's forced migration crisis is driven by several factors, including increasingly frequent and intense conflict, as well as climate change. From 2013 to 2018, the number of active conflicts worldwide increased by 53 percent from 34 to 52 conflicts.[3] As of 2013, the average length of conflict was 37 years.[4] State and non-

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[1] United Nations High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2018,* at 2, 65-66, 68-69 (June 2019). This number also includes 25.9 million refugees and 3.5 million asylum-seekers. *Id.* Frances Nicholson & Judith Kumin, *A Guide to International Refugee Protection and Building State Asylum Systems,* Inter-Parliamentary Union and UNHCR, at 11, 16 (2017).

[2] Erol K. Yayboke & Aaron N. Milner, *Confronting the Global Forced Migration Crisis: A Report of the CSIS Task Force on the Global Forced Migration Crisis,* Center for Strategic & International Studies (CSIS), at 33 (May 2018). Yayboke & Miller (2018) projections based on extrapolations from trends found in UNHCR, *Global Trends: Forced Displacement in 2016* (June 19, 2017); U.S. Census Bureau, "World and Population Clock," https://www.census.gov/popclock/ (last visited June 9, 2020).

[3] Scott Gates et al., *Trends in Armed Conflict, 1946-2014,* Peace Research Institute Oslo, at 2 (2016). Harvard Strand et al., Trends in Armed Conflict, 1946-2018, Peace Research Institute Oslo, at 2 (2019).

[4] Christina Bennett et al., *Time to Let Go: Remaking Humanitarian Action for the Modern Era,* Overseas Development Institute, at 29 (Apr. 2016).

state actors alike are more blatantly violating international humanitarian law and deliberately targeting civilians and civilian infrastructure, such as medical facilities and schools.[5] In 2018, a record-breaking 12,000-plus children were killed or maimed by conflict.[6] Nearly 31 million children were displaced at the end of 2017.[7] Furthermore, the effects of climate change, including more frequent and severe natural disasters, are increasingly forcing people to flee their homes.[8] In 2016, 24 million people were newly displaced due to sudden-onset natural disasters—outnumbering new displacement associated with conflict and violence by 3 to 1.[9] Unfortunately, there is no clear end or reversal in sight for any of these trends.

International bodies, such as the United Nations (UN) Security Council, are struggling to effectively address drivers of forced migration, including prolonged conflicts, proxy wars, violations of international humanitarian law, and climate change.[10] Furthermore, the situations of those already displaced have continued to worsen. Despite specific conventions affording refugees international protection, refugees are frequently denied access to rights and services.[11] Without international accountability, the situation of vulnerable refugees continues to deteriorate.[12] Yet the circumstances are far worse for those without formal international protections, including those forcibly displaced within their countries (IDPs), as well as those forced to flee due to severe climate change-related events and generalized violence.[13] Although some countries and regions have taken steps to provide IDPs with protection, many still, including the United States, have yet to recognize and address these vulnerable populations.[14] Moreover, the traditional solutions for refugees—voluntary return, resettlement in a third country, or integration into their host country—are proving difficult to achieve, with voluntary returns and resettlement at historic lows.[15] Without drastic international coordination and action, the magnitude of need will continue to swell.

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[5] David Miliband, President and CEO, International Rescue Committee, "Welcome to the Age of Impunity," Remarks at the World Economic Forum, Davos, Switzerland, Jan. 24, 2020.

[6] United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), *Global Humanitarian Overview 2020,* at 11 (Dec. 2019).

[7] United Nations Children's Fund (UNICEF), Data: Child Displacement, https://data.unicef.org/topic/child-migration-and-displacement/displacement/ (last visited Apr. 13, 2020).

[8] United States Geological Survey, "How Can Climate Change Affect Natural Disasters?," https://www.usgs.gov/faqs/how-can-climate-change-affect-natural-disasters-1?qt-news—science—products=0#qt-news—science—products (last visited Apr. 13, 2020).

[9] Internal Displacement Monitoring Centre, "Disasters and Climate Change," https://www.internal-displacement.org/disasters-and-climate-change (last visited Apr. 13, 2020); UNHCR, "Climate change and disaster displacement," https://www.unhcr.org/en-us/climate-change-and-disasters.html (last visited Mar. 18, 2020).

[10] Council on Foreign Relations, "No Refuge: Why the World's Swelling Refugee Population Has Shrinking Options," Feb. 12, 2019; World Refugee Council, Centre for International Governance Innovative, *A Call to Action: Transforming the Global Refugee System,* at 2-3 (2019).

[11] See, e.g., Asylum Access & the Refugee Work Rights Coalition, *Global Refugee Work Rights Report 2014 (Sep. 2014);* Amnesty International, *Fears and Fences: Europe's Approach to Keeping Refugees at Bay* (Nov. 2015).

[12] World Refugee Council, Centre for International Governance Innovative, *A Call to Action: Transforming the Global Refugee System,* at 10, 27 (2019).

[13] Kathleen Newland, *Rethinking Global Protection: New Channels, New Tools,* Transatlantic Council on Migration & Migration Policy Institute (Apr. 2015).

[14] World Refugee Council, Centre for International Governance Innovative, *A Call to Action: Transforming the Global Refugee System,* at 10 (2019).

[15] Danish Refugee Council et al., *Joint NGO Recommendations on Durable Solutions for the Global Compact on Refugees' Programme of Action,* at 3 (Dec. 12, 2017).

At this critical moment, the United States has deliberately turned its back on those seeking refuge. The Trump administration has crippled the United States' refugee resettlement, asylum, and temporary protection systems, and even closed our borders to those with legitimate asylum claims and protection needs. After resettling over 207,000 refugees in 1980, we resettled just 30,000 refugees in Fiscal Year 2019.[16] For Fiscal Year 2020, the Trump administration's refugee ceiling is 18,000—the lowest in U.S. history at a time when the number of forced migrants has reached its highest in recorded history.[17]

These regressive actions have damaged the United States' moral leadership, demonstrated a retreat from global leadership in responding to crises, and compromised our ability to forge cooperative relationships with our international partners. The administration's "Zero Tolerance Policy" separated terrified migrant children, including infants, from their parents, and drew criticism from Congress, the United Nations, religious leaders, and medical professionals, among many others.[18] The decimation of U.S. refugee resettlement has left refugee-hosting countries like Jordan, Bangladesh, Uganda, and Turkey in a bind with fewer opportunities for resolution.[19] While the United States previously led the charge on championing refugee resettlement and human rights, the Trump administration has actively hindered international efforts to respond to the forced migration crisis. By damaging our global reputation and relationships with other countries, the United States' actions towards forced migrants impair our ability to effectively rally international cooperation, including in situations where our own security and stability is threatened.

New tools have been developed to address the modern forced migration crisis, but more innovation, implementation, and commitments are needed. Such efforts are game-changing, but nascent. The World Bank has partnered with the United Nations and others to extend concessional financing and grants to low- and middle-income countries struggling with the fiscal impact of hosting large

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[16] Migration Policy Institute, "U.S. Annual Refugee Resettlement Ceilings and Number of Refugees Admitted, 1980-Present," https://www.migrationpolicy.org/programs/data-hub/charts/us-annual-refugee-resettlement-ceilings-and-number-refugees-admitted-united (last visited Aug. 27, 2019); U.S. Department of State Bureau of Population, Refugees, and Migration Refugee Processing Center, "Historical Arrivals Broken Down by Region (1975–Present)," https://www.wrapsnet.org/documents/
Refugee%20Admissions%20by%20Region%20since%201975%20as%20of%204-9-20.pdf (last visited Apr. 13, 2020).

[17] Presidential Determination on Refugee Admissions for Fiscal Year 2020, Presidential Determination No. 2020-04, Nov. 1, 2019; UNHCR, *Global Trends: Forced Displacement in 2018,* at 2 (June 2019).

[18] Kevin D. Williamson, "Immigration Policy: Bordering on Madness," *National Review,* June 25, 2019; Catherine E. Shoichet, "Doctors Saw Immigrant Kids Separated from Their Parents. Now They're Trying to Stop It," *CNN,* June 14, 2018; Amy Wang, "Officials Blast Trump Policy After Visiting Detained Immigrants," *Chicago Tribune,* June 10, 2018; Emma Green, "Religious Leaders Condemn Family Separations—but Not Necessarily Trump", *The Atlantic,* June 19, 2018; Brad Tuttle, "'Heartless, Cruel, Immoral.' Every Major CEO Who Condemned Trump's 'Zero Tolerance' Border Policy,"*Money,* June 20, 2018; Nick Cumming-Bruce, "U.N. Rights Chief Tells U.S. to Stop Taking Migrant Children From Parents," *The New York Times,* June 18, 2018; Tara Isabella Burton, "Pope Francis Condemns Trump's Family Separation Policy," *Vox,* June 20, 2018.

[19] Amanda Taub & Max Fisher, "Trump's Refugee Cuts Threaten Deep Consequences at Home and Abroad," *The New York Times,* Sept. 11, 2019; Michelle Nichols, "Exclusive: Bangladesh PM says expects no help from Trump on refugees fleeing Myanmar," *Reuters*, Sept. 18, 2017; Queen Rania Al Abdullah of Jordan, "Why Global Leadership on Refugees Matters," *CNN,* Sept. 20, 2017.

refugee populations.[20] There is also growing use of technology and private sector engagement working to better serve forced migrant populations.[21]

Despite these positive examples, the overall global response is not keeping pace with the enormity of need. While funding for humanitarian responses has increased, exponentially increasing needs have created a wider gap. In 2007, the United Nations reported a 2 percent or approximately 2 billion dollar shortfall on its appeals for humanitarian response funding.[22] As of 2018, the number has risen to an appalling shortfall of 39 percent, or approximately 10 billion dollars in unmet needs.[23] At the same time, vulnerable groups remain in limbo while solutions to their plight cannot keep pace. In 2018, for example, there was a more than 99 percent gap between the number of refugees worldwide and global resettlement spaces.[24]

Lastly, the COVID-19 pandemic has reaffirmed the vulnerability of forced migrant populations around the world—often living in overcrowded settings, lacking adequate access to healthcare, unable to access reliable information, working in the informal sector, and reliant on humanitarian aid.[25] Well-intentioned government policies to mitigate the spread of the virus may exacerbate inequalities and disproportionately impact the already disadvantaged, including forced migrants.[26] At the same time, some governments, including the United States, have used the COVID-19 pandemic as pretext for accelerating regressive actions—blaming foreigners for the spread of COVID-19, deporting migrants, and denying access to asylum procedures.[27] As the world grapples with how to contain the virus and recover from the pandemic, we must remember that this is a global phenomenon, and we are only as strong as our most vulnerable link. The fates of millions of desperate and suffering

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[20] World Bank Group International Development Association, "IDA18 Regional Sub-Window for Refugees and Host Communities," http://ida.worldbank.org/replenishments/ida-18replenishments/ida18-regional-sub-window-for-refugees-host-communities (last visited Aug. 27, 2019); Global Concessional Financing Facility (GCFF), 2017-2018 Annual Report, at 5-6 (Dec. 2018). Concessional financing can be in the form of grants, or loans. Concessional loans have more generous terms than market loans. They generally include below-market interest rates, grace periods in which the recipient is not required to make debt payments for several years or a combination of low interest rates/grace periods. *See* U.S. Agency for International Development, "What Sources of Grants or Concessional Financing Exist to Help with Mini-Grids in Developing Countries?," Feb. 13, 2018.

[21] Ammar A. Malik et al., *Private-Sector Humanitarians?: New Approaches in the Global Refugee Response,* Urban Institute (Sept. 2018).

[22] UNOCHA, Financial Tracking Service, "Appeals and response plans 2007," https://fts.unocha.org/appeals/overview/2007 (last visited June 5, 2020). Note that OCHA/FTS figures rely on accurate and timely reporting by governments and organizations and therefore may be incomplete. *Id.*

[23] UNOCHA, Financial Tracking Service, "Appeals and response plans 2018," https://fts.unocha.org/appeals/overview/2018 (last visited June 9, 2020).

[24] International Rescue Committee, *10 things to know about the Global Refugee Crisis and America's lack of leadership: An IRC analysis of the latest annual reports from the UN Refugee Agency* (July 2019).

[25] Refugees International, *COVID-19 and the Displaced: Addressing the Threat of the Novel Coronavirus in Humanitarian Emergencies* (Mar. 30, 2020); International Rescue Committee, *COVID-19 in Humanitarian Crises: A Double Emergency* (Apr. 2020); Andrej Mahecic, "Displaced people urgently need aid and access to social safety nets as coronavirus causes severe hardship," UNHCR, May 1, 2020; UNOCHA, *Global Humanitarian Response Plan: COVID-19,* at 13-16 (Mar. 2020).

[26] Mauro Testaverde, "Social protection for migrants during the COVID-19 crisis: The right and smart choice," World Bank Blogs, Apr. 28, 2020. UNOCHA, *Global Humanitarian Response Plan: COVID-19,* at 15 (Mar. 2020).

[27] Refugees International, *COVID-19 and the Displaced: Addressing the Threat of the Novel Coronavirus in Humanitarian Emergencies* (Mar. 30, 2020); Nicole Narea, "The US has abandoned asylum seekers in Mexico during the pandemic," *Vox,* May 13, 2020.

forced migrants cannot be ignored—at the very least, because their susceptibility to the virus represents a potential obstacle in the global fight against the pandemic. The path to solving global crises is forged through international cooperation and commitments—not cowardice.

The United States can and must lead a new global effort to address the global forced migration crisis. Current trends, including the challenge of climate change, will force more people to flee their homes, be on the move, and live in displacement. As the number of those forcibly displaced continues to balloon, the need for innovative and comprehensive international responses is imperative. Under the Trump administration, the United States has responded to the forced migration crisis with fear and regressive policies. In order to mitigate global instability and regain our standing as a nation committed to principled leadership in the world, the United States must reverse course and lead the charge in securing international cooperation and new solutions for today's forced migrants. How the United States chooses to respond to these events will define the world we will live in, and the role the United States plays in it.

Defining Forced Migration

For the purposes of this report, we use the term "forced migration" to refer to the movement of people in which the drivers involve force, compulsion, or coercion. This includes those forcibly displaced by persecution and conflict across country borders (refugees and asylum seekers) and within country borders (IDPs), and additionally seeks to encompass people who migrate due to other situations of violence, severe climate-related events, trafficking, as well as a range of potentially overlapping causes. The term "forced migration" is not meant to take a stand in ongoing debates regarding protections under international law and the concept of agency in relation to a distinction between "forced" and "voluntary."[28] "Forced migration" is not used in defiance or to criticize the various terms that have been adopted to describe these populations, but aspires to capture the pressing and diverse needs and realities of those forced to flee their homes today.

Methodology

In conducting research for this report, Senate Foreign Relations Committee Democratic Staff interviewed dozens of migration and humanitarian experts, analyzed key documents and reports, and carried out research trips to Colombia, Tunisia, Egypt, Bangladesh, Mexico, and Ethiopia. In each country, staff met with U.S. and national, provincial, and municipal government officials, UN and international nongovernmental organization (NGO) representatives, as well as forced migrants and their host communities. In Colombia, staff focused on the plight of Venezuelan refugees, and in

[28] International Organization for Migration (IOM), *Glossary on Migration,* at 77 (2019). "While not an international legal concept, this term has been used to describe the movements of refugees, displaced persons (including those displaced by disasters or development projects), and, in some instances, victims of trafficking. At the international level the use of this term is debated because of the widespread recognition that a continuum of agency exists rather than a voluntary/forced dichotomy and that it might undermine the existing legal international protection regime." *Id.*

Tunisia, staff focused on forced migrants in and traveling through Libya.[29] Egypt is host to Syrian, Palestinian, and African refugees.[30] Bangladesh hosts over 900,000 stateless Rohingya refugees from Burma.[31] Ethiopia is not only one of the largest refugee-hosting countries in Africa, but also has over 3 million IDPs.[32]

Summary of Report

This report provides an analysis of the present global forced migration crisis, the challenges it presents to local communities, national governments, the international system, and to the vulnerable men, women, and children themselves who are forced to migrate. Taken together, these facts represent a clarion call urging for strong leadership, international solidarity, and innovation to reduce the suffering of forced migrants and effectively address the sheer magnitude of the crisis. Chapter One lays out the magnitude of today's global forced migration crisis. Chapter Two explores the global trends catalyzing the forced migration of people and the characteristics of their displacement. Chapter Three examines the systematic denial of forced migrants' fundamental human rights across all phases of their forced migration. Chapter Four outlines international efforts to address forced migration, including diplomacy, humanitarian aid, and international legal frameworks. The chapter also highlights regional and country efforts to more adequately address forced migration, as well as dramatic inconsistencies in country-level responses. Chapter Five details the Trump administration's domestic policies and practices towards forced migrants, with particular attention to refugees and asylum seekers. Chapter Six describes the administration's erosion of U.S. diplomatic engagement and international leadership in addressing forced migration and humanitarian crises. Chapter Seven examines the urgent need for new, innovative solutions as traditional responses have proven inadequate to address the scale and complexity of forced migration today. Finally, the Findings and Recommendations outline necessary actions needed to respond to the current forced migration crisis in order to prevent and mitigate disastrous global effects.

Below, we have summarized the principal findings and principal recommendations of this report. More detailed Findings & Recommendations can be found beginning on page 137.

PRINCIPAL FINDINGS

Through expert interviews, observations from the field, and research of current policies and best practices to date, the Senate Foreign Relations Committee Democratic Staff found the following:

- *The scale of today's forced migration crisis is unprecedented and, if left unaddressed, will grow in size and complexity.* A confluence of factors, including per-

[29] In the absence of a U.S. embassy in Tripoli, the U.S. Libya External Liaison Office is based in Tunis.
[30] UNHCR, *Egypt Fact Sheet,* at 1 (May 2019).
[31] UNHCR, *Global Trends: Forced Displacement in 2018,* at 22 (June 2019).
[32] UNOCHA, *Ethiopia Situation Report No. 23,* at 1 (June 2019); UNHCR, "Ethiopia," https://www.unhcr.org/en-us/ethiopia.html (last visited June 9, 2020).

sistent climate-related shocks and increasingly frequent, highly violent, and protracted conflicts impacting civilians have resulted in a record number of people forced to flee their homes around the globe. By the end of 2018, there were over 70 million refugees, asylum seekers, and IDPs worldwide. Many forced migrants are unable to return home for decades, often live in urban environments in developing countries, and face severe restrictions to and violations of their human rights. The COVID-19 pandemic has only magnified the extreme vulnerabilities of forced migrant populations, highlighted by dangerously overcrowded settings and inadequate access to basic healthcare.

- *The international community has struggled to address drivers of forced migration and support the growing number of forced migrants worldwide.* Armed actors have increasingly failed to adhere to international law, attacking civilians and civilian infrastructure, and interfering with humanitarian aid with impunity. The UN Security Council, largely due to vetoes by its permanent members, has struggled to uphold its core mandate of maintaining peace and security, and has failed to hold violators of international law accountable. Despite specific international legal conventions affording refugees protection, some countries have denied refugees basic rights and services. The situation is often much worse for those without pathways for national and international protection, including IDPs and those displaced by severe climate-related events.
- *The United States' retreat from humanitarian obligations and international cooperation under the Trump administration has dealt a grave blow to the international system.* The United States has historically served as a global leader in humanitarian response, humanitarian diplomacy, and refugee resettlement. The Trump administration, by contrast, has used every mechanism at its disposal to block legal pathways for refuge, undermining longstanding U.S. policies. As global need continues to grow, major donors such as the United States have reduced humanitarian financing, and the scale of need is far outpacing available assistance. Furthermore, the United States' regressive leadership has emboldened other countries to abandon their responsibilities to protect refugees and other forced migrants, and has impaired an already-weakened system of international cooperation for responding to global crises like forced migration.
- *A dramatic change in course is needed to address the drivers of forced migration and adequately meet the needs of today's forced migrants.* Recent efforts in humanitarian financing, aid, diplomacy, and the private sector highlight opportunities to reinvigorate forced migration responses, although greater support is need-

ed to drive these innovations. These initiatives include new international and national compacts on refugees, the World Bank's concessional financing, and a myriad of private partnerships aimed at providing services and opportunities to forced migrants. Given the scale of today's forced migration crisis, these efforts also underscore a need for collaborative action and widespread rethinking across all sectors—government, finance, and private companies—in order to comprehensively address the crisis.

PRINCIPAL RECOMMENDATIONS

Forced migration will fuel future destabilization if not addressed and managed appropriately. While President Trump has repeatedly requested severe cuts to the humanitarian assistance budget, Congress has consistently appropriated funds well above the presidential request. The needs, however, remain enormous, and more must be done to increase resources, encourage innovation, empower policy leadership, and address root causes diplomatically. To these ends, this report recommends the following actions be undertaken by Congress, the Executive Branch, and the United Nations:

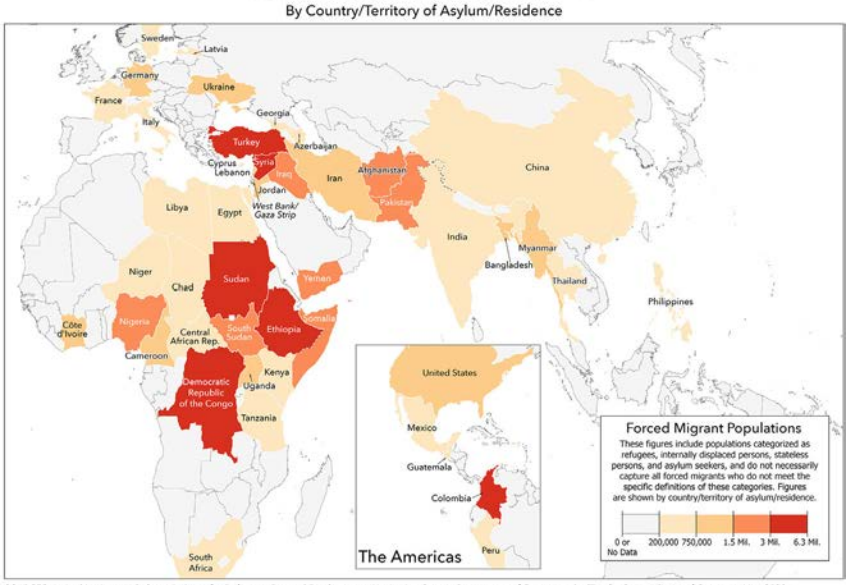
- *The United States Government must reinvigorate efforts to uphold international humanitarian law and resolve conflict, a primary driver of forced migration.* Congress should authorize the expanded use of sanctions and other tools against perpetrators of international humanitarian law violations and those who deny aid access for life-saving assistance. The Executive Branch, including the Departments of State and Defense, should ensure U.S. military assistance, such as arms sales, military training, and other defense services, is contingent on the implementation of civilian harm mitigation policies and adherence to international humanitarian law.
- *The United States must pursue protection for all forced migrants worldwide.* Both Congress and the Executive Branch must ensure that protections afforded to refugees, IDPs, and other forced migrants by international and national laws are upheld within, at, and outside our borders. Congress should mandate regular reports from the State Department and USAID on the rights and situations of forced migrant populations, including refugees and IDPs.
- *The United States must reform and improve upon domestic efforts to address forced migration by restoring the U.S. refugee resettlement program and creating complementary pathways for protection.* Harmful Trump administration policies towards forced migrants, including the Remain in Mexico policy and "safe third country" agreements, must be terminated.

Both Congress and the Executive Branch must take steps to ensure that the U.S. refugee ceiling is increased in line with global need. Both branches should also work to expand our understanding of U.S. refugee law based on current realities and create complementary pathways to protect other forced migrant populations. By reclaiming our reputation as a place of refuge, the United States can lead on securing global solutions.

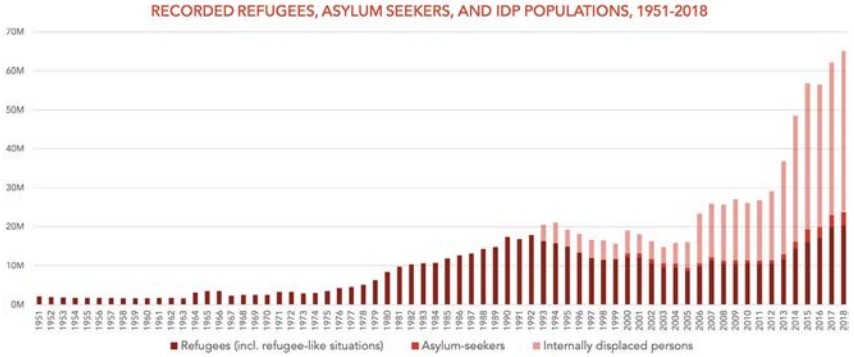
- *The United States must promote global cooperation efforts to address the forced migration crisis.* The Executive Branch should join the Global Compact for Refugees, the Global Compact for Safe, Orderly, and Regular Migration, and the Paris Climate Agreement. Reinvigorating the momentum behind the 2016 New York Declaration, the United States should lead efforts convening host governments, donors, the private sector, civil society, and forced migrant representatives to form a new compact supporting the inclusion of forced migrant populations in host countries.
- *The United Nations should take further action to enforce international humanitarian law and improve protections for forced migrants.* The UN's role in responding to and alleviating the forced migration crisis has never been more important. The UN must use its tools, including Boards of Inquiry, Commissions of Inquiry, and the International Court of Justice, to enforce international law and end rampant impunity, including by publishing findings and identifying perpetrators of violations of international law. The UN Secretary-General should call on host countries to incorporate forced migrant populations into their national action plans. Moreover, the UN Secretary-General should promote awareness and renewed responses for IDP populations by elevating the role of Special Rapporteur on the Human Rights of IDPs to Special Representative on IDPs and encouraging the implementation and ratification of the UN's Guiding Principles on International Displacement.

Forced Migrant Populations, 2018

By Country/Territory of Asylum/Residence



SOURCES: United Nations High Commissioner for Refugees, Internal Displacement Monitoring Centre, Department of State. Map by Tim St. Onge, Library of Congress. May 2020.



Committee staff analysis based on UNHCR Population Statistics Data (last visited May 27, 2020). Excludes United Nations Relief Works Agency for Palestine Refugees in the Near East (UNRWA) refugee populations due to lack of consistent year-over-year reporting of figures. These figures include populations categorized as refugees, internally displaced persons, and asylum seekers and do not necessarily capture all forced migrants who do not meet specific definitions of these categories.

CHAPTER ONE

The Scale of Today's Forced Migration Crisis

While forced migration is not a new phenomenon, the magnitude and complexity of today's global forced migration crisis is unprecedented.[33] Media images and daily news from all over the world shed light on the plight of desperate civilians on the move. The haunting photo of a drowned three-year old Syrian boy on the beach in Turkey.[34] Reports of mass rape, executions, torture, and burning villages in Burma, driving hundreds of thousands of Rohingya from their homes.[35] These are just snapshots in time. To properly understand the scale of today's forced migration crisis, the overarching facts and figures need to be laid bare:

[33] There is some debate over whether the number of forced migrants today is truly "unprecedented" given there has not been accurate global data collected on forced migration for much of the world's history. In addition to its scale, however, the current crisis is unprecedented due to the protracted nature of displacement, the atrocities driving displacement, and the incredibly vulnerable situations of forced migrants. *See* Benjamin Thomas White, "Talk of an 'unprecedented' number of refugees is wrong—and dangerous," *The New Humanitarian,* Oct. 3, 2019; Elizabeth Ferris, "Unpacking the numbers on global refugees," Brookings Institution, June 20, 2017; UN News Services, "UN, humanitarian community struggling to meet unprecedented needs of refugees," Oct. 5, 2015; *See* also Chapters 2 and 3 for further details.

[34] *See* Diane Cole, "Study: What Was The Impact Of The Iconic Photo Of The Syrian Boy?," NPR, Jan. 13, 2017.

[35] *See, e.g.*, "Myanmar Rohingya: What you need to know about the crisis," *BBC,* Jan. 23, 2020; Human Rights Watch, "Rohingya Crisis," https://www.hrw.org/tag/rohingya-crisis (last visited May 27, 2020).

- On average, *37,000 people were forced from their homes every single day in 2018;*[36]
- In 2019, *1 out of every 109 people in the world* was either a refugee, asylum seeker, or internally displaced person (IDP);[37] and
- The world's refugee, asylum-seeking, and IDP populations totaled at least 70.8 million in 2019.[38]

The following statistics only begin to illustrate the scale and complexity of today's forced migration crisis:

- *57 percent of refugees* registered with the United Nations High Commissioner for Refugees (UNHCR) fled from three countries: Syria, Afghanistan, and South Sudan;[39]
- Nearly *25 million people* were newly displaced due to disasters in 2019;[40]
- About *80 percent of refugees* reside in countries neighboring the countries from which they fled;[41]and
- The world's refugee, asylum-seeking, and IDP populations include approximately *30 million children.*[42]

Just a handful of crises have caused massive forced migration, and their effects are felt far beyond their borders. Violence in Burma, Syria, South Sudan, and Venezuela has generated massive spillover effects to neighboring countries.[43] As these contexts have also demonstrated, significant surges in forced migration can exacerbate fragile situations in impacted countries and destabilize entire regions.[44] Many such countries are not prepared for large influxes of forced migrants and are unable to meet basic humanitarian needs.[45]

An exhaustive review of ongoing conflicts and humanitarian emergencies is not necessary to begin appreciating the horrors that civilians experience in times of crisis. Still, it is worthwhile to outline some contemporary examples of conflict—resulting in forced

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[36] UNHCR, *Global Trends: Forced Displacement in 2018,* at 2 (June 2019).

[37] UNHCR, "Figures at a Glance," https://www.unhcr.org/en-us/figures-at-a-glance.html (last visited June 8, 2020); United Nations, "World Population Prospects 2019," https://population.un.org/wpp/DataQuery/. Using the world population of 7.7 billion in 2019 against the UNHCR-reported figure of 70.8 million forcibly displaced from June 2019.

[38] UNHCR, "Figures at a Glance," https://www.unhcr.org/en-us/figures-at-a-glance.html (last visited June 8, 2020). This figure includes populations categorized as refugees, internally displaced persons, and asylum seekers, but does not necessarily capture all forced migrants who may not be recognized under the 1951 UN Refugee Convention and its accompanying international legal framework.

[39] UNHCR, "Figures at a Glance," https://www.unhcr.org/en-us/figures-at-a-glance.html (last visited June 8, 2020); *See* Chapter 4 for further details on UNHCR.

[40] Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2020* (Apr. 2020).

[41] UNHCR, "Figures at a Glance," https://www.unhcr.org/en-us/figures-at-a-glance.html (last visited June 8, 2020).

[42] Press Release, United Nations Children's Fund (UNICEF), Around 30 million children displaced by conflict need protection now and sustainable solutions over the long term, June 19, 2018.

[43] *See* "MSF estimates more than 6,700 Rohingya killed in Myanmar," *BBC,* Dec. 14, 2017; UNHCR, "Operational Portal: South Sudan," https://data2.unhcr.org/en/situations/southsudan (last visited May 27, 2020); UNHCR, "Syria emergency," https://www.unhcr.org/en-us/syria-emergency.html (last visited May 27, 2020); Regional Inter-Agency Coordination Platform, "Response for Venezuelans," https://r4v.info/en/situations/platform (last visited May 27, 2020).

[44] Uri Dadush & Mona Niebuhr, "The Economic Impact of Forced Migration," Carnegie Endowment for International Peace, Apr. 22, 2016.

[45] Susan Fratzke & Camille Le Coz, *Strengthening Refugee Protection in Low-and Middle-Income Countries,* Migration Policy Institute (Feb. 2019).

migration populations Committee staff met with in-person—that continue to challenge the humanitarian community and the existing political and legal frameworks intended to support vulnerable forced migrants.

- *Burma:* In August 2017, a brutal military campaign in Rakhine, Burma triggered the flight of an estimated 745,000 Rohingya to Bangladesh, including more than 400,000 children.[46] In Burma, entire villages were burned to the ground, thousands were killed, families were separated, and women and girls were raped. The massive influx of refugees quickly overwhelmed Cox's Bazar, Bangladesh and led to the growth of the world's largest refugee camp.[47] Prior to the crisis in 2017, thousands of Rohingya refugees already resided in this region of Bangladesh after fleeing earlier episodes of violence and, to this day, the root causes for their flight from Rakhine, Burma have not been resolved.[48]
- *Syria:* Since the conflict in Syria began in 2011, more than half of Syria's population of 21 million has been displaced, including 6.6 million who are internally displaced and 5.6 million refugees who fled to and are still residing in neighboring countries.[49] At least 13 million who remain inside Syria need basic humanitarian assistance.[50] In 2018, an average 4,477 civilians were displaced each day, a figure which increased dramatically in early 2020 during the military offensive in northwest Syria, when nearly one million people were displaced within three months.[51] From December 2019 to February 2020, more than 11,000 Syrians were displaced from their homes each day.[52]
- *South Sudan:* The conflict in South Sudan—which began in December 2013—has had ripple effects across the region, with more than two million people fleeing to neighboring countries.[53] To make matters worse, South Sudan's neighboring countries were already struggling to manage pre-existing humanitarian emergencies and support displaced populations.[54] As of May 2020, Uganda hosted more than 880,000 refugees

[46] UNOCHA, "Rohingya Refugee Crisis," https://www.unocha.org/rohingya-refugee-crisis (last visited June 8, 2020).

[47] *Id.*; "Former UN Chief Says Bangladesh Cannot Continue Hosting Rohingya," *Al Jazeera,* July 10, 2019.

[48] Medecins Sans Frontieres, "Timeline: A Visual History of the Rohingya Refugee Crisis," Aug. 23, 2019.

[49] UNHCR, "Syria emergency," https://www.unhcr.org/en-us/syria-emergency.html (last visited June 8, 2020); World Bank, "Population, total—Syrian Arab Republic," https://data.worldbank.org/indicator/SP.POP.TOTL?locations=SY (last visited June 8, 2020).

[50] UNHCR, "Syria Emergency," https://www.unhcr.org/en-us/syria-emergency.html (last visited June 8, 2020).

[51] UNOCHA, "Humanitarian Needs Overview 2019," https://hno-syria.org/#key-figures (last visited May 27, 2020); UNOCHA, *Syrian Arab Republic: Recent Developments in Northwest Syria* (Mar. 5, 2020).

[52] "'A horrifying new level': UN says 900,000 displaced in Northwest Syria since December," *France24,* Feb. 17, 2020.

[53] UNHCR, "Operational Portal: South Sudan," https://data2.unhcr.org/en/situations/southsudan (last visited May 27, 2020).

[54] *See* UNOCHA, *Annual Report,* at 1 (2013); Sulaiman Momodu, "Refugees turn to Ethiopia for safety and asylum," *Africa Renewal,* Apr. 2015; UNHCR, "Dadaab Refugee Complex," https://www.unhcr.org/ke/dadaab-refugee-complex (last visited June 8, 2020); USA for UNHCR, "Central African Republic Refugee Crisis," https://www.unrefugees.org/emergencies/car/ (last visited May 29, 2020).

from South Sudan.[55] Within South Sudan, two-thirds of the population needs humanitarian aid.[56]

- *Venezuela:* Although not considered a traditional conflict, Venezuela's crisis is, by many measures, one of the world's worst forced migration crises.[57] More than five million people have fled the country, and, if the rate of forced displacement continues, it will soon overtake Syria as the world's largest refugee crisis.[58] Widespread electricity and water shortages, a crumbling heathcare system, as well as dwindling food supplies, have forced many to flee in search of basic services to Colombia, Peru, Ecuador, and elsewhere in the region.[59] Meanwhile, widespread violence, propagated by gangs and government security forces, have exacerbated refugee flows.[60]

These examples only begin to paint a picture of the forced migrant crisis impacting our world today. The following chapters provide further details with the hope that greater understanding can spur new efforts to address the political, economic, social, and humanitarian elements of this crisis, and reduce the scale of immense human suffering it entails.

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[55] UNHCR, "Uganda Comprehensive Refugee Response Portal," https://data2.unhcr.org/en/country/uga (last visited May 27, 2020).

[56] UNOCHA, *South Sudan Humanitarian Needs Overview 2020,* at 26 (Nov. 2019).

[57] *See* Dany Bahar & Meagan Dooley, The Brookings Institution, "Venezuela refugee crisis to become the largest and most underfunded in modern history," Dec. 9, 2019; Mercy Corps, "The facts: Venezuela's humanitarian crisis," Aug. 13, 2019.

[58] Regional Inter-Agency Coordination Platform, "Response for Venezuelans," https://r4v.info/en/situations/platform (last visited May 27, 2020); Dany Bahar & Meagan Dooley, The Brookings Institution, "Venezuela refugee crisis to become the largest and most underfunded in modern history," Dec. 9, 2019.

[59] Mercy Corps, "The facts: Venezuela's humanitarian crisis," Aug. 13, 2019; Dany Bahar & Meagan Dooley, "Venezuela refugee crisis to become the largest and most underfunded in modern history," Dec. 9, 2019.

[60] Dany Bahar & Meagan Dooley, "Venezuela refugee crisis to become the largest and most underfunded in modern history," Dec. 9, 2019; Oriana Van Praag, "Understanding the Venezuelan Refugee Crisis," Wilson Center, Sept. 13, 2019; Frank Jack Daniel, "Ultra-violent gangs thrive in chaotic Venezuela despite crackdown," *Reuters*, Aug. 31, 2016.

A child carries a water jug, part of a bundle of supplies given to refugee families after they register, at the Dagahaley refugee camp in Dadaab, Kenya. David Lienemann, Child with relief supplies in Kenya, The White House, Aug. 8, 2011.

CHAPTER TWO
Trends in Forced Migration

Today, more men, women, and children are forced to flee their homes than ever before. Conflicts across the globe have increased in frequency and intensity. Furthermore, the rise of non-state armed actors like terrorists and violent gangs, urban conflict, restrictions on humanitarian access, violations of international humanitarian law, and climate change have exacerbated migration trends and complicated the international community's ability to respond. New trends, such as protracted displacement and urbanization, have challenged many of the available tools to support forced migrants. As these developments continue, protecting the human rights and meeting the basic needs of forced migrant populations will be increasingly challenging.

Why More People Are Fleeing: The Changing Nature of Conflict & Violence

Libya. South Sudan. Cameroon. Syria. Democratic Republic of Congo. Burma. Mali. The list of countries plagued by conflict goes on and on. The number of conflicts occurring worldwide is more

than 60 percent greater than it was a decade ago.[61] The characteristics of conflict have changed as well—conflicts last longer, are more likely to be within states rather than between states, are increasingly urban, and are more frequently involving non-state actors. These changes have taken place amidst major socio-economic and political changes around the globe, including a rise in populist nationalist governments, a weakened United Nations (UN) Security Council, and the absence of a single superpower willing to call for principled action.

In 2019, conflict remained the primary driver of global humanitarian need.[62] By the end of 2018, at least 70.8 million people were forcibly displaced, primarily due to conflict and generalized violence, as well as persecution and human rights violations.[63] Around 30 million children were displaced by conflict alone.[64] These figures are the highest on record and represent dramatic increases over the past decade.[65]

Increasingly Frequent & Prolonged Conflicts

In 2013, there were 34 active conflicts globally.[66] Just five years later, in 2018, there were 52.[67] The world is not only seeing more outbreaks of conflict, but also conflicts that last longer than ever before. From 1990 to 2013, the average length of conflict nearly doubled—from 19 to 37 years.[68]

Today, conflict is the main driver of humanitarian need—accounting for 80 percent of global humanitarian assistance—whereas ten years ago, the same percentage of humanitarian assistance went to victims of natural disasters, such as earthquakes and floods.[69] In 2019, the UN estimated that just six conflict-driven humanitarian emergencies would be responsible for more than half of all people in need of humanitarian assistance and protection: Yemen, Syria, the Democratic Republic of the Congo (DRC), Ethiopia, Nigeria, and South Sudan.[70]

Non-Traditional Warring Parties & Proxy Warfare

The characteristics of contemporary armed conflicts are vastly different from traditional wars. First, the parties to conflict have changed—they are more likely to be non-state actors, such as eth-

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[61] Emma Samman et al., *SDG Progress: Fragility, crisis and leaving no one behind,* Overseas Development Institute, at 13 (Sept. 2018).

[62] UNOCHA, *Global Humanitarian Overview 2019,* at 5-6 (2019).

[63] UNHCR, *Global Trends: Forced Displacement in 2018,* at 2-3 (June 2019); Internal Displacement Monitoring Centre (IDMC), Global Report on Internal Displacement 2019 Summary, at 6 (May 2019).

[64] Press Release, United Nations Children's Fund (UNICEF), Around 30 million children displaced by conflict need protection now and sustainable solutions over the long term, June 20, 2018.

[65] UNHCR, *Global Trends: Forced Displacement in 2018,* at 5 (June 2019); UNHCR, *2008 Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons,* at 2 (June 16, 2009). UNHCR identified 42 million forcibly displaced persons at the end of 2008 compared to over 70 million in 2018.

[66] Scott Gates et al., *Trends in Armed Conflict, 1946-2014,* Peace Research Institute Oslo, at 2 (2016).

[67] Harvard Strand et al., *Trends in Armed Conflict, 1946-2018,* Peace Research Institute Oslo, at 2 (2019).

[68] Christina Bennett et al., *Time to let go: Remaking humanitarian action for the modern era,* Overseas Development Institute, at 29 (Apr. 2016).

[69] Statement of Nancy Lindborg, President of the United States Institute of Peace, *Hearing on Flashing Red: The State of Global Humanitarian Affairs,* Hearing before the U.S. Senate Foreign Relations Committee, Mar. 22, 2017, at 5.

[70] UNOCHA, *Global Humanitarian Overview 2019,* at 4-5, 26 (2019).

nic and religious groups, terrorist organizations, and criminal enterprises.[71] These parties increasingly target civilian populations to further their political ambitions, create chaos to destabilize governments, and generally assert power.[72] From gangs in Central America to the Islamic State in Iraq and Syria, civilians increasingly flee from persecution and violence resulting from these groups' brutal tactics to conquer territory and assert control over the populace.[73]

Accordingly, conflicts are increasingly within countries (intrastate) as opposed to between countries (interstate).[74] However, the rise of great power competition has led to increased proxy warfare and internationalized civil conflict, where external actors are involved in intrastate conflicts.[75] Over the past decade, internationalized civil conflict has grown to make up almost 40 percent of conflicts today.[76] In Syria, Iraq, Yemen, and Libya, the influx of material support from external powers has increased the lethality and duration of these conflicts.[77] Furthermore, external nations' military support has weakened the effectiveness of humanitarian diplomacy and relief. In the case of Yemen, the United States is uniquely positioned to be a force for de-escalation in the conflict, but humanitarian diplomacy efforts have been undermined by U.S. military support for one side of the conflict.[78]

Widespread Violence & Criminality Driving Forced Migration

While armed conflict is a well-established driver of displacement, it is increasingly urgent to address broader patterns of violence and criminality prompting forced migration. In Central America, for instance, the recent surge of displacement due to violence and insecurity has reached levels not seen since the 1980s, when the region was suffering from widespread armed conflict.[79] The violence—largely perpetrated by organized gangs—is targeted against civilians and is more deadly than many conflicts taking place across the globe, leaving millions in need of basic humanitarian assistance.[80] However, generally this type of violence is not officially recognized under international humanitarian law (the International Committee of the Red Cross categorizes it as "other situations of violence"), and challenges traditional criteria for refugee status and

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[71] Harvard Strand et al., *Trends in Armed Conflict, 1946-2018,* Peace Research Institute Oslo, at 2 (2019).

[72] United Nations Security Council, *Report of the Secretary General: Protection of Civilians in Armed Conflict,* at 6 (2019).

[73] David James Cantor & Malte Plewa, *Forced displacement and violent crime: a humanitarian crisis in Central America?,* Overseas Development Institute (June 2017); International Crisis Group,'Averting an ISIS Resurgence in Iraq and Syria, at 14 (Oct. 2019).'

[74] Harvard Strand et al., *Trends in Armed Conflict, 1946-2018,* Peace Research Institute Oslo, at 2 (2019).

[75] "Proxy war," Cambridge Dictionary (2011). A proxy war is defined as "a war fought between groups or smaller countries that each represent the interests of other larger powers, and may have help and support from these." *Id.*

[76] Kendra Dupuy & Siri Aas Rustud, *Trends in Armed Conflict, 1946-2017,* Peace Research Institute Oslo, at 2 (May 2018). Based off of 2017 data of 49 armed conflicts, of which 19 were intrastate conflicts where external states contributed to troops on at least one side. *Id.*

[77] Candace Rondeaux & David Sterman, *Twenty-First Century Proxy Warfare: Confronting Strategic Innovation in a Multipolar World,* New America Foundation (Feb. 20, 2019).

[78] Michael LaForgia & Walt Bogdanich, "Why Bombs Made in America Have Been Killing Civilians in Yemen," *The New York Times,* May 16, 2020.

[79] Nora Sturm, "UNHCR calls for urgent action as Central America asylum claims soar," *UNHCR News,* Apr. 5, 2016.

[80] Press Release, Norwegian Refugee Council et al., A Regional Humanitarian Response Plan for an Intensifying Humanitarian Crisis in the North of Central America, June 28, 2019.

international protection.[81] Nevertheless, the rapidly growing number of individuals from the region who are considered asylum seekers and refugees underscores the urgent need to address this trend.[82] As of June 2020, there were 400,200 recognized refugees and asylum seekers from El Salvador, Guatemala, and Honduras—a figure increasing at an annual rate of 13 percent.[83]

Urbanization of Conflict

The rise of urban warfare in places like Syria, Yemen, and Libya presents a complex set of challenges for the humanitarian community. First and foremost, civilian casualties are more likely to increase during urban conflicts.[84]

Second, urban populations depend on large-scale infrastructure and networks for basic services, such as electricity and water, but do not have the means to directly control or restore them.[85] As a result, damage to infrastructure has large-scale impacts.[86] For example, the destruction of a single power line could impact an entire neighborhood with hundreds of thousands of residents, as well as hospitals and water pumping and treatment centers.[87]

Between 2015 and 2018 in Yemen, for example, the Saudi-led coalition conducted 18,000 airstrikes—roughly one every 100 minutes—one-third of which hit non-military targets.[88] As a result, 50 percent of hospitals and clinics were closed, more than 70 percent did not have regular supplies of essential medicines, and more than 68 percent of the population was left without access to basic health care.[89] The conflict has resulted in a collapsed health system unequipped to deal with the worst cholera outbreak in modern history, as well as the COVID-19 pandemic.[90]

Lastly, active conflicts in densely-populated urban areas lead to volatile population movements—a rapid influx of displaced civilians can significantly increase pressure on basic services relied upon by host populations, an especially dire situation when access to services was already poor.[91] Today, most of the world's refugees and IDPs reside in cities or other urban areas.[92]

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[81] Marguerite Cawley, "Is Central America's Gang Violence A Humanitarians Crisis?," Insight Crime, July 18, 2014; International Committee of the Red Cross (ICRC), *Characteristics of Armed Conflicts & Other Situations of Violence* (Oct. 2017).

[82] UNHCR, "Displacement in Central America," https://www.unhcr.org/en-us/displacement-in-central-america.html (last visited June 5, 2020).

[83] *Id.*

[84] Jan Egeland & Stephen O'Brien, "International humanitarian law is unravelling before our eyes," *The Guardian,* Mar. 25, 2016.

[85] ICRC, *Urban Services during Protracted Armed Conflict: a call for a better approach to assisting affected people,* at 14 (2015).

[86] *Id.* at 14-15.

[87] *Id.* at 14.

[88] Press Release, International Rescue Committee, *Civilian Deaths in Yemen up by 164% as United States Recertifies Support for the War,* Sept. 25, 2018.

[89] UNOCHA, *Global Humanitarian Overview 2019,* at 47 (2019); Press Release, International Rescue Committee, The Conflict in Yemen: Time for a New Approach, Apr. 5, 2018.

[90] World Health Organization (WHO) Regional Office for the Eastern Mediterranean, "WHO experts sustain decrease in new cholera cases and deaths in Yemen," June 12, 2019; Stephanie Nebehay, "Yemen's health system 'has in effect collapsed' as COVID spreads: U.N.," *Reuters*, May 22, 2020.

[91] ICRC, *Urban Services During Protracted Armed Conflict: a call for a better approach to assisting affected people,* at 15-16 (2015).

[92] Hans Park, "The Power of Cities," UNHCR, Nov. 25, 2016.

Restrictions on Aid Organizations & Attacks on Aid Workers

In more than 40 countries, warring parties are denying humanitarian organizations access to desperate populations, with several of the worst crises, including Syria, Somalia, and Yemen, considered virtually inaccessible to humanitarian actors.[93] Access restraints—where organizations are unable to reach affected populations or those populations are unable to obtain assistance—hinder humanitarian operations and exacerbate conditions on the ground.[94] Furthermore, these restrictions directly violate international humanitarian law, which states that all parties to armed conflicts "must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need."[95]

Humanitarian organizations increasingly face bureaucratic restrictions and direct interference from warring parties.[96] State and non-state actors employ a variety of tactics to restrain or deny humanitarian access by non-governmental organizations (NGOs) and international agencies, including but not limited to: denying access to certain populations, restricting movement, interfering with activities, threatening relief personnel, and establishing burdensome bureaucratic measures.[97] Some of the more alarming and illustrative cases of access challenges take form when siege is used as a tactic of war, which we have seen recently in the contexts of Nigeria and Yemen.[98] In northeastern Nigeria, government authorities have restricted aid organizations from operating outside of government-controlled areas.[99] As a result, aid agencies cannot reach an estimated 1.2 million people.[100] In Yemen at the end of February 2020, 123 NGO projects were waiting on government approval, having waited on average for six months—effectively denying aid to 8.2 million people who would have been served by the pending projects.[101]

Furthermore, aid workers and humanitarian facilities are frequently attacked. On what the UN considers its "darkest day," a brazen attack against the UN in Baghdad in August 2003 killed 22, including the UN Representative Sergio Vieira de Mello.[102] In years since, however, attacks against aid workers have become more widespread. The Aid Worker Security Database, which independently tracks these incidents, documented 228 major incidents in 2018, a 31 percent increase from 2017 and the second highest

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[93] Assessment Capacities Project (ACAPS), *Humanitarian Access Overview* (Aug. 2018).

[94] United Nations Security Council, *Report of the Secretary General: Protection of Civilians in Armed Conflict,* at 9 (2019).

[95] International Committee of the Red Cross, "Rule 55. Access for Humanitarian relief to Civilians in Need," https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1—rul—rule55 (last visited June 5, 2020).

[96] United Nations Security Council, *Report of the Secretary General: Protection of Civilians in Armed Conflict,* at 9 (2019); UNOCHA, OCHA on Message: Humanitarian Access (2012).

[97] United Nations Security Council, *Report of the Secretary General: Protection of Civilians in Armed Conflict,* at 9 (2019); UNOCHA, *OCHA on Message: Humanitarian Access* (2012).

[98] Human Rights Watch, *Nigeria: Army Restrictions Stifling Aid Efforts* (Mar. 4, 2020); UNOCHA, *Yemen Humanitarian Update,* at 3 (Feb. 2020).

[99] *Id.*

[100] UN Civil-Security Cooperation in Humanitarian Interventions in the North-East Workshop, *Opening Remarks by Edward Kallon, Resident and Humanitarian Coordinator in Nigeria* (Nov. 6, 2019).

[101] UNOCHA, *Yemen Humanitarian Update,* at 3 (Feb. 2020).

[102] "In solemn tributes, UN to mark first anniversary of deadly terror attack in Baghdad," *UN News,* Aug. 18, 2004.

number on record.[103] Specifically, attacks on health facilities, supplies, and workers continue today at alarming rates—in 2019, the World Health Organization (WHO) recorded 1,009 such attacks, compared to 795 attacks in 2018.[104]

Impunity & the Degradation of International Humanitarian Law

State and non-state actors alike are increasingly ignoring the traditional rules of war enshrined in the 1949 Geneva Conventions, which seek to reduce the devastating impact of wars on civilians. Armed actors often fail to take precautions to protect civilians, and some even delibera[105]1 In 2018, the UN Security Council reported that civilians accounted for the vast majority of casualties in armed conflicts across the globe.[106] 2018 also saw 12,000 children killed or maimed by conflict—the highest figure on record.[107] At one point during the conflict in Yemen, civilians accounted for 93 percent of documented casualties.[108]

Today, the world is witnessing widespread violations of international humanitarian law, and yet the available mechanisms to ensure compliance by warring parties are limited.[109] Formal accountability for violations of international law are rarely pursued. Accountability mechanisms were designed to address international armed conflicts between states, as opposed to today's civil wars, intrastate conflicts, and internationalized intrastate conflicts.[110] In addition, rising tensions between global powers has reduced the ability to protect humanitarian access and resolve conflict through diplomacy.[111] The UN Security Council, the primary international body responsible for maintaining peace and security, has faced deadlock as some of its permanent members are involved in conflict, particularly internationalized intrastate conflict, and are directly or indirectly implicated in violations of international law.[112]

The resulting impunity impacts displacement in three primary ways. First, the targeting of civilians and critical civilian infrastructure causes people to flee, either in anticipation of or as a result of direct violence.[113] Second, violations of international hu-

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[103] The Aid Worker Security Database, "Major attacks on aid workers: summary statistics (2008-2018)," May 27, 2020, https://aidworkersecurity.org/incidents/report/summary.

[104] WHO, "Surveillance System for Attacks on health Care (SSA)," https://publicspace.who.int/sites/ssa/SitePages/PublicDashboard.aspx (last visited June 4, 2020).

[105] United Nations Security Council, *Report of the Secretary General: Protection of Civilians in Armed Conflict,* at 6 (2019); UNOCHA, "5 ways to better protect civilians in conflict zones," Aug. 15, 2018.

[106] United Nations Security Council, *Report of the Secretary General: Protection of Civilians in Armed Conflict,* at 1 (2019).

[107] "New UN report shows record number of children killed and maimed in conflict," *UN News,* July 20, 2019.

[108] Nigel Fisher, "93% of deaths and injuries in Yemen are civilian—this must change," *The Guardian,* Oct. 27, 2015.

[109] ICRC, *Strengthening Compliance With International Humanitarian Law, 32nd International Conference of the Red Cross and Red Crescent,* at 8 (Oct. 2015).

[110] *Id.* at 9.

[111] Bruce Jones et al., *Competitive Multilateralism; Adapting Institutions to Meet the New Geopolitical Environment,* Brookings Institution, at 1 (Sept. 2019).

[112] *See, e.g.*, United Nations Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, 43rd Session* (Jan. 28, 2020); Julian Borger, "Russia committed war crimes in Syria, finds Un report," *The Guardian,* Mar. 2, 2020; Gwendolyn Sasse, *Revisiting the 2014 Annexation of Crimea,* Carnegie Endowment for International Peace (Mar. 15, 2017).

[113] ICRC, *Displacement in Times of Armed Conflict, How International Humanitarian Law Protects in War, and Why it Matters,* at 6-7 (Apr. 2019).

manitarian law make it less likely that those who have fled will return, as they will doubt whether they can do so safely.[114] Lastly, as violators of international law go unpunished, more violations occur, leading to more displacement and more suffering.[115]

The remnants of a patient exam room at Alzerbeh Primary Health Clinic in the countryside of Aleppo. The clinic was targeted directly by an air-to-surface missile, despite having previously shared its coordinates through the UN deconfliction system to avoid targeting. Syrian American Medical Society, Aug. 30, 2019.

IN FOCUS: *SYRIA: THE UNRAVELING OF INTERNATIONAL HUMANITARIAN LAW*

The brutality of Syria's conflict—which has resulted in the largest displacement crisis in a generation—persistently underscores the horrors and impunity that exist in modern conflicts. On top of the more than 500,000 civilians killed and more than 10 million displaced, there has been a complete breakdown of international humanitarian law.[116]

Throughout the course of the conflict, the regime has indiscriminately targeted densely populated urban areas, including repeated attacks against health facilities and other civilian infrastructure.[117] In blatant violations of the laws of armed conflict, the Syrian regime has also routinely besieged cities and starved civilians as a military tactic.[118] These tactics were on full display during the early 2020 military offensive on Idlib province in northwest Syria, which displaced more than one million civilians in three months.[119] To make matters worse, the humanitarian response has been challenged by a complex bureaucracy imposed by the Syrian government upon aid or-

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[114] *Id.*

[115] David Miliband, President and CEO, International Rescue Committee, "Welcome to the age of impunity," *Remarks at the World Economic Forum, Davos, Switzerland,* Jan. 24, 2020.

[116] Human Rights Watch, *World Report 2019: Syria (2019)*; Vincent Bernard, *Conflict in Syria: Finding Hope Amid the Ruins, International Review of the Red Cross,* at 866 and 872 (2017).

[117] Brent Eng & Jose Ciro Martinez, "Why the Syrian regime has been targeting civilian infrastructure," *The Washington Post,* Apr. 16, 2018.

[118] UN Security Council, *Those Besieging Syrian Cities Know Security Council Unable, Unwilling to Stop Them,* Emergency Relief Coordinator Says in Briefing, 7817th Meeting (Nov. 21, 2016).

[119] UNOCHA, *Syrian Arab Republic: Recent Developments in Northwest Syria* (Mar. 5, 2020).

ganizations, who are routinely denied access to desperate populations.[120]

Furthermore, in January 2020, the UN Security Council, due to disagreement among its permanent members, halved the number of border crossings into Syria, undermining cross border operations that 4 million Syrians rely on to survive.[121] Over the course of the nearly 10-year conflict, numerous formal and independent investigative mechanisms have been established, including by the UN Secretary General, but none have resulted in formal accountability for these atrocities.[122] For instance, the UN Board of Inquiry in northwest Syria released its findings in April 2020, but failed to conclusively identify perpetrators or follow-on mechanisms for accountability.[123]

CLIMATE CHANGE'S IMPACT ON FORCED MIGRATION

We cannot ignore the increasing role of climate change as a driver of forced migration. The impacts of climate change are innumerable, and include depleted natural resources, rising sea levels, extreme weather events, and conflict—all of which can force people to leave their homes.[124] In 2016 alone, extreme weather-related disasters displaced around 24 million people.[125] The UN estimates that by 2050 between 150 and 200 million people will be at risk of climate change-induced displacement, most of whom are expected to remain inside their countries.[126]

While climate change is never the sole cause of conflict—poor governance and weak state institutions often enable, if not directly cause, conflict—climate change has certainly contributed to factors spurring conflict. As a 2014 U.S. Department of Defense study asserted:

> The impacts of climate change may cause instability in other countries by impairing access to food and water, damaging infrastructure, spreading disease, uprooting and displacing large numbers of people, compelling mass migration, interrupting commercial activity, or restricting electricity availability. These developments could undermine already-fragile governments that are unable to respond effectively or challenge currently stable govern-

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[120] UNOCHA, Humanitarian Access Analysis: Syrian Arab Republic (Sept. 17, 2019); Jesse Marks, "Humanitarian aid in Syria is being politicized—and too many civilians in need aren't getting it," *The Washington Post,* Aug. 6, 2019.

[121] Michelle Nichols, "U.N. renews Syria cross-border aid operation but halves crossings, length of time," *Reuters*, Jan. 10, 2020.

[122] Press Release, United Nations Secretary General, Statement attributable to the Spokesperson for the Secretary-General—on UN Board of Inquiry in northwest Syria, Sept. 13, 2019; UN Security Council, Letter dated 21 December 2016 from the Secretary-General addressed to the President of the Security Council, Dec. 21, 2016.

[123] Evan Hill, "U.N. Inquiry into Syria Bombings Is Silent on Russia's Role," *The New York Times,* Apr. 6, 2020.

[124] UNHCR, "Climate change and disaster displacement," https://www.unhcr.org/en-us/climate-change-and-disasters.html (last visited June 4, 2020).

[125] Environmental Justice Foundation, Climate Displacement in Bangladesh (2018) (excluding those displaced by slow-onset environmental degradation).

[126] Michela Miletto et al., *Migration and its interdependencies with water scarcity, gender and youth employment,* United Nations Education, Scientific and Cultural Organization (UNESCO) & World Water Assessment Programme, at 8 (2017).

ments, as well as increasing competition and tension between countries vying for limited resources.[127]

A recent scientific study estimated that a 2-degree Celsius rise in temperature—which the Paris Climate Agreement aims not to exceed—would more than double the influence of climate on conflict, rising to 13 percent.[128] A 4-degree Celsius rise in temperature would increase the influence of climate on conflict to 26 percent.[129]

In addition to spurring conflict, climate change will inevitably result in more extreme weather events, including droughts, floods, storms, and landslides, causing displacement.[130] In 2019, the Internal Displacement Monitoring Centre estimated that 1,900 disasters triggered 24.9 million new displacement across 140 countries—three times the number of new displacements caused by conflict and violence.[131]

The effects of climate change disproportionately impact the most vulnerable people who are least able to adapt. Women and girls are particularly vulnerable to the effects of climate change. For example, in regions experiencing drought, girls are more likely to be withdrawn from school to collect water.[132] Once girls are out of school, it is more likely that they will become child brides, which profoundly impacts their mental, physical, and overall wellbeing, and reduces their ability to be financially independent.[133]

IN FOCUS: *CLIMATE DISPLACEMENT IN BANGLADESH*

In 2017, the world watched in horror as hundreds of thousands of Rohingya were forced from their homes in Burma by a military-led crackdown and sought safe haven in Bangladesh.[134] Bangladesh itself, however, was already and is still suffering from a desperate displacement crisis. In a country with low elevation, high population density, and inadequate infrastructure, Bangladeshis are extremely susceptible to climate change displacement.[135] By 2050, it is estimated that 1 in 7 people in Bangladesh will be displaced by climate change.[136]

Rising sea levels are expected to displace 18 million people in Bangladesh by 2050 due to loss of land, tidal flood-

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[127] U.S. Department of Defense, *2014 Climate Change Adaption Roadmap,* at 4 (2014).

[128] Devon Ryan, "How much does climate change affects the risk of armed conflict," Science Daily, June 12, 2019.

[129] *Id.*

[130] United States Geological Survey, "How can climate change affect natural disasters?," https://www.usgs.gov/faqs/how-can-climate-change-affect-natural-disasters-1?qt-news—science—products=0#qt-news—science—products (last visited June 4, 2020).

[131] IDMC, *Global Report on Internal Displacement 2020* (Apr. 2020).

[132] Maram Ahmed, World Economic Forum, Global Agenda, "How climate change exacerbates the refugee crisis — and what can be done about it," June 20, 2019.

[133] Laurie Goering, "With climate change driving child marriage risks, Bangladesh fights back," *Reuters*, July 20, 2017.

[134] Jennifer Chowdhury, "Bangladesh, growing tired of hosting Rohingya refugees, puts new squeeze on the teeming camps," *The Washington Post,* Sept. 11, 2019.

[135] Kumari Rigaud et al., *Groundswell: Preparing for Internal Climate Migration,* World Bank, at 127 (2018); Environmental Justice Foundation, Climate Displacement in Bangladesh (2018).

[136] Rigaud et al., *Groundswell: Preparing for Internal Climate Migration,* at 127; Environmental Justice Foundation, Climate Displacement in Bangladesh.

ing, and other negative effects.[137] Salinization, or the contamination of water supplies with salt, has been and will be exacerbated by rising sea levels, leaving 33 million people vulnerable to related health problems by 2050.[138] Inland, melting Himalayan glaciers are already causing rising river levels and erosion driving the displacement of 50,000 to 200,000 people annually.[139] Climate change is also causing an increasing frequency and severity of tropical storms. In 2016, there were four cyclones in the Bay of Bengal, compared to one normally.[140] Other causes of climate displacement in Bangladesh include increasingly erratic rainfall patterns causing drought in the drier north-western regions and landslides in the hilly north-eastern and south-eastern regions.[141]

Maggie Moore, [Rohingya] Girl with bowl on head, USAID, Jan. 16, 2018.

[137] Rigaud et al., *Groundswell: Preparing for Internal Climate Migration,* at 156; Environmental Justice Foundation, *Climate Displacement in Bangladesh.*
[138] Environmental Justice Foundation, *Climate Displacement in Bangladesh.*
[139] Robert Glennon, "The Unfolding Tragedy of Climate Change in Bangladesh," Scientific American, Apr. 21, 2017.
[140] Environmental Justice Foundation, *Climate Displacement in Bangladesh* (2018).
[141] *Id.*

INTERNALLY DISPLACED PERSONS UNDER-RECOGNIZED

At 41.3 million globally, IDPs vastly outnumber refugees, yet they receive a fraction of international humanitarian assistance and lack formal international protections.[142] National governments have the responsibility to provide protection for IDPs and otherwise allow for humanitarian organizations to provide assistance; however, in many contexts, government authorities are unable or even unwilling to provide or allow for necessary assistance.[143] In countries like the Democratic Republic of Congo and Ethiopia, persistent cycles of violence have created huge numbers of IDPs that the government has either chosen not to protect or struggled to serve.[144] In some cases, like Syria, the government has actually perpetrated the violence and forced many to flee their homes.[145] Humanitarian organizations often lack the resources, capacity, and government permission to adequately respond to an IDP crisis.[146] IDP populations are often explicitly or implicitly left out of national action plans and resources, and international organizations lack the authority to enforce sovereign responsibility for IDP populations.[147]

The failure to fully address the needs of IDPs is an urgent and persistent problem that will only increase with time. In addition to conflict-induced internal displacement, climate change could increase the number of IDPs to well over 140 million people by 2050.[148]

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[142] UNHCR, *Global Trends: Forced Displacement in 2018,* at 3, 7 (June 2019); UNICEF & IDMC, Protecting and Supporting Internally Displaced Children in Urban Settings, at 2 (July 2019).

[143] United Nations Office of the High Commissioner on Human Rights (UNOHCHR), Guiding Principles on Internal Displacement (Feb. 11, 1998). The UN Guiding Principles on Internal Displacement state that, "National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction." *Id.*

[144] Mark Yarnell, "The World Is Failing Internally Displaced People. Here's One Solution," *Refugees Deeply,* July 10, 2018; IDMC, Ethiopia tops global list of highest displacement in 2018 (Sept. 12, 2018).

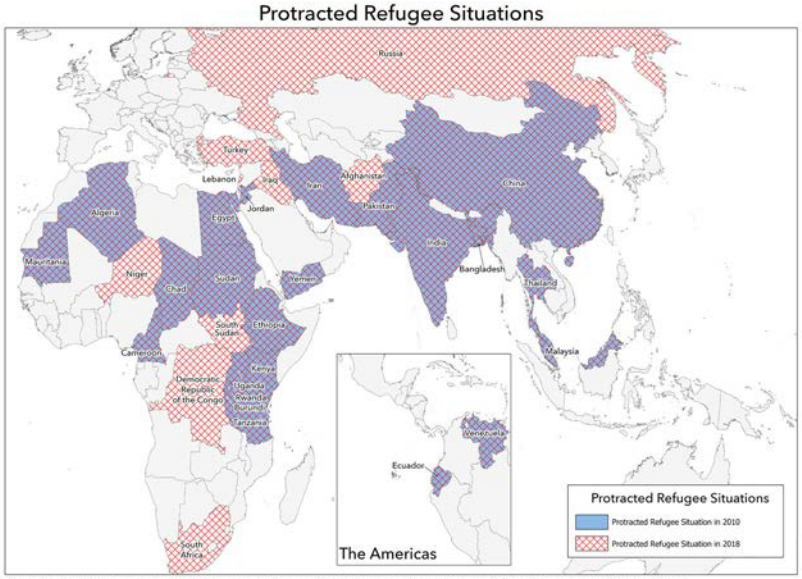
[145] Mark Yarnell & Mikaela Rear, "Dear UN secretary-general, don't forget the internally displaced," *The New Humanitarian,* July 15, 2019.

[146] Mark Yarnell, "The World Is Failing Internally Displaced People. Here's One Solution," *Refugees Deeply,* July 10, 2018; Mark Yarnell, *The Crisis Below the Headlines: Conflict Displacement in Ethiopia,* Refugees International (Nov. 2018).

[147] Press Release, International Rescue Committee, Statement by David Miliband, President and CEO of the International Rescue Committee, at the conclusion of his four-day visit to Chad and Cameroon, July 10, 2019; Roberta Cohen, *The Development of International Strategies to Protect Internally Displaced Persons,* The Brookings Institution, May 7, 1998.

[148] Rigaud et al., *Groundswell: Preparing for Internal Climate Migration,* at xix.

Protracted Refugee Situations



SOURCES: Internal Displacement Monitoring Centre, Department of State. Map by Tim St. Onge, Congressional Cartography Program, Library of Congress. May 2020.

NEW CHALLENGES FOR FORCED MIGRANTS

Decades in Displacement

As conflicts last longer, most displaced civilians are unable to return home. Today, estimates for the average length of time refugees remain displaced from their home country range between 10 and 26 years.[149] For IDPs, most experience serial or cyclical displacements—after attempting to return to their areas of origin, many are forced to flee again.[150] Today, the rate of new displacements vastly exceeds the rate at which civilians are returning home or obtaining other permanent solutions. In 2018, less than 3 percent of refugees and less than 6 percent of IDPs returned home.[151]

Multiple generations are growing up in displacement. The longest refugee situation is that of Palestinian refugees, five million of which are eligible for services from the UN Relief and Works Agency in Jordan, Lebanon, Syria, the Gaza Strip, the West Bank, and parts of East Jerusalem.[152]

Numerous conflicts elsewhere have caused generational refugee crises:

- Eritrean refugees have been displaced in Sudan for close to 30 years;[153]
- Many Burundian refugees have been in Tanzania for over 45 years;[154]
- Millions of forcibly displaced Afghan nationals have been living in Pakistan for 40 years;[155] and
- In Ethiopia, one South Sudanese refugee camp has been operating for over 25 years.[156]

The number of protracted refugee situations—formally defined as when more than 25,000 refugees have been displaced more than five years—continues to grow.[157] In 2018, nine additional crises became protracted, and none were resolved.[158] Unsurprisingly, people experiencing protracted displacement struggle to obtain essential support for their development and growth, such as reliable access to education, the opportunity to learn employable skills, or sustained employment.[159]

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[149] Xavier Devictor & Quy-Toan Do, *How Many Years Have Refugees Been in Exile?,* World Bank (Sept. 2016); Elizabeth Ferris, "When refugee displacement drags on, is self-reliance the answer?," The Brookings Institution (June 19, 2018); UNHCR, *Contribution to the Fifteenth Coordination Meeting on International Migration,* at 2 (Feb. 10, 2017).

[150] UNOCHA, *Global Humanitarian Overview 2019,* at 2 (2019).

[151] UNHCR, *Global Trends: Forced Displacement in 2018,* at 2-3 (June 2019). Note that IDP solutions are incredibly hard to determine, especially the solution of local integration. *Id.*

[152] *Id.* at 23; United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), "Palestine Refugees," https://www.unrwa.org/palestine-refugees (last visited June 17, 2020).

[153] UNHCR, *Global Trends: Forced Displacement in 2018,* at 23 (June 2019).

[154] *Id.*

[155] *Id.* at 22.

[156] UNHCR *Ethiopia, Pugnido Refugee Camp* (May 2019).

[157] UNHCR, *Global Trends: Forced Displacement in 2018,* at 22 (June 2019); *see* map on page 28, "Protracted Refugee Situations."

[158] *Id.*

[159] *See* Chapter 3 for further details.

TOP 10 REFUGEE-HOSTING COUNTRIES BY PERCENT OF WORLD'S REFUGEES HOSTED AND PERCENT OF WORLD'S GDP, 2018

Country	Percent of World's Refugees	Percent of World's GDP
1. Turkey	18%	1%
2. Pakistan	7%	0%
3. Uganda	6%	0%
4. Sudan	5%	0%
5. Germany	5%	5%
6. Iran	5%	0%
7. Lebanon	5%	0%
8. Bangladesh	5%	0%
9. Ethiopia	4%	0%
10. Jordan	4%	0%
Top Refugee-Hosting Countries	63%	7%

Committee staff analysis based on UNHCR, "Global trends 2018 annexes and tables," June 19, 2019; World Bank, "GDP (current US$)" (last visited Feb. 27, 2020).

Poor Countries Bear a Disproportionate Responsibility

Although migrants making the long journey to Europe captured global attention in 2014 and 2015, the overwhelming majority of refugees—nearly 4 in 5—reside in countries directly adjacent to their country of origin.[160] In addition, 84 percent of refugees and asylum seekers reside in developing countries, which places enormous additional pressure on these countries' already limited resources.[161] The top ten refugee-hosting countries host 63 percent of the world's refugees, but account for just 7 percent of global Gross Domestic Product (GDP).[162] Bangladesh received more refugees from Burma in three weeks in 2017 than mainland Europe received in all of 2016, and Bangladesh is responding with just 1.46 percent of the European Union's (EU) GDP.[163] Elsewhere, in Lebanon, roughly 1 in every 5 inhabitants is a refugee, making it the largest per capita refugee-hosting country in the world.[164] The influx of more than 1 million Syrian refugees comes at a remarkably difficult time for Lebanon's socioeconomic balance; among many issues, it is one of the most indebted nations in the world.[165] And Colombia, which already had the world's largest IDP population and hosted 1.8 million Venezuelan refugees as of April 2020, is con-

[160] UNHCR, *Global Trends: Forced Displacement in 2018,* at 2 (June 2019).
[161] *Id.* at 18.
[162] Data retrieved from UNHCR, "Global trends 2018 annexes and tables (.zip)," June 19, 2019, https://www.unhcr.org/search?comid=56b079c44&&cid=49aea93aba&tags=globaltrends.
[163] United Kingdom House of Commons, Foreign Affairs Committee, "Violence in Rakhine State and the UK's response" (Dec. 8, 2017); Committee staff calculations based on World Bank, "GDP (current US$)," https://data.worldbank.org/indicator/NY.GDP.MKTP.CD (last visited Feb. 27, 2020).
[164] Government of Lebanon & United Nations, *Lebanon Crisis Response Plan 2017-2020 (2019 update),* at 8, 10 (Jan. 2019).
[165] Dina Eldawy, "A Fragile Situation: Will the Syrian Refugee Swell Push Lebanon Over the Edge?", Migration Policy Institute, Feb. 21, 2019.

fronting the worst humanitarian emergency to hit the Western Hemisphere in a generation.[166] The list goes on.

Yet increasingly, developed nations are less willing to share the burden, and are turning their backs on migrants and refugees by closing their borders, restricting access to their asylum systems, and externalizing their border enforcement. The EU, for example, has instituted security measures in West and North Africa that have, in effect, externalized—or pushed out—their borders. These measures include the Trust Fund for Africa, an expansive EU-funded effort to stem irregular migration and refugee flows to Europe. Among its programs is support for the Libyan Coast Guard, who intercepts boats of asylum seekers, refugees, and migrants fleeing for Europe and returns them to areas embroiled in conflict in Libya.[167] One Egyptian official in the Department of Refugee Affairs described the need for burden sharing to Committee staff: "It is quite obvious that Northern countries are less welcoming for refugees and migrants. They must therefore support other host countries."[168]

Increasingly Urban Settings

Forced migration is becoming increasingly urban, resulting in modified and increased protection needs. In contrast to past decades, the majority of refugees, IDPs, and other migrants now live in urban settings, as opposed to rural areas or formal camps.[169] The humanitarian system—which is traditionally accustomed to short-term, life-saving, camp-based responses—is still adapting to the new reality of more urban and longer-term displacement. In 2014, UNHCR's Policy on Alternatives to Camps placed a strong preference against establishing formal camps, recommending that they only be set up as a last resort in rapid onset displacement crises.[170] These changes in policy aside, however, the humanitarian system has struggled to identify and adequately assist forced migrants in urban contexts.[171] As the global population continues to urbanize, the humanitarian community and governments need to adapt to create a coherent response to urban displacement and migration.

CONCLUSION

The reality is that forced migration—in its root causes and challenges—has radically transformed in recent decades, rendering traditional tools no longer fit to respond effectively. As a result, more people are displaced than ever before. The increased frequency and

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[166] Ivan Duque, "Colombia is committed to helping Venezuelan refugees. But we can't do it alone," *The Washington Post,* Feb. 27, 2020; Response for Venezuelans, *Venezuelan Refugees & Migrants in the Region* (Apr. 2020).

[167] Anny Bhan et al., *Pushing the boundaries: Insights into the EU's response to mixed migration on the Central Mediterranean Route,* International Rescue Committee, at 2 (July 2018); Oxfam, *The EU Trust Fund for Africa: Trapped between aid policy and migration politics* (Jan. 29, 2020).

[168] Department of Refugee Affairs, Ministry of Foreign Affairs, Interview with Committee Staff, Senate Foreign Relations Committee Staff Visit to Cairo, Egypt, May 2019.

[169] UNHCR, *Global Trends: Forced Displacement in 2018,* at 17, 56 (June 2019); Cindy Huang & Jimmy Graham, "How Urban are IDPs and What Does that Mean for Their Economic Integration?," Center for Global Desvelopment, May 10, 2019.

[170] UNHCR, *Policy on Alternatives to Camps,* at 46 (July 2014).

[171] Ede Ijjasz-Vasquez et al., "Refugees and internally displaced persons in cities—the "hidden" side of forced displacement," World Bank, May 22, 2019.

duration of conflicts means that refugees and IDPs are living in precarious conditions for decades on end, while the available solutions are proving more elusive than ever. Moreover, the profile of those forced to flee has changed—climate change's effects are rendering communities uninhabitable and forcing many to leave their homes. These trends will continue to prompt human adaption and force people to flee their homes in search of safety.

Forced migration is the result of the failure of national and international community to address the root causes of displacement—war, endemic violence, corruption, weak governance, abusive leaders, and poor accountability. At its crux, the international community is suffering from a political crisis that has resulted in a global forced migration crisis. International bodies, like the UN Security Council, must use all of the powers at its disposal to pursue its core mandate—maintaining international peace and security—by resolving and preventing conflicts, and holding perpetrators of international humanitarian law violations accountable. In addition, the United States must make concerted efforts to address drivers of displacement—promoting international law and accountability, imposing sanctions, supporting conflict resolution and atrocity prevention, strengthening the UN Security Council, and rejoining and championing global efforts to act on climate change.

Without dramatic efforts, these trends suggest the forced migrant crisis will continue to grow in numbers and severity, impacting the stability of the entire world and the United States.

Ashique Rushdi, [Rohingya] Man with umbrella, USAID, Jan. 16, 2018.

CHAPTER THREE
Human Rights Denied

Many forced migrants face unimaginable trauma and severe violations of their human rights during the course of their journey, such as exploitation, family separation, kidnapping, torture, enslavement, arbitrary detention, sexual violence, drowning, and arbitrary killing. Those that survive continue to face significant challenges once they reach safety. Forced migrants often face severe restrictions on their human rights, including the right to freedom of movement, and access to identity documents, education, and healthcare. These restrictions push many to the fringes of society, and make it difficult for forced migrants to provide for themselves and their families, and contribute to their host communities. Women and children face especially severe restrictions, and are vulnerable to trafficking and exploitation.

Pervasive Restrictions on Freedom of Movement

For ordinary people forcibly displaced by conflict, their circumstances vary widely—the image of a fenced refugee camp represents life for only a fraction of forced migrants globally.[172] Whether living in a camp or not, many forced migrants experience restrictions on their ability to move freely. In Bangladesh, the government bars Rohingya refugees from leaving their camps—con-

[172] UNHCR, *Global Trends: Forced Displacement in 2018,* at 57 (June 2019).

fining 900,000 people.[173] In Lebanon, local authorities illegally enact curfews on Syrian refugee populations.[174]

In extreme cases, authorities restrict the movement of refugees by holding them in detention centers with appalling living conditions. Most migrants arrive at detention centers already weakened by the hardships of the journey, and human rights abuses at detention centers further compound their vulnerability and can be fatal.[175] For example, in Libya, forced migrants are held for months in squalid and disease-ridden conditions.[176] Detainees lack food, clean water, and ventilation, and continuously face exploitation and abuse, including forced labor, physical abuse, sexual violence, trafficking, torture, and even murder.[177] Moreover, many of these Libyan detention centers are located on the frontlines of the armed conflict, exposing migrants to an additional level of danger due to their restricted movement.[178] In July 2019, a Libyan National Army missile struck the Tajoura detention center near Tripoli, killing 53 migrants held there.[179]

OBSTACLES TO ACCESSING IDENTITY DOCUMENTATION

Many forced migrants lack proper identity documents, such as birth certificates—a significant obstacle as they seek to travel to a safe location and gain legal recognition, protection of their human rights, and access to services.[180] Forced migrants are more likely to lack identity documents because of the extreme conditions of their home countries and journeys. Reasons vary widely—from those whose home governments lacked the capacity to provide identity documentation, to those facing persecution who fear approaching government officials to request or renew documents, to those whose documents were lost, damaged, or stolen on their journey.[181] In Somalia, for example, the process for gaining identity documentation is cost prohibitive for most Somalis, involving travel to Mogadishu, a criminal reference check, and a fee of 12.50 U.S. dollars.[182]

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[173] Bill Frelick, "Bangladesh is not my Country": The Plight of Rohingya Refugees from Myanmar, Human Rights Watch (Aug. 5, 2018).

[174] "Lebanon: At Least 45 Local Curfews Imposed on Syrian Refugees," Human Rights Watch, Oct. 3, 2014.

[175] *See, e.g.*, Sally Hayden, "The U.N. Is Leaving Migrants to Die in Libya," *Foreign Policy,* Oct. 10, 2019.

[176] Maggie Michael, "Migrants stranded in Libya endure sewage, maggots, disease," *AP,* June 30, 2019; Izza Leghtas, *"Death Would Have Been Better": Europe Continues to Fail Refugees and Migrants in Libya,* Refugees International, at 3 (Apr. 2018).

[177] Maggie Michael, "Migrants stranded in Libya endure sewage, maggots, disease," *AP,* June 30, 2019; Izza Leghtas, *"Death Would Have Been Better": Europe Continues to Fail Refugees and Migrants in Libya,* Refugees International, at 3 (Apr. 2018); Sally Hayden, "The U.N. Is Leaving Migrants to Die in Libya," *Foreign Policy,* Oct. 10, 2019.

[178] Sally Hayden, "The U.N. Is Leaving Migrants to Die in Libya," *Foreign Policy,* Oct. 10, 2019.

[179] "Six children among 53 confirmed fatalities after Libya detention centre airstrikes: Security Council condemns attack," *UN News,* July 5, 2019.

[180] Nicholas Oakeshott et al., "Empowering refugees and internally displaced persons through digital identity," World Bank Blogs, June 19, 2018; Bronwen Manby, *Identification in the Context of Forced Displacement,* The World Bank, at 1 (June 2016).

[181] Global System for Mobile Communications Association (GSMA), *Refugees and Identity: Considerations for Mobile-Enabled Registration and Aid Delivery,* at 6 (June 2017).

[182] Research Directorate, Immigration and Refugee Board of Canada, Ottawa, "Somalia: Identification documents, including national identity cards, passports, driver's licenses, and any other document required to access government services; information on the issuing agencies and the requirements to obtain documents," European Country of Origin Information Network, https://www.ecoi.net/en/document/1167317.html (last visited June 4, 2020).

Forced migrants without identity documents face a long list of obstacles, including:

- Risk of detention or deportation;
- Risk of abuse or exploitation;
- Risk of statelessness, particularly for children;
- Limited access to services and benefits, including education, health care, and banking;
- Inability to document subsequent life events such as marriage, birth, and death (and potentially those of an undocumented individuals' children as well); and
- Inability to repatriate, especially for children of forced migrants.[183]

Formal documentation often serves as the basis for the provisioning of other legal rights and basic services. As such, forced migrants without identity documents often lack access to rights, including freedom of movement and the right to work, and are often more vulnerable to exploitation and abuse.[184] Furthermore, forced migrants without identity documents are less likely to report abuse or exploitation due to fear of arrest or deportation.[185]

While states are ultimately responsible for registering refugees and issuing identity documentation, the UN High Commission for Refugees (UNCHR) often plays a supporting role.[186] UNHCR has implemented and partnered with various technological solutions for identity documentation.[187] These efforts are discussed further in Chapter 7.

SIDEBAR: *STATELESSNESS AND FORCED MIGRATION*

Within the growing numbers of refugees, IDPs, and other forced migrants around the world, there are millions of stateless persons.[188] As defined in international law, a stateless person is someone whom no state considers as a national under operation of its law.[189] Stateless people have no legal status and no right to vote, and they often lack access to education, employment, health care, justice systems, property rights, and registration of birth, marriage, and death.[190]

Forced migration is both a cause and consequence of statelessness for millions of people. Lacking citizenship in

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[183] Bronwen Manby, *Identification in the Context of Forced Displacement,* World Bank, at 1, 8-9, 21 (June 2016).

[184] GSMA, *Refugees and Identity: Considerations for Mobile-Enabled Registration and Aid Delivery,* at 6, 21; Bronwen Manby, *Identification in the Context of Forced Displacement,* World Bank, at 9.

[185] GSMA, *Refugees and Identity,* at 6.

[186] Bronwen Manby, *Identification in the Context of Forced Displacement,* World Bank, at 1 (June 2016).

[187] GSMA, *Refugees and Identity,* at 9-13; Mark Latonero et al., *Digital Identity in the Migration and Refugee Context: Italy Case Study,* Data & Society Research Institute, at 4 (Apr. 2019).

[188] UNHCR, *Global Trends: Forced Displacement in 2018,* at 51-52 (June 2019); UNHCR, *UNHCR Global Appeal 2010-2011: Addressing Statelessness* (Dec. 1, 2009).

[189] UN, *Convention Relating to the Status of Stateless Persons,* at 6 (Sept. 28, 1954).

[190] Anna Roberts & Mehgan Gallagher, "No Place to Run: The Forgotten Vulnerabilities of the Stateless," O'Neill Institute for National and Global Health Law at Georgetown University Law Center, Oct. 3, 2016; UN Office of the High Commissioner for Human Rights (UNOHCHR) & UNHCR, *Meeting Report: Regional Expert Meeting on the Human Rights of Stateless Persons in the Middle East and North Africa,* at 17, 19, 21, 26 (Feb. 18-19, 2010).

any country, stateless people are highly vulnerable to forced displacement, trafficking in persons, and other abuses.[191] In some situations, like that of Rohingya, statelessness can be grounds for persecution in an asylum claim.[192] Forced migration can cause statelessness when states stipulate the loss of citizenship with residency abroad, identity documents are lost, forfeited, or destroyed, or children born to refugees are unable to register with host countries or countries of origin.[193] For example, because Syria's citizenship law permits only fathers to transmit Syrian citizenship to children born outside of Syria, millions of Syrian refugee children are at risk of statelessness due to difficulty documenting their connections to a Syrian father, including situations where fathers have been killed or separated from their families and where parents lack official documentation of their marriage.[194]

Because they are not recognized by any government, official statistics on stateless people remain largely unavailable.[195] UNHCR—the agency mandated to prevent and reduce statelessness—reported data on 3.9 million stateless persons from 78 countries at the end of 2018, but has estimated that the global figure may be closer to 12 million.[196] In the United States alone, one Center for Migration Studies report estimated 218,000 U.S. residents were potentially stateless or at risk of statelessness.[197] Although UNHCR launched a 10-year Global Campaign to End Statelessness by 2024 and UN member states, civil society organizations, and international and regional organizations have made over 350 pledges to take concrete actions to prevent and reduce statelessness, progress in reducing statelessness remains limited.[198] Furthermore, the risks of creating new stateless populations grow as forced migration and xenophobia increase.

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[191] Anna Roberts & Mehgan Gallagher, "No Place to Run: The Forgotten Vulnerabilities of the Stateless," O'Neill Institute for National and Global Health Law at Georgetown University Law Center, Oct. 3, 2016.

[192] UNHCR, *Representing Stateless Persons Before U.S. Immigration Authorities: A Legal Practice Resource from the United Nations High Commission for Refugees,* at 17-18 (Aug. 2017).

[193] UNHCR, *Self-Study Module on Statelessness,* at 26 (Oct. 1, 2012).

[194] Dilys Hartley, "Statelessness and the Syrian Conflict," Oxford Human Rights Hub, June 21, 2017; Zahra Albarazi & Laura van Waas, *Understanding statelessness in the Syria refugee context,* Institute on Statelessness and Inclusion & Norwegian Refugee Council, at 37 (2016).

[195] UNHCR, *Global Trends: Forced Displacement in 2018,* at 51 (June 2019).

[196] *Id.*; "'12 million' stateless people globally, warns UNHCR chief in call to States for decisive action," *UN News,* Nov. 12, 2018.

[197] Donald Kerwin et al., *Statelessness in the United States: A Study to Estimate and Profile the US Stateless Population,* The Center for Migration Studies of New York, at 2-4 (Jan. 2020). The availability of data on stateless persons in the U.S. is inconsistent due to insufficient and inconsistent tracking practices.

[198] UNHCR, *Global Action Plan to End Statelessness 2014-2024* (Nov. 4, 2014); UNHCR, The Campaign to End Statelessness: October—December 2019 Update, at 2 (Jan. 20, 2020); "'Dangerous nationalism' seriously threatens efforts to tackle statelessness: UNHCR chief," *UN News,* Oct. 7, 2019.

BARRIERS FOR ACCESSING HEALTHCARE AND EDUCATION

A health clinic at an IDP camp on the former site of the Petionville country club in Haiti. Ben Edwards, Health Clinic, USAID (Mar. 29, 2011).

Although international law affords everyone the right to access healthcare, ready access is rarely the case for forced migrants.[199] Given the complete collapse of Venezuela's healthcare system, thousands of pregnant Venezuelan women have made the dangerous crossing into Colombia to give birth.[200] Colombian emergency rooms along the border are on the verge of collapse due to strained resources, forcing many patients to go unseen by a health care professional.[201] For many forced migrants, poor living conditions and the difficult journey result in disease, infections, and other ailments.[202] The inability to receive the most basic medical attention can cause a treatable illness to be fatal.[203]

Forced migrants also frequently struggle to access education. The benefit of quality education cannot be overstated. In addition to providing a venue for children to expand their knowledge, schools serve as safe havens and sources of psycho-social development.[204] These forms of education and intervention are critically important for children living in crisis who often experience violence, separation from caregivers, and severe restrictions on their most basic

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[199] UNOHCHR, *The Right to Health,* Fact Sheet No. 31, at 3-4, 18-20 (June 2008).

[200] Alejandra Romo, "Pregnant women flee lack of maternal health care in Venezuela," UNHCR, July 23, 2019.

[201] Senate Foreign Relations Committee Staff Visit to Hospital in Cúcuta, Colombia, Mar. 20-23, 2019; Anastasia Moloney, "FEATURE—As Venezuela's health system crumbles, pregnant women flee," *Reuters*, June 18, 2018; Luisa Torres, "Colombia Kindly Offers Free Health Care to Venezuelans—Up To A Point," NPR, Aug. 20, 2019.

[202] *See* e.g., Anastasia Moloney, "FEATURE—As Venezuela's health system crumbles, pregnant women flee to Colombia," *Reuters*, June 18, 2018.

[203] *See* e.g., id.

[204] Claire Mason & Shannon Orcutt, *Hear It from The Teachers: Getting Refugee Children Back to Learning,* Save the Children, at 15 (Oct. 2018); Jenni Lee, "5 Reasons to Care About Education for Refugees," United Nations Foundation, Nov. 23, 2016.

rights.[205] During critical stages of development, particularly from birth to five years old, these adverse experiences have detrimental effects on the developing brain and stress response system with life-long repercussions for the child's future health and well-being.[206]

More than half of the 7.1 million school-age refugee children are not in school.[207] Many refugees who do receive primary education do not or cannot access secondary education. While 63 percent of refugees are enrolled in primary education, only 24 percent are enrolled in secondary education—compared to the global rate of 84 percent.[208] Only 3 percent of refugees have access to higher education.[209]

Often, host countries do not provide or even allow educational resources or institutions for forced migrants living within their borders. Only 16 out of 25 UNHCR priority countries allow refugees full access to their education systems at the primary and secondary level.[210] Until January 2020, Rohingya refugees living in Cox's Bazaar in Bangladesh were only allowed access to provisional learning centers providing playtime and early primary education.[211] These limited resources, in combination with their inability to move freely beyond the refugee camps, effectively denied a majority of the world's Rohingya populations an education for several years.

In January 2020, Bangladesh finally announced it would begin to allow formal schooling and skills training for Rohingya refugee children.[212]

While inadequate education access for refugees and other forced migrants is a common challenge, children often need to work to help support their families, presenting an additional and complex barrier to accessing education.[213] In Jordan, for example, 47 percent of Syrian refugee households entirely or partly rely on income generated by a child.[214] In certain contexts, working almost always guarantees that a child will not return to school.[215] Additional barriers to accessing education include safety concerns, prohibitive transportation, uniform and supplies costs, the need for remedial education for refugee children who have been out of school, and restrictions on movement.[216] Such barriers have contributed to the

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[205] NGO Committee on Migration, *Positive Effects of Innovative Early Childhood Development Programs on Refugee Youth Resilience* (Nov. 2016); Claire Mason & Shannon Orcutt, *Hear It from The Teachers: Getting Refugee Children Back to Learning,* Save the Children, at 13 (Oct. 2018).

[206] NGO Committee on Migration, *Positive Effects of Innovative Early Childhood Development Programs on Refugee Youth Resilience* (Nov. 2016).

[207] UNHCR, *Stepping Up: Refugee Education in Crisis,* at 11 (2019).

[208] *Id.* at 6.

[209] UNHCR, "Tertiary Education," https://www.unhcr.org/en-us/tertiary-education.html (last visited June 2, 2020).

[210] Sébastien Hine & Joseph Nhan-O'Reilly, *Losing out on Learning: Providing refugee children the education they were promised,* Save the Children, at 7 (2017).

[211] "Bangladesh: Rohingya children get access to education," Amnesty International, Jan. 28, 2020.

[212] *Id.*

[213] Claire Mason & Shannon Orcutt, *Hear It from The Teachers: Getting Refugee Children Back to Learning,* Save the Children, at 24 (Oct. 2018).

[214] United Nations Children's Fund (UNICEF) & Save the Children, *Small Hands Heavy Burden: How the Syria Conflict is Driving more Children into the Workforce,* at 2 (July 2, 2015).

[215] *Id.*

[216] UNHCR, *Stepping Up: Refugee Education in Crisis,* at 29 (2019); Claire Mason & Shannon Orcutt, *Hear It from The Teachers: Getting Refugee Children Back to Learning,* Save the Children, at 25, 38 (Oct. 2018).

over 250,000 Syrian refugee children who remained out of school in Lebanon in 2018.[217]

Whole generations of children are missing educations, which has repercussions for not only them, but for their families, their communities, and, ultimately, their countries. The need for greater access to education has been highlighted on the global stage, including at the 2016 World Humanitarian Summit with the creation of a global fund for education in emergency situations—Education Cannot Wait.[218] As a result, education funding as a proportion of humanitarian assistance reached a five-year high in 2018 at 4.3 percent, with a remaining 56 percent funding gap in appeals.[219] More needs to be done to support refugee populations and their host communities to help them secure a brighter future.

WIDESPREAD LACK OF LIVELIHOOD OPPORTUNITIES AND BARRIERS TO WORK

Inadequate job opportunities for forced migrants can increase their vulnerability to other abuses, including exploitation, abuse, and even trafficking.[220] Numerous refugee-hosting countries, such as Egypt and Bangladesh, completely bar refugees from legal employment.[221] In others, such as Lebanon, refugees are only permitted to work in specific sectors.[222] One study of 15 countries found that 45 percent legally barred employment for refugees.[223] In countries where migrants can legally work, significant de-facto barriers to employment—such as discrimination, restrictions on mobility, access to safe transportation, barriers to registering home-based businesses, prohibitive start-up costs, and access to financial services—undermine forced migrants' ability to access sustainable employment.[224] Women often face these barriers and more, including lack of affordable childcare options and cultural norms.[225] Even without these restrictions, sustainable employment for forced migrants is by no means guaranteed and is especially challenging in economies that already suffer from high unemployment rates. In Ethiopia, the government has set aside 30,000 economic opportunities, including work permits, for refugees through the World Bank

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[217] "Lebanon: Stalled Effort to Get Syrian Children in School," Human Rights Watch, Dec. 13, 2018.

[218] Education Cannot Wait, "About Us," https://www.educationcannotwait.org/about-ecw/ (last visited June 3, 2020).

[219] Education Cannot Wait, *Annual Report 2018,* at 6, 9 (2019).

[220] Anna Wirth et al., *Global Refugee Work Rights Report: Taking the Movement from Theory to Practice,* Asylum Access & the Refugee Work Rights Coalition, at 28, 31 (Sept. 2014).

[221] Email Attachment from Karim Saad, Counselor, Embassy of Egypt in Washington D.C., to Committee Staff, Apr. 15, 2019; Kristy Siegfried, "The Refugee Brief—30 April 2019," UNHCR, Apr. 30, 2019; Anna Wirth et al., *Global Refugee Work Rights Report: Taking the Movement from Theory to Practice,* Asylum Access & the Refugee Work Rights Coalition, at 5 (Sept. 2014).

[222] Shelly Culbertson & Krishna B. Kumar, "Jobs Can Improve the Lives of Syrian Refugees and Their Host Communities—and Support Stability in the Middle East," RAND Corporation, Mar. 11, 2019.

[223] Anna Wirth et al., *Global Refugee Work Rights Report: Taking the Movement from Theory to Practice,* Asylum Access & the Refugee Work Rights Coalition, at 5 (Sept. 2014).

[224] *Id.*; International Rescue Committee, *In Search of Work: Creating Jobs for Syrian Refugees: A Case Study of the Jordan Compact* (Feb. 2017), at 13, 15-16; Cindy Huang & Kate Gough, "The Jordan Compact: Three Years on, Where Do We Stand?" Center for Global Development, Mar. 11, 2019.

[225] International Rescue Committee, *In Search of Work: Creating Jobs for Syrian Refugees: A Case Study of the Jordan Compact,* at 12 (Feb. 2017); Raiyan Kabir & Jeni Klugman, "Unlocking Refugee Women's Potential: Closing Economic Gaps to Benefit All," International Rescue Committee & Georgetown Institute for Women, Peace and Security, at 11 (July 2019).

Jobs Compact.[226] However, the Ethiopian government told Committee staff that work permits will not be available to South Sudanese refugees in camps because of the prioritized employment needs of the Ethiopian host community, as well as potentially Ethiopian IDPs.[227]

Children playing in the streets of the Hittein Refugee Camp in Zarqa, Jordan. Simple Pleasures of Running Around, USAID/Jordan, Jan. 24, 2014.

IN FOCUS: *AN ALARMING INCREASE IN CHILDREN WHO ARE FORCED MIGRANTS*

At the end of 2018, nearly 31 million children were displaced as refugees, asylum seekers, and IDPs.[228] For children, the probability of being a refugee, asylum seekers, or IDP is about 50 percent greater than for the overall population.[229] The number of child refugees under UNHCR's mandate has more than doubled in just 10 years.[230]

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[226] World Bank, *International Development Association Program Appraisal Document on a Proposed Credit From the IDA18 Regional Sub-Window on Refugees in the Amount of SDR 58 Million (US $83.33 Million Equivalent) and a Proposed Grant in the Amount of SDR 82.6 Million (US $118.67 Million Equivalent) Including US $83.34 Million Equivalent from the IDA18 Regional Sub-Window on Refugees to the Federal Democratic Republic of Ethiopia for a Program-For-Results/Investment Project Financing Economic Opportunities Program,* at 2, June 4, 2018, http://documents.worldbank.org/curated/en/226021530243071432/pdf/NEW-ETHIOPIA-PAD-06072018.pdf.

[227] Senate Foreign Relations Committee Staff Visit to Ethiopia, May 24-June 1, 2019.

[228] UNICEF, "Data: Child displacement," https://data.unicef.org/topic/child-migration-and-displacement/displacement/ (last visited June 3, 2020).

[229] For children, the probability is approximately 1 in 71 based on 31 million children forced migrants and 2.2 billion children worldwide. Committee staff calculations based on UNICEF, "Data: Child displacement," https://data.unicef.org/topic/child-migration-and-displacement/displacement/ (last visited June 8, 2020); UNICEF, "The State of the World's Children 2017 Statistical Tables," Dec. 2017, https://data.unicef.org/resources/state-worlds-children-2017-statistical-tables/. For the overall population, the probability is approximately 1 in 109 (see Chapter 1) based on 2019 figures for forced migration (70.8 million) and world population (7.7 billion). UNHCR, "Figures at a Glance," https://www.unhcr.org/en-us/figures-at-a-glance.html (last visited May 27, 2020); United Nations, "World Population Prospects 2019," https://population.un.org/wpp/DataQuery/.

[230] UNICEF, *Uprooted: The Growing Crisis for Refugee and Migrant Children,* at 3 (Sep. 2016).

Restrictions on access to healthcare and education, as well as restrictions on movement, such as detention, can have devastating consequences on children. These consequences can overshadow the rest of their lives.[231] Furthermore, children—and especially unaccompanied minors—are often particularly vulnerable to some of the worst forms of abuse and harm, including trafficking.[232] In 2015, nearly 100,000 children filed asylum claims with UNHCR as unaccompanied or separated children—representing a three-fold increase from the previous year and the highest number on record.[233]

A young Farahi girl stares into the camera at a local returnee and refugee village in Farah province, Afghanistan. HMC Josh Ives, 130209-N-IE116-052, U.S. Navy, Feb. 9, 2013.

IN FOCUS: *VULNERABILITIES FOR WOMEN AND GIRLS*

Women and girls make up around half of the world's forced migrant population and face significant additional barriers, including discrimination and violence.[234] While forced migrant populations, such as refugees and IDPs, are often treated as second-class citizens within their host countries, the treatment of women and girls is even further degraded on account of their gender. This places a double burden on women and girl forced migrants.

Women often face gender-specific restrictions that limit their ability to access human rights. In addition to child and family care responsibilities, women face significant ad-

[231] *Id.*
[232] *Id.*
[233] *Id.* at 38-39.
[234] UNHCR, "Women," https://www.unhcr.org/en-us/women.html (last visited June 3, 2020); UN Secretary General, *In safety and dignity: addressing large movements of refugees and migrants, 70th Session,* at 9 (Apr. 21, 2016).

ditional economic barriers. The 15 largest refugee-hosting countries in 2014 together had 170 women-only legal restrictions on seeking employment.[235] The five economies with the most restrictions on women's right to work include four of the top refugee hosts.[236] These economic restrictions not only impact women, but also whole families. During and after conflict, there is often a significant increase in female-headed households.[237] In Jordan, 29 percent of Syrian households are female-headed.[238] In southern Syria, studies have shown that the income of female-headed households is 15 to 32 percent less than male-headed households.[239]

In the context of healthcare and education, women and girls face extreme vulnerability to restricted access to these critical services. Sixty percent of all preventable maternal deaths take place in settings of conflict, displacement, or natural disasters, where women and girls cannot access critical health care.[240] Moreover, girls in conflict settings are 2.5 times more likely to be out of school than boys.[241]

Women and girls also face particular protection risks during transit and displacement. These include, but are not limited to, health complications, physical harm and injury, and risks of exploitation, gender-based violence, and trafficking.[242]

GENDER-BASED VIOLENCE: AN UNDER-RECOGNIZED RISK

Though the international humanitarian community has increased its attention towards gender-based violence (GBV), it remains a major challenge as both a driver of and risk during forced migration.[243] Women and girls are particularly vulnerable to GBV abuses in humanitarian settings. The risk of GBV rises during times of conflict and emergency.[244] An estimated 2 out of every 3 women killed in Central America is a victim of femicide—killed

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[235] World Bank, *Forcibly Displaced: Toward a Development Approach Supporting Refugees, the Internally Displaced, and Their Hosts,* at 87 (2017).

[236] The four countries are Afghanistan, Iran, Jordan, and Yemen. *Id.*

[237] Mira Philips, "Gender & post-conflict development: Experiences of female-headed households," The Island, Aug. 25, 2014.

[238] CARE International in Jordan, *Fact Sheet: 8 Years Into Exile—Urban Syrian refugees, non-Syrian refugees, and vulnerable host communities,* at 1 (Aug. 2018).

[239] Beatrix Buecher & James Rwampigi Aniyamuzaala, *Women, Work & War: Syrian women and the struggle to survive five years of conflict, CARE,* at 16 (Mar. 2016).

[240] United Nations Population Fund (UNFPA), *State of World Population 2015—Shelter from the Storm: A Transformative Agenda for Women and Girls in a Crisis-Prone World,* at 4 (2015).

[241] UNOCHA, *Global Humanitarian Overview 2019,* at 17 (2019).

[242] UN Women—Europe and Central Asia, "Women refugees and migrants," https://eca.unwomen.org/en/news/in-focus/women-refugees-and-migrants (last visited June 3, 2020).

[243] U.S. Department of State, Bureau of Population, Refugees, and Migration, "Gender and Gender-Based Violence," https://www.state.gov/other-policy-issues/gender-and-gender-based-violence/#ftn1ref (last visited June 3, 2020). According to the Department of State, gender-based violence (GBV) is an umbrella term for any harmful threat or act directed at an individual or group based on actual or perceived biological sex, gender identity and/or expression, sexual orientation, and/or lack of adherence to varying socially constructed norms around masculinity and femininity. It is rooted in structural gender inequalities, patriarchy, and power imbalances. *Id.* Anja Parish, "Gender-Based Violence against Women: Both Cause for Migration and Risk along the Journey," Migration Policy Institute, Sept. 7, 2017.

[244] U.S. Department of State, Bureau of Population, Refugees, and Migration, "Gender and Gender-Based Violence," https://www.state.gov/other-policy-issues/gender-and-gender-based-violence/#ftn1ref (last visited June 3, 2020).

specifically because of their gender.[245] The COVID-19 pandemic has also been accompanied by an increase in GBV cases in countries around the world.[246] GBV can and does affect men and boys as well, but nowhere near the magnitude experienced by women and girls.[247]

A woman from Kassab IDP camp in North Darfur shows her sorrow for the increase of rapes in the area. She addressed the United Nations-African Union Mission in Darfur (UNAMID) Joint Special Representative Ibrahim Gambari and asked him to assure their protection. Albert Gonzalez Farran, Woman's sorrow, UNAMID, Jan. 19, 2012.

An estimated one in five women refugees or displaced women in humanitarian settings has experienced sexual violence.[248] Due to stigma and shame surrounding sexual violence, incidences of GBV often go underreported.[249] Moreover, there is a shortage of trained experts to monitor, prevent, mitigate, and respond to GBV.[250] For example, at a South Sudanese refugee camp Committee staff visited in Ethiopia, there were no protection officers for GBV for a population of 80,000.[251] The South Sudanese refugee women at the camp said they have to go in groups to collect their daily firewood for cooking, as they are afraid for their safety if they go alone.[252]

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[245] Sebástian Essayag, *From Commitment to Action: Policies to End Violence Against Women in Latin America and the Caribbean,* United Nations Development Programme (UNDP) & UN Women, at 11 (Nov. 15, 2017).

[246] Oscar Lopez, "Femicides in Argentina reach 10-year high under coronavirus lockdown," *Reuters*, May 18, 2020.

[247] European Institute for Gender Equality, "What is gender-based violence?," https://eige.europa.eu/gender-based-violence/what-is-gender-based-violence (last visited June 8, 2020).

[248] International Rescue Committee, *Clinical Care for Survivors of Gender-Based Violence,* at 2 (Aug. 2016).

[249] Charles North, "Overcoming the Stigma of Gender-Based Violence," USAID, Dec. 9, 2016.

[250] Elhra Humanitarian Innovation Fund, Gender-Based Violence Interventions: Opportunities for Innovation—Gap Analysis, at 54 (2016); U.S. Department of State Archive, "Safe from the Start," https://2009-2017.state.gov/j/prm/policyissues/issues/c62378.htm (last visited June 9, 2020).

[251] Senate Foreign Relations Committee Staff Visit to the Nguenyyiel Camp in Ethiopia, May 30, 2019.

[252] *Id.*

For women and girls, extreme restrictions on their other rights, including healthcare and education, makes them even more vulnerable to GBV. Lack of education, poverty, gender inequality, and displacement can all serve as factors creating situations where girls are more at risk of being forced into child marriages.[253] In Jordan, for example, child marriages among Syrian refugees more than doubled in 4 years—from 15 percent in 2014 to 36 percent by 2018.[254] In Syria itself, 69 percent of communities assessed by the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) reported early marriage as a concern.[255] In child marriages where girls marry before 15, girls are 50 percent more likely to experience physical and sexual violence from their partner.[256]

GBV causes severe and long-lasting physical, psychological, and emotional trauma.[257] Access to post-GBV services, however, is extremely limited for forced migrants.[258] Despite recent initiatives focused on GBV, the international community too often fails to prioritize GBV as a pressing issue. In 2013, the United Kingdom and Sweden launched a multi-stakeholder initiative, the Call to Action on Protection from Gender-based Violence in Emergencies, with the aim of providing comprehensive post-GBV services as well as mitigating GBV risk from the earliest phases of a crisis.[259] In September 2013, the United States launched Safe from the Start, a joint Department of State and USAID initiative, to help reduce the incidence of GBV and ensure quality services for survivors from the onset of emergencies.[260] Safe from the Start dedicates new resources to GBV interventions, risk mitigation, and accountability in emergency settings.[261] These initiatives are extremely positive steps, but collectively the international community can do more to prioritize GBV, including increasing funding. Between 2016 and 2018, less than 0.2 percent of humanitarian response funding was spent on GBV prevention for women and girls.[262]

SIDEBAR: *THE UNITED NATIONS POPULATION FUND*

The United Nations Population Fund (UNFPA), established in 1969, is the UN's reproductive health agency, which seeks to end preventable maternal deaths, meet needs for voluntary family planning, and end gender-based violence, child marriage, female genital mutilation, and

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[253] Girls Not Brides, "Why Does Child Marriage Happen?," https://www.girlsnotbrides.org/why-does-it-happen/ (last visited June 4, 2020); Omer Karasapan & Sajjad Shah, "Forced displacement and child marriage: A growing challenge in MENA," The Brookings Institution, June 19, 2019.

[254] "Child marriage on the rise among Syrian refugee girls in Jordan," *Al Jazeera,* Apr. 18, 2018.

[255] UNOCHA, Syrian Arab Republic: The Humanitarian Crisis in Syria, at 1 (Apr. 23, 2018).

[256] Girls Not Brides, "What is the impact of Child Marriage: Violence against girls" https://www.girlsnotbrides.org/themes/violence-against-girls/ (last visited June 4, 2020).

[257] World Health Organization Health Cluster, "Gender-based violence in health emergencies."

[258] *See* Marcy Hersh et al., *The Call to Action on Protection from Gender-based Violence in Emergencies: Field-Level Implementation Urgently Required,* Women's Refugee Commission (Dec. 2016).

[259] *Id.* at 1.

[260] U.S. Department of State, Bureau of Population, Refugees, and Migration, "Gender and Gender-Based Violence," https://www.state.gov/other-policy-issues/gender-and-gender-based-violence/ (last visited June 4, 2020).

[261] U.S. Department of State Archive, "Safe from the Start," https://2009-2017.state.gov/j/prm/policyissues/issues/c62378.htm (last visited June 9, 2020).

[262] Megan Clement, "Q&A: Why does so little aid money go to preventing violence against women and girls?," *The New Humanitarian,* Nov. 27, 2019.

other harmful practices.[263] UNFPA works on the ground during and after humanitarian emergencies, distributing health supplies in refugee camps and setting up birthing centers in IDP camps.[264] UNFPA does not provide or fund abortion services anywhere in the world.[265] UNFPA prioritizes the provision of voluntary family planning to reduce recourse to abortion and also provides post-abortion care to save the life of a woman.[266] UNFPA also provides essential aid during conflicts, natural disasters and public health emergencies, when access to health care is diminished and women are most vulnerable.[267]

HIGH RISKS OF HUMAN TRAFFICKING

Human trafficking is one of the world's most serious human rights violations, involving the acquisition and exploitation of human beings for labor or sex through fraud, force or deception.[268] Forced migrants are at a particularly high risk for human trafficking. Dangerous living conditions, trauma and their lack of legal status makes them easy prey for traffickers.[269]

Because of their displacement, forced migrants often cannot meet their individual or family's basic needs, making them targets for organized criminal networks who profit from human trafficking.[270] Destitute Iraqi refugees, for example, have received offers of up to 6,000 U.S. dollars to sell their daughters to criminal trafficking rings.[271] Human traffickers readily exploited the Rohingya, who are stateless and considered one of the most oppressed minorities in the world.[272] Destitute Rohingya refugees have recounted stories of men, women, and children being recruited with false promises of paid work in fishing, small commerce, and domestic work.[273] Once they started their jobs, they were not paid what was promised, often deprived of sleep, and were barred from leaving their work sites.[274] Women and girls were sexually abused.[275] According to an International Organization for Migration (IOM) counter-trafficking officer in Bangladesh, "Many of them were physically tortured and abused psychologically they were paid little money or no

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[263] UNFPA, "About us," https://www.unfpa.org/about-us (last visited June 9, 2020).

[264] UNFPA, "Humanitarian Emergencies," https://www.unfpa.org/emergencies (last visited June 9, 2020); "Refugees' and migrants' reproductive health needs overlooked," UNFPA, Sept. 14, 2016; Press Release, UNFPA, UNFPA Helps Displaced Pakistani Mothers Deliver Safely, Mar. 2, 2010.

[265] Press Statement, UNFPA, Statement on the United States Decision to Again Withhold Funding from UNFPA, July 15, 2019.

[266] *Id.* UNFPA, "Frequently Asked Questions," https://www.unfpa.org/frequently-asked-questions (last visited June 8, 2020).

[267] *See* UNFPA, *Humanitarian Action 2020 Overview* (Feb. 2020).

[268] UN, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,* supplementing the United Nations Convention against Transnational Organized Crime, Nov. 15, 2000.

[269] Anne P. Wilson, *Trafficking Risks for Refugees,* Third Annual Interdisciplinary Conference on Human Trafficking, University of Nebraska—Lincoln, at 1 (Nov. 2011).

[270] Jamille Bigio & Rachel Vogelstein, *The Security Implications of Human Trafficking,* Council on Foreign Relations, at 12 (Oct. 2019).

[271] *Id.*

[272] Naimul Karim, "Rohingya refugees in Bangladesh warned to be wary with human trafficking rising," *Reuters*, Aug. 23, 2019; UNOCHA, 'Rohingya Refugee Crisis," https://www.unocha.org/rohingya-refugee-crisis (Last visited June 8, 2020).

[273] "UN warns of trafficking, sexual abuse in shadow of Rohingya refugee crisis," *UN News,* Nov. 14, 2017.

[274] *Id.*

[275] *Id.*

money at all."[276] Credible reports indicate that some Bangladeshi border guards, military, and police officials facilitated the trafficking of Rohingya women and children, ranging from receiving bribes from traffickers to allowing them access to refugee camps, to direct involvement in facilitating their exploitation.[277]

In addition, fear of human trafficking can be a powerful driver of displacement.[278] In Central America's Northern Triangle region, many women and girls reported that high levels of gang violence, including human trafficking, was a major factor in their decision to migrate.[279] The region has come under increasing control by sophisticated, organized criminal armed groups, often with transnational reach, driving up rates of murder and gender based violence.[280] In September 2019, Committee staff traveled to Matamoros, Mexico to assess the impact of the Trump administration's Migrant Protection Protocols (MPP), also known as the Remain in Mexico policy. In Matamoros, Committee staff observed between 700 and 1,000 women and children asylum-seekers living in squalid, makeshift camps, where they waited their turn for months under the MPP.[281] A female asylum-seeker from Honduras shared with Committee staff her terror of being forced to return home after receiving threats of sexual violence from gang members who engaged in human trafficking.[282]

CONCLUSION

Forced migrants experience restrictions on basic rights limiting their ability to work, move freely, and access basic services. These restrictions make them particularly vulnerable to extreme abuses, including those that exist in informal and illicit sectors. The situation is particularly stark for women and girls, who face greater challenges in accessing employment, healthcare, and education, and are also often targets of gender-based violence and human trafficking.

Governments in host countries and the international community must work to ensure that the human rights of forced migrant are upheld and that they have access to basic services. National, regional, and municipal governments in host countries should enact more inclusive and rights-respecting policies, incorporate forced migrant populations into national plans, and work to protect forced migrant populations from violations of their rights and abuse. Global leaders, like the United States, the United Nations, and international organizations, should mandate more robust human rights reporting, increase diplomatic pressure around human rights, continue efforts to provide basic services and protections,

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[276] Naimul Karim, "Rohingya refugees in Bangladesh warned to be wary with human trafficking rising," *Reuters*, Aug. 23, 2019.

[277] U.S. Department of State,*Trafficking in Persons Report,* at 87 (June 2019).

[278] Jamille Bigio & Rachel Vogelstein, *The Security Implications of Human Trafficking,* Council on Foreign Relations, at 13 (Oct. 2019).

[279] UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs,* at 3, 7-8 (Mar. 31, 2010; UNHCR, *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras, and Mexico,* at 15-16 (Oct. 2015).

[280] UNHCR, *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador,* Guatemala, Honduras, and Mexico, at 2.

[281] Senate Foreign Relations Committee Staff Visit to Matamoros, Mexico, Sept. 2019.

[282] *Id.*

and provide economic incentives for host countries to enact inclusive policies that promote the human rights of forced migrants.

Today, too many forced migrants are living in vulnerable situations and being denied "recognition of the[ir] inherent dignity."[283] Guaranteeing forced migrants rights provides them with the opportunity to not only survive, but also thrive and contribute in their new communities.

[283] United Nations, "Universal Declaration of Human Rights," https://www.un.org/en/universal-declaration-human-rights/ (last visited June 6, 2020).

A young girl in Sudan holding a baby near a USAID tent in the Al Salam IDP camp. Sven Torfinn, Sudan, USAID, Oct. 3, 2011.

CHAPTER FOUR
Inadequate and Inconsistent International Responses

The scale of today's crisis has made abundantly clear that existing international instruments are insufficient to meet the current challenges.[284] Today's migration flows are often mixed—refugees, asylum seekers, IDPs, and victims of severe climate-related events are moving along the same routes and often vulnerable to the same abuses.[285] The international community has struggled to respond to large, mixed flows of forced migrants with its traditional toolbox of diplomacy, humanitarian assistance, international law, and du-

[284] Press Release, United Nations High Commissioner for Refugees (UNHCR), Worldwide displacement tops 70 million, UN Refugee Chief urges greater solidarity in response, June 19, 2019 (regarding the scale of today's crisis).

[285] UNHCR, "Asylum and Migration," https://www.unhcr.org/en-us/asylum-and-migration.html (last visited June 9, 2020); Mixed Migration Centre, "MMC's Understanding and Use of the Term Mixed Migration," Oct. 2019; International Organization for Migration (IOM), *Challenges of Irregular Migration: Addressing Mixed Migration Flows Discussion Note,* 96th Session (Nov. 7, 2008).

rable solutions. Without appropriate international legal conventions, monitoring, and enforcement, countries are provided more leeway in how they respond to the global forced migration crisis, and many react in ways that are harmful to forced migrants, violate human rights and international law, hinder international coordination, and exacerbate an already overwhelming crisis. Furthermore, humanitarian financing and assistance mechanisms must evolve in order to better serve vulnerable populations and account for the changing nature of forced migration.

DIPLOMATIC DEFICIT RESULTING IN PERSISTENT CONFLICTS AND IMPUNITY

International diplomacy has repeatedly failed to resolve the underlying political, economic, and climate-related sources of conflict.[286] Furthermore, international diplomatic efforts and institutions have struggled to strengthen fragile state institutions that would prevent new conflicts and help meet the needs of refugees and IDPs on their territories.[287] As a result, the number of individuals impacted by conflicts and forced migration has ballooned, unmitigated by international pressure.[288]

Traditional conflict response tools in place since the end World War II have been challenged by the nature of today's conflicts. The UN Security Council, the primary body charged with maintaining international peace and security, has repeatedly failed to prevent and resolve conflicts, and thus forestall displacement crises.[289] Intensifying rivalries between the five veto-wielding permanent members of the Security Council have crippled the Council's effectiveness.[290] Despite numerous UN reports and briefings on war crimes committed in Syria, UN Security Council permanent members Russia and China have exercised the veto 13 times since 2011 to block resolutions addressing war crimes against Syrian civilians.[291]

Repeated failures to enforce international rules and hold violators accountable sends a dangerous signal to political leaders, armed forces, and perpetrators of violence and abuse worldwide. These high levels of impunity are likely to fuel more conflict and forced migration in decades to come.[292] Without peaceful resolutions of conflicts—and a global recommitment to conflict prevention, the laws of war, and conflict resolution—forced migrants cannot return home safely. In 2018, less than three percent of the

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[286] *See* e.g., Katy Collin, "The year in failed conflict prevention," The Brookings Institution, Dec. 14, 2017; see e.g., Celine Charveriat & Thorfinn Stainforth, "Despite bold UN diplomacy, Climate Action Summit fails to galvanise world's largest emitters," Institute for European Environmental Policy, Sept. 24, 2019.

[287] *See* Katy Collin, "The year in failed conflict prevention," The Brookings Institution, Dec. 14, 2017.

[288] Press Release, UNHCR, Worldwide displacement tops 70 million, UN Refugee Chief urges greater solidarity in response, June 19, 2019; World Refugee Council, Centre for International Governance Innovative, *A Call to Action: Transforming the Global Refugee System,* at 2 (2019).

[289] Council on Foreign Relations, "No Refuge: Why the World's Swelling Refugee Population Has Shrinking Options," Feb. 12, 2019.

[290] *Id.*

[291] Global Centre for the Responsibility to Protect, "UN Security Council and the Responsibility to Protect," Jan. 17, 2020. *See* e.g., Nick Cumming-Bruce, "U.N. Panel Says Russia Bombed Syrian Civilian Targets, a War Crime," *The New York Times,* Mar. 2, 2020; see e.g., Sherine Tadros, "New low for the UN Security Council as Russia takes Syrian human rights off the table," Amnesty International, Mar. 23, 2018.

[292] UNOHCHR, "Combating impunity and strengthening accountability and the rule of law," https://www.ohchr.org/EN/AboutUs/Pages/
Combatingimpunityandstrengtheningaccountability.aspx (last visited June 9, 2020).

global refugee population of nearly 26 million were able to return home.[293]

INSUFFICIENT AND INFLEXIBLE HUMANITARIAN FUNDING

As humanitarian need continues to grow, humanitarian funding and practices have not kept pace. In 2020, nearly 168 million people will need humanitarian assistance—a fivefold increase from 2007.[294] In 2020, there were 23 UN Humanitarian Response Plans for humanitarian emergencies—up from 12 in 2008.[295] If current trends continue, more than 200 million people will need assistance by 2022.[296]

Unfortunately, humanitarian financing has not kept up with growing humanitarian need, and financing has instead stagnated in recent years as major donors, such as the United States, the United Kingdom, and Germany, have reduced humanitarian financing.[297] UN appeals are chronically underfunded. In 2007, the UN reported a 28 percent shortfall on its humanitarian appeals.[298] In 2017, that number had risen to an astounding 40 percent.[299]

Given existing trends, humanitarian aid is increasingly directed to protracted crises. Globally, 89 percent of humanitarian aid funding goes to locations that have been served for over three years, and 66 percent of funding goes to locations with needs stretching more than eight years.[300] The average length of the UN's Humanitarian Response Plans has increased from 5.2 years in 2014 to 9.3 years in 2018.[301] Furthermore, a handful of large, protracted crises command the majority of resources.[302] In 2019, just two emergencies received 42 percent of all humanitarian funding: Yemen and Syria.[303]

With increasingly drawn-out forced migrant situations, the current international financing model struggles to sufficiently support host countries and communities who shoulder tremendous global responsibility. Although migration to Europe from countries including Syria, Afghanistan, and Iraq captured global attention in 2015, the reality is that the overwhelming majority of refugees—nearly 4 out of 5—remain close to their home country.[304] These host countries are often those least equipped to meet the needs of forced mi-

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[293] UNHCR, *Global Trends: Forced Displacement in 2018,* at 2 and 7 (June 2019).

[294] UNOCHA, *Global Humanitarian Overview 2020,* at 4 (Dec. 4, 2019); Voluntary Organisations in Cooperation in Emergencies (VOICE), *Briefing: EU Humanitarian Aid Matters More Than Ever* (Feb. 2020).

[295] UNOCHA, *Global Humanitarian Overview 2020,* at 26 (Dec. 4, 2019); UNOCHA, *Global Humanitarian Overview 2019,* at 18 (Dec. 4, 2018).

[296] UNOCHA, *Global Humanitarian Overview 2020,* at 4 (Dec. 4, 2019).

[297] Development Initiatives, *Global Humanitarian Assistance Report 2019,* at 32 (2019). Humanitarian assistance financing grew by 1 percent from 2017 to 2018, compared to 30 percent in cumulative growth during the five years before 2018. *Id.* at 32; Ben Parker, "Ten donors and 10 crises dominate humanitarian spending," *The New Humanitarian,* Oct. 9, 2019.

[298] David Miliband, "A Battle Plan for the World Bank: Why Refugees Are at the Center of the Fight Against Poverty," *Foreign Affairs,* Feb. 19, 2019.

[299] *Id.*

[300] World Bank, *Forcibly Displaced: Toward a Development Approach Supporting Refugees, the Internally Displaced, and Their Hosts,* at 127 (2017).

[301] Press Release, UNOCHA, *Global Humanitarian Appeal aims to reach 93.6 million people with assistance in 2019,* Dec. 4, 2018.

[302] UNOCHA, *Global Humanitarian Overview 2019,* at 4 (Dec. 4, 2018).

[303] *Id.*

[304] Press Release, Eurostat, Asylum in the EU Member States: Record number of over 1.2 million first time asylum seekers registered in 2015, Mar. 4, 2016; UNHCR, *Global Trends: Forced Displacement in 2018,* at 2 (June 2019).

grants. As previously discussed in Chapter 2, the top ten refugee-hosting countries host 63 percent of the world's refugees, but only account for 7 percent of global Gross Domestic Product (GDP).[305] Although host governments' policies and national plans are critical to ensuring the safety, health, education, and self-reliance of refugees over the long term, humanitarian responses typically bypass host governments systems.[306]

In order to address both short-term needs as well as longer-term development, donors need to find ways to provide humanitarian funding that allows for greater flexibility in programming and is multi-year, which is known to increase planning and efficiency.[307] Short-term funding produces short-term solutions to long-term problems, limiting strategic and effective programming in protracted situations.[308] Although humanitarian appeals today typically last for 7 years, the vast majority of large donors still grant funding in 12 month cycles.[309] Based on evidence that demonstrates multiyear financing reduces operational costs and delivers better outcomes, multiyear financing is already a core component of many countries' development assistance.[310] Donors, including the United States, should increase multiyear financing to support multiyear planning.

Given the majority of forced migrants now live in urban areas, the international community should also continue to shift away from the delivery of services and in-kind assistance and instead prioritize providing cash or vouchers (commonly grouped together and referred to as "cash and voucher assistance," or CVA).[311] Evidence shows CVA can reach people faster and at lower cost, secure better outcomes for health, education and livelihoods, is more secure than in-person service delivery, and can generate twice the return to local economies.[312] Although CVA is increasing in popularity, the majority of CVA is still concentrated among a minority of humanitarian organizations, and challenges remain in attaining wider adoption of a cash-first model.[313]

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[305] *See* Chapter 2.

[306] Paul Harvey, *Towards good humanitarian government: The role of the affected state in disaster response,* Overseas Development Institute, Humanitarian Policy Group, at 1 (Sept. 2009).

[307] Development Initiatives, *Global Humanitarian Assistance Report 2019,* at 68 (2019); Organization for Economic Co-operation and Development (OECD), *Multi-Year Humanitarian Funding,* at 3, 6 (2017).

[308] Organisation for Economic Co-operation and Development (OECD), *Multi-Year Humanitarian Funding,* at 1 (2017).

[309] UNOCHA, An end in sight: Multi-year planning to meet and reduce humanitarian needs in protracted crises, at 4 (July 2015); Food and Agriculture Organization of the United Nations et al., Living up to the Promise of Multi-Year Humanitarian Financing, at 12 (2017); see, e.g., U.S. Department of State, "General NGO Guidelines," Dec. 2019, https://www.state.gov/funding-opportunities/general-ngo-guidelines/ (last visited June 10, 2020).

[310] Organization for Economic Co-operation and Development (OECD), *Multi-Year Humanitarian Funding,* at 3, 6 (2017).

[311] UNHCR, *Global Trends: Forced Displacement in 2018,* at 57 (June 2019); *see* International Rescue Committee, *CVA for Protection: A mapping of IRC's use of Cash and Voucher Assistance to help achieve protection outcomes* (2019); Tina Rosenberg, "For Refugees in Lebanon, Cash Instead of Camps," *The New York Times,* Sept. 13, 2016.

[312] Magdalena Mikulak, *Cost-effectiveness in humanitarian work: cash-based programming, Knowledge, Evidence, and Learning for Development (K4D),* at 2 (Sept. 2018); Overseas Development Institute, *Doing cash differently: How cash transfers can transform humanitarian aid,* at 6, 13 (Sept. 2015); The Campbell Collaboration, *Cash-based humanitarian assistance approaches can increase food security and are more cost effective than in-kind food transfers* (2017).

[313] The Cash Learning Partnership, *The State of the World's Cash Report: Cash Transfer Programming in Humanitarian Aid,* at 6-7 (Feb. 2018).

AID EFFECTIVENESS AND HUMANITARIAN SECTOR REFORM

The humanitarian system is composed of an interconnected network of operational entities that provide support when national and local-level resources are insufficient to meet humanitarian needs. While increased levels of need have forced the system to rapidly grow in recent decades, this has inevitably resulted in inefficiencies across the vast humanitarian system.[314] The UN, which receives the majority of humanitarian funding, is often criticized for having agencies with overlapping mandates and responsibilities.[315] In some contexts, this overlap can result in unnecessary competition and poorly coordinated assistance in humanitarian responses. For example, in Bangladesh in 2017, the International Organization for Migration (IOM) and the UN High Commission for Refugees (UNHCR) experienced friction while vying to be the designated official lead responding to the Rohingya refugee crisis.[316] In another example, two different UN agencies share responsibility for responding to malnutrition—the UN Children's Fund (UNICEF) for severely malnourished children and the World Food Programme (WFP) for moderately acute malnourished children—and use two different procurement and treatment systems with little coordination, resulting in unnecessary costs and malnourished children left untreated.[317]

Despite these criticisms, UN agencies are often viewed as possessing the necessary expertise and capacity to identify critical needs across numerous sectors, lead prominent advocacy campaigns, and implement humanitarian programs.[318] Accordingly, the UN has been viewed as the most viable large-scale actors to absorb substantial international funding, and, as a result, has developed significant influence across the humanitarian system by assuming an "end-to-end" role in assistance—serving as a global coordinator, donor to NGOs, implementer, monitor, and evaluator.[319] Critics of this system assert that because the UN often dominates humanitarian programming, its assessments are self-reinforcing, and little incentive exists for objective evaluations, checks-and-balances, and reform to resolve issues, such as the overlapping mandates described above.[320] On the other hand, the UN's unique role across leadership and program implementation, in combination with its global reputation, allows the organization to not only fund pro-

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[314] Rachel Scott, *Imagining More Effective Humanitarian Aid: A Donor Perspective,* OECD, The Development Assistance Committee, at 7-8 (Oct. 2014).

[315] Charlotte Lattimer, "Will a 'grand bargain' solve the humanitarian funding crisis?," *The Guardian,* Jan. 18, 2016; Heba Aly & Imogen Wall, "Humanitarian reform: What's on—and off—the table," *The New Humanitarian,* Feb. 11, 2016.

[316] Ben Parker, "Bangladesh resists greater UNHCR role in Rohingya crisis," *The New Humanitarian,* Oct. 23, 2017.

[317] Press Release, UNICEF & World Food Programme (WFP), UNICEF and WFP intensify efforts to defeat malnutrition in South Sudan, Sept. 9, 2015; David Miliband, President and CEO, International Rescue Committee, Speech at the World Innovation Summit for Health in Doha, Qatar, New York, NY, Nov. 13, 2018.

[318] Boston Consulting Group & MANNET, OCHA Functional Review Final Report, at 3 (July 29, 2016); Jeremy Konyndyk, *Rethinking the Humanitarian Business Model,* Center for Global Development, at 2 (May 2018).

[319] Jeremy Konyndyk, *Rethinking the Humanitarian Business Model, Center for Global Development,* at 2, 5, 11 (May 2018).

[320] *Id.* at 2; Heba Aly & Imogen Wall, "Humanitarian reform: What's on—and off—the table," *The New Humanitarian,* Feb. 11, 2016; Katharine Derderian et al., "UN humanitarian reforms: a view from the field," Humanitarian Practice Network (July 2008).

grams, but also management, coordination, and advocacy—costs that NGOs usually struggle to find donors to fund.[321]

During an international forum in 2015 on improving humanitarian action, a group of leading humanitarian non-governmental organizations recommended a set of priority areas for UN reform, such as simplifying and streamlining the UN system for managing natural disasters and rectifying overlapping and competing mandates of different UN agencies.[322] Similarly, the 2016 World Humanitarian Summit launched an agreement termed the "Grand Bargain," which promised improvements in aid efficiency and efficacy from large donors, UN organizations, and NGOs.[323] Although major UN organizational restructuring has yet to occur, many of the operational commitments from the Grand Bargain could be achieved through sustained investment over the course of the coming years.[324] These recent efforts at humanitarian sector reform have resulted in important new models of financing and assistance delivery recognizing the unique and diverse needs of forced migrants and host communities, including increased focus on impartial needs analyses, more support for local responders, cash transfers, and country-based "pooled funds" where funding is allocated based on on-the-ground needs.[325]

IN FOCUS: *THE "CLUSTER" SYSTEM COORDINATION MECHANISM*

A critical element of international response in humanitarian contexts is the coordination among a constellation of different actors and across various sectors. In major crises, the humanitarian community uses a formal "cluster approach," where humanitarian organizations are grouped by each of the sectors of a response, such as shelter, food security, education, water, health, and many others.[326] The "clusters" were established during a larger humanitarian reform effort in 2005 as a way to "strengthen system-wide preparedness and technical capacity to respond to humanitarian emergencies, and provide clear leadership and accountability in the main areas of humanitarian response."[327] In the context of major humanitarian emergencies—including conflicts and natural disasters—the clusters are established to enable a clear line of responsibility and coordination among organizations and the local

[321] Jeremy Konyndyk, *Rethinking the Humanitarian Business Model,* Center for Global Development, at 11 (May 2018).

[322] Imogen Wall, "'Outdated and resistant to change': how can we fix the humanitarian system?" *The Guardian,* Feb. 10, 2016.

[323] Press Release, United Nations, Secretary-General, at Round Table, Commits to Making Humanitarian Action 'Local as Possible, International as Necessary,' May 23, 2016; Inter-Agency Standing Committee, https://interagencystandingcommittee.org/grand-bargain (last visited June 10, 2020).

[324] Victoria Metcalfe-Hough et al., *Grand Bargain annual independent report 2019,* Humanitarian Policy Group, at 4 (June 2019).

[325] Andras Derzsi-Horvath et al., *Independent Grand Bargain Report,* Global Public Policy Institute, at 7-8 (June 2017); UNOCHA, *Country-Based Pooled Funds and the Grand Bargain* (June 5, 2017).

[326] UNOCHA Humanitarian Response, "Clusters," https://www.humanitarianresponse.info/en/coordination/clusters (last visited June 9, 2020). In scenarios where the "cluster approach" is not activated, the humanitarian sector nonetheless tends to organize itself along these sectors to improve coordination among all actors involved in a response.

[327] *Id.*

authorities.[328] Overall, the approach is generally viewed as having improved humanitarian response during emergencies, though recent evaluations have pointed out a range of possible improvements, such as better inclusion of local NGOs in the process.[329]

NEED FOR EXPANDED INTERNATIONAL LEGAL PROTECTIONS

International conventions, complemented by regional treaties and declarations, provide legal protection to refugees and serve as the bedrock upon which international response systems to forced migration operate today.[330] Unfortunately, these binding international legal frameworks have not been updated in the past half-century and do not provide protection to large swaths of vulnerable forced migrant populations today.

Of the more than 70 million forcibly displaced from their homes worldwide today, only 20 million—or 29 percent—are considered refugees under UNHCR's mandate and afforded formal protections under the relevant international refugee conventions.[331] The remaining 50 million are not protected under the same conventions that specifically protect refugees, including over 41 million IDPs.[332] Our world leaders must realize that the current international system is in dire need of reform to ensure protection and support for forced migrants.

IN FOCUS: *UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES*

The United Nations High Commissioner for Refugees (UNHCR) was created during the aftermath of World War II in 1950 and established by the General Assembly on January 1, 1951 to help millions of refugees who had fled or lost their homes.[333] UNHCR is mandated to lead and coordinate international action for the worldwide protection of refugees and the resolution of refugee problems.[334] UNHCR also works with IDPs, persons who are stateless or whose nationality is disputed, and former refugees who have returned to their homeland.[335] During times of displacement, UNCHR provides emergency assistance including protection, shelter, and health services and advocates

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[328] *Id.*

[329] Overseas Development Institute, *Cluster Approach Evaluation* (Nov. 2007); Paul Knox Clarke & Leah Campbell, *Exploring Coordination in Humanitarian Clusters,* ALNAP, at 9 (2015); Brian Majewski et al., *Joint Evaluation of the Global Logistics Cluster, The Konterra Group,* at 2 (Aug. 2012).

[330] Frances Nicholson & Judith Kumin, *A guide to international refugee protection and building state asylum systems,* Inter-Parliamentary Union & UNHCR at 15-32 (2017).

[331] UNHCR, *Global Trends: Forced Displacement in 2018,* at 2 (June 2019). This 70 million forcibly displaced figure includes populations categorized as refugees, internally displaced persons, and asylum seekers, but does not necessarily capture all forced migrants who may not be recognized under the 1951 UN Refugee Convention and its accompanying international legal framework.

[332] *Id.*

[333] UNHCR, "History," https://www.unhcr.org/ph/history (last visited June 10, 2020); The Nobel Prize, "Office of the United Nations High Commissioner for Refugees History," https://www.nobelprize.org/prizes/peace/1954/refugees/history/ (last visited June 10, 2020).

[334] The Nobel Prize, "Office of the United Nations High Commissioner for Refugees History," https://www.nobelprize.org/prizes/peace/1954/refugees/history/ (last visited June 10, 2020).

[335] UNHCR, "Persons of Concern to UNHCR," https://www.unhcr.org/ph/persons-concern-unhcr (last visited June 10, 2020).

for policies and services that affect displaced people to better safeguard their human rights.[336]

SIDEBAR: *INTERNATIONAL ORGANIZATION FOR MIGRATION*

The International Organization for Migration (IOM) was established in 1951 to arrange transport and resettlement for the large number of displaced people following World War II.[337] IOM's works to ensure the orderly and humane management of migration, and provides humanitarian assistance to refugees and other displaced persons.[338] In September 2016, IOM became a related organization of the UN.[339] Today, IOM has offices in over 100 countries.[340]

International Legal Frameworks for Protection

On the basis of their personhood, forced migrants are afforded rights based on numerous international conventions, including the Universal Declaration of Human Rights, the International Covenant for Civil and Political Rights, the Convention Against Torture, and the Convention on the Rights of the Child.[341] These include protections against arbitrary detention and non-refoulement, as well as the right to freedom of expression, property, education, and work.[342] Governments are traditional enforcers of these rights.[343] However, forced migrants' governments have proven unwilling or unable to protect them from threats that have driven their displacement and prevented their safe return home.[344] Without governments to protect their rights, forced migrants require international protection.[345]

In response to the sixty million displaced in Europe by World War II, the international community came together to develop the first legal framework to provide international protection to refugees.[346] The 1951 Convention Relating to the Status of Refugees ("1951 Convention") serves as the cornerstone of international legal protection frameworks, and defines a refugee as anyone who:

> owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular

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[336] UNHCR, "What we do," https://www.unhcr.org/en-us/what-we-do.html (last visited June 10, 2020).

[337] *See* OECD, *International Organisation for Migration (IOM)* (Oct. 2017); Megan Bradley, The International Organization for Migration (IOM): Gaining Power in the Forced Migration Regime, Refuge (2017).

[338] *See* OECD, *International Organisation for Migration (IOM)* (Oct. 2017); Megan Bradley, *The International Organization for Migration (IOM): Gaining Power in the Forced Migration Regime,* Refuge (2017).

[339] Megan Bradley, *The International Organization for Migration (IOM): Gaining Power in the Forced Migration Regime,* Refuge (2017).

[340] IOM, "Contact Us," https://www.iom.int/contact-us (last visited June 9, 2020).

[341] UN, "Human Rights," https://www.un.org/en/sections/issues-depth/human-rights/ (last visited June 9, 2020); UN Office of the High Commissioner on Human Rights, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Dec. 10, 1984); UN, *Convention on the Rights of the Child,* Nov. 20, 1989 (The United States is the only UN Member State that is not a party to the Convention on the Rights of the Child).

[342] UN, *Universal Declaration of Human Rights* (Dec. 10, 1948).

[343] UNHCR, "Protecting Refugees: questions and answers," Feb. 1, 2002.

[344] UNHCR, *Persons in need of international protection,* at 1-2 (June 2017).

[345] *Id.*

[346] UNHCR Canada, "The 1951 Refugee Convention 'is as Relevant Today,'" Dec. 5, 2016.

> social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.[347]

Under the 1951 Convention, this definition applied only to refugees in Europe in the aftermath of World War II.[348] The 1967 Protocol relating to the Status of Refugees removed geographic and temporal limitations.[349] The 1951 Convention also prescribed a number of rights to refugees, cardinal of which was the principle of non-refoulement, or protection against return to a country where a person has reason to fear persecution.[350]

International and national implementation of the 1951 Convention and the 1967 Protocol is inconsistent and unenforced. The 1951 Convention and the 1967 Protocol mandate UNHCR to supervise implementation; however, it does not provide any authorities for monitoring and enforcement.[351] Some states are not party to the 1951 Convention and 1967 Protocol (such as Iraq), and many states who are party also reserve against specific provisions (such as China and the United States).[352] As a consequence of inconsistent levels of commitment to refugee protections, their rights and protections vary across different countries.[353]

In addition, the 1951 Convention's refugee definition fails to protect many forced migrants, including victims of generalized violence, severe climate-related events, and internal displacement.[354] As many of these populations forcibly migrate alongside refugees, implementation of the 1951 Convention thus requires sorting through mixed migration flows to identify who among these vulnerable populations meets the refugee definition.[355]

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[347] UNHCR, *Convention Relating to the Status of Refugees,* Article 1A(2), at 14 (1951).

[348] *Id.* at 15.

[349] UNOHCHR, *Protocol relating to the Status of Refugees,* Article 1 (1967).

[350] UNHCR, *Note on Non-Refoulement (Submitted by the High Commissioner) EC/SCP/2,* Aug. 23, 1977.

[351] UNHCR, *Statute of the Office of the Unites Nations High Commissioner for Refugees* (Oct. 2010); UNHCR, *Protecting Refugees: Cyprus* (Dec. 2017). UNHCR's role as laid out in the 1951 Convention complements that of States by: "Promoting accession to, and implementation of, refugee conventions and laws; Ensuring that refugees are treated in accordance with internationally recognized legal standards; Ensuring that refugees are granted asylum and are not forcibly returned to the countries from which they have fled; Promoting appropriate procedures to determine whether or not a person is a refugee according to the 1951 Convention definition and/or to other definitions found in regional conventions; and Seeking durable solutions for refugees." *Id.* at 4.

[352] UN Treaty Collection, "Status of Treaties: Chapter V Refugees and Stateless Persons," https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg—no=V-5&chapter=5 (last visited June 9, 2020); Library of Congress, "Legal Status of Refugees: Egypt, Jordan, Lebanon, and Iraq," June 9, 2015.

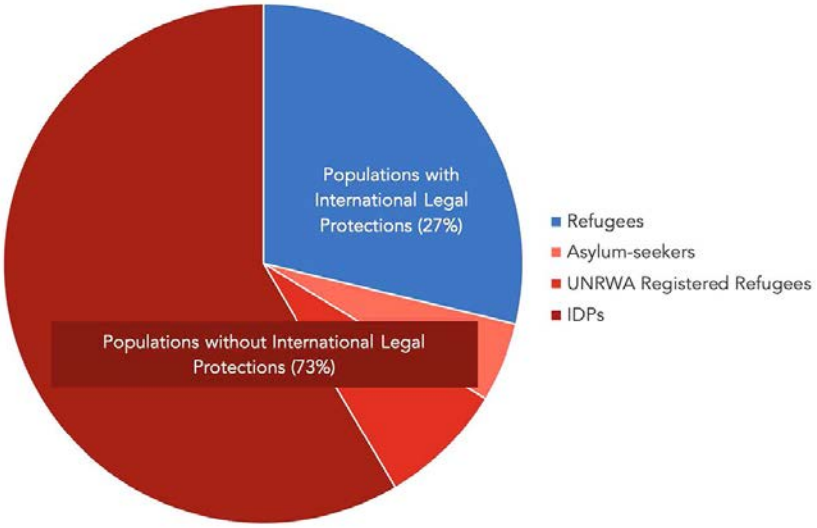
[353] *See* World Refugee Council, Centre for International Governance Innovative, *A Call to Action: Transforming the Global Refugee System,* at 21-25 (2019); Council on Foreign Relations, "No Refuge: Why the World's Swelling Refugee Population Has Shrinking Options," Feb. 12, 2019.

[354] *See* IOM, *Challenges of Irregular Migration: Addressing Mixed Migration Flows,* 96th Session, at 2 (Nov. 7, 2008); Anny Bhan et al., *Pushing the boundaries: Insights into the EU's response to mixed migration on the Central Mediterranean Route,* International Rescue Committee, at 9 (July 2018).

[355] *See* IOM, *Challenges of Irregular Migration: Addressing Mixed Migration Flows,* 96th Session (Nov. 7, 2008); Anny Bahn et al., *Pushing the boundaries: Insights into the EU's response to mixed migration on the Central Mediterranean Route,* International Rescue Committee, at 9 (July 2018).

One example of the 1951 Convention's limitations in addressing contemporary forced migration is the current crisis in Libya. In Libya's urban settings and detention centers, forced migrants converge from Syria, Sudan, Eritrea, the West Bank and Gaza, Somalia, Iraq, Ethiopia, South Sudan, Yemen, Mali, Nigeria, and Libya itself.[356] Given that the 1951 Refugee Convention only affords refugees international legal protections, in application this often requires intensive search and screening efforts to locate and identify individuals fitting the definition of refugee among large flows of mixed migrants.[357] As of April 2020, UNHCR had identified 870,909 people of concern in Libya and had registered 48,627 refugee and asylum cases—less than 6 percent of the population of concern.[358]

FORCED MIGRANTS BY AFFORDED LEGAL PROTECTIONS, 2018



Committee staff analysis based on UNHCR, "Global Trends 2018 annexes and tables" June 19, 2019; UNRWA, "UNRWA Figures 2018-2019," Feb. 1, 2019. This figure includes populations categorized as refugees, internally displaced persons, and asylum seekers, but does not necessarily capture all forced migrants who may not be recognized under the 1951 UN Refugee Convention and its accompanying international legal framework.

Regional Efforts for Comprehensive Frameworks

In addition to international frameworks, regional bodies have also developed frameworks to coordinate and share responsibility for responses to forced migrant flows.[359] Due to their non-binding and regional natures, the effectiveness of these regional frameworks in addressing a global crisis remains in question.

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[356] UNHCR, "Operational Portal: Libya," https://data2.unhcr.org/en/country/lby (last visited June 9, 2020); IOM, *Libya's Migrant Report Round 29,* at 12-13 (April 21, 2020).

[357] UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees,* at 7, 12 (Jan. 1992).

[358] UNHCR, "UNHCR Libya Response in 2020," Apr. 10, 2020.

[359] *See* Susan Kneebone, *Comparative Regional Protection Frameworks for Refugees: Norms and Norm Entrepreneurs,* The International Journal of Human Rights (2016).

For example, the Cartagena Declaration on Refugees, adopted in 1984, is a regional, non-binding instrument meant to govern protection of refugees in Latin America.[360] Prompted by challenges Organization of American States (OAS) members faced in responding to large flows of refugees from Central America, the Cartagena Declaration provides an expanded refugee definition beyond the scope of the 1951 Convention definition, including:

> persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.[361]

This expanded refugee definition has gained legal force in some countries through incorporation into national laws.[362] According to Colombian officials Committee staff met with in March 2019, Colombia's incorporation of the Cartagena Declaration's refugee definition into national legislation has shaped efforts to address Venezuelans fleeing to Colombia, and recognized them as refugees.[363]

For the broader region, however, a 2013 UNHCR study concluded that the Cartagena Declaration has largely failed to effectively expand the definition of refugee.[364] The study found inconsistent adoption and arbitrary application among states, including some states that required both the regional definition and the 1951 Convention definition be met.[365]

Ongoing Debate over Protections for Climate-Related Forced Migrants

For those who flee their countries as a result of severe climate-related events, as well as those displaced within their countries by climate-related events, there are no formal protections provided by international law.[366] Some countries, including the United States, have developed tools that allow the admission of civilians displaced by disaster, but these are usually circumstantial and temporary in nature.[367]

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[360] Michael Reed-Hurtado, *The Cartagena Declaration on Refugees and the Protection of People Fleeing Armed Conflict and Other Situations of Violence in Latin America,* UNHCR, at 4-5 (June 2013).

[361] *Id.* at 4; Declaración de Cartagena sobre Refugiados, adopted during the Coloquio Sobre la Protección Internacional de los Refugiados en América Central, México y Panamá: Problemas Jurídicos y Humanitarios, held in Cartagena, 19-22 November 1984 (hereinafter "Cartagena Declaration"), art. III(3). The Cartagena Declaration noted "that, in view of the experience gained from the massive flows of refugees in the Central American area, it is necessary to consider enlarging the concept of a refugee."

[362] Senate Foreign Relations Committee Staff Visit to Colombia, Mar. 2019; Michael Reed-Hurtado, *The Cartagena Declaration on Refugees and the Protection of People Fleeing Armed Conflict and Other Situations of Violence in Latin America,* UNHCR, at 5 (June 2013).

[363] Senate Foreign Relations Committee Staff Visit to Colombia, Mar. 2019; Michael Reed-Hurtado, *The Cartagena Declaration on Refugees and the Protection of People Fleeing Armed Conflict and Other Situations of Violence in Latin America,* UNHCR, at 17 (June 2013).

[364] Michael Reed-Hurtado, *The Cartagena Declaration on Refugees and the Protection of People Fleeing Armed Conflict and Other Situations of Violence in Latin America,* UNHCR, at 5 (June 2013) (concluding that the Cartagena Declaration "has been seldom applied in practice, guidance on its interpretation is undeveloped and national authorities rarely consult its provisions when providing international refugee protection.")

[365] *Id.* at 18-23, 32-33.

[366] The Nansen Initiative, *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change: Volume 1,* at 7-8 (Dec. 2015).

[367] *Id.* at 8; *see e.g.*, Temporary Protected Status under the Immigration and Nationality Act (INA), 8 U.S.C. § 1254a; see Chapter 5.

A robust debate is taking place in various multilateral fora, including the UN Framework Convention on Climate Change, on affording legal protections to those displaced by events linked to, or exacerbated by, climate change.[368] Most recently, in January 2020, a landmark decision by the UN Human Rights Committee acknowledged that it might be illegal to return individuals to countries where they face immediate or long-term risks due to climate change, potentially paving the way for future recognition of climate refugees.[369] However, progress on adopting new international principles has been slow, due in part to the Trump administration's unfounded skepticism of climate change.[370]

Children belonging to families displaced from Miran Shan, North Waziristan at IDP Camp, Bannu. Asad Zaidi, AZ—Banu—IDP—063, USAID, July 16, 2014.

Internally Displaced Persons Largely Left Unprotected

While the international community has granted refugees certain legal rights and protection, less protections exist for IDPs. In response to a growing number of IDPs worldwide, the UN enlisted a panel of international legal experts to develop Guiding Principles on Internal Displacement that were presented to the UN in 1998.[371] These Guiding Principles provide governments and NGOs with a framework for responding to IDP crises—defining internally displaced persons, addressing the protection and assistance of

[368] United Nations Framework Convention on Climate Change, "Workplan—Executive Committee of the Warsaw International Mechanism for Loss and Damage," https://unfccc.int/process/bodies/constituted-bodies/executive-committee-of-the-warsaw-international-mechanism-for-loss-and-damage-wim-excom/workplan (last visited June 6, 2020); *see* Abdikarim Ali, *Climate-Induced Migrants,* International Law, and Human Rights, University of Ottawa (Apr. 2015).

[369] "UN Human Rights Ruling Could Boost Climate Change Asylum Claims," *UN News,* Jan. 21, 2020.

[370] Helier Cheung, "What does Trump actually believe on climate change?," *BBC,* Jan. 23, 2020.

[371] *UN Guiding Principles on Internal Displacement (GPID),* E.S.C. Res. 1998/53, UN DOC E/CN.4/1998/53/Add.2, at 4 (July 22, 1998); Roberta Cohen & Francis M. Deng, "The Genesis and the Challenges," in Marion Couldrey & Maurice Herson (eds.), "Ten Years of the Guiding Principles on Internal Displacement," Forced Migration Review, at 4 (Dec. 2008).

IDPs, and recommending solutions.[372] The Guiding Principles were met with broad support on the international stage, helped catalyze numerous regional frameworks, including the 2009 Kampala Convention on IDPs, and have had its provisions incorporated into some countries' national laws.[373] However, the non-binding nature of the document means it is unable to uniformly enforce protections for IDPs nor accountability for governments responding to IDPs.[374]

Without binding international conventions for international protection, IDPs depend primarily on their own governments for protection.[375] These same governments are sometimes either perpetrators of abuses that prompt displacement (in the case of the Syrian regime), complicit in such abuses (as in the case of the DRC), incapable of or unwilling to stop abuses by non-state actors (as in the case of Colombia), or unwilling to acknowledge the extent of problems resulting from displacement (in the case of Ethiopia).[376] As Committee staff observed in Ethiopia in May 2019, governments are often unable or unwilling to provide adequate protection, leaving IDPs without national protection and without the same international legal protections as refugees.[377]

Regional bodies have also attempted to close the "protection gap" and create protections for IDPs. African countries in particular have struggled to deal with mass internal displacement due to armed conflict, internal strife, climate change-related severe droughts and flooding, and upheavals due to natural or human-made disasters.[378] In response, countries on the continent developed the first legally binding regional instrument, mirroring many elements of the UN's Guiding Principles, to address internal displacement: the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, also known as the Kampala Convention.[379] This instrument, which builds on many elements of the UN's Guiding Principles, was adopted in 2009 and entered into force in 2012.[380] As of March 2020, the Kam-

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[372] Roberta Cohen & Francis M. Deng, "The Genesis and the Challenges," in Marion Couldrey & Maurice Herson (eds.), "Ten Years of the Guiding Principles on Internal Displacement," Forced Migration Review, at 4 (Dec. 2008).

[373] Roberta Cohen, "Lessons Learned from the Development of the Guiding Principles on Internal Displacement," Institute for the Study of International Migration, at 11 (Oct. 2013).

[374] *Id.* at 12.

[375] *UN Guiding Principles on Internal Displacement (GPID),* E.S.C. Res. 1998/53, UN DOC E/CN.4/1998/53/Add.2, at Principle 3.1 (July 22, 1998).

[376] *See* UN Human Rights Council, Out of Sight, Out of Mind: Deaths in Detention in the Syrian Arab Republic, 31st session (Feb. 3, 2016); "Syria: 'Massive waves of civilian displacement and loss of life must stop now': UN Special Envoy," *UN News,* Feb. 6, 2020; Press Release, UN Office of the High Commissioner on Human Rights (OHCHR), DRC: UN reports hundreds of human rights violations as security situation in North Kivu deteriorates, Dec. 19, 2018; UN Human Rights Council, *Situation of human rights in Colombia,* 43rd session, at 10 (Feb. 26, 2020) (concluding that "police presence remained insufficient in most rural areas," and more); Mark Yarnell, *The Crisis Below the Headlines: Conflict Displacement in Ethiopia,* Refugees International, at 9 (Nov. 2018).

[377] Senate Foreign Relations Committee Staff Visit to Ethiopia, May 24-June 1, 2019.

[378] *See* John Podesta, *The Climate Crisis, Migration, and Refugees,* The Brookings Institution (July 25, 2019); "Southern Africa: Conflict, development and natural disasters fuel internal displacement," *The New Humanitarian,* Feb. 14, 2006; Anthony Navone, "How to Address Africa's 'Staggering' Displacement Crisis," United States Institute of Peace, May 30, 2019.

[379] Allehone M. Abebe, *The Emerging Law of Forced Displacement in Africa,* at 2 (Oct. 2017) Megan Bradley, *A Landmark for Human Rights: The Kampala Convention on Internal Displacement Comes into Effect,* The Brookings Institution (Dec. 6, 2012).

[380] Internal Displacement Monitoring Centre, *Making the Kampala Convention work for IDPs,* at 7 (July 2010); International Committee of the Red Cross, *Translating the Kampala Convention Into Practice: A Stocktaking Exercise,* at 7 (Oct. 2016); African Union Commission, *African*

Continued

pala Convention has been ratified by only 31 of the African Union's 55 member states, and Niger remains the only country to have implemented its provisions through national legislation.[381]

SIDEBAR: *THE UNITED NATIONS ON IDPs*

The limitations of traditional humanitarian response tools are even more glaring when considering the situation of IDPs. In the 1990s, the UN Secretary-General established a Special Representative for IDPs.[382] Since then, however, the position has been downgraded as a Special Rapporteur to the UN Human Rights Council and no longer reports directly to the Secretary-General.[383] In response to a letter signed by 37 UN member states, the UN Secretary-General announced in October 2019 the establishment of a High-Level Panel on Internal Displacement to increase global attention and support, and identify long-term solutions for IDPs.[384] The Panel began work in early 2020 and should submit its final recommendations in early 2021.[385] With over 41 million IDPs living in dire conditions and receiving minimal if any humanitarian assistance, the global system for responding to and supporting IDPs needs urgent reform.

Union Model Law for the Implementation of the African Union Convention for the Protection of and Assistance to Internally Displaced Persons in Africa ["Kampala Convention"] (Apr. 2018).

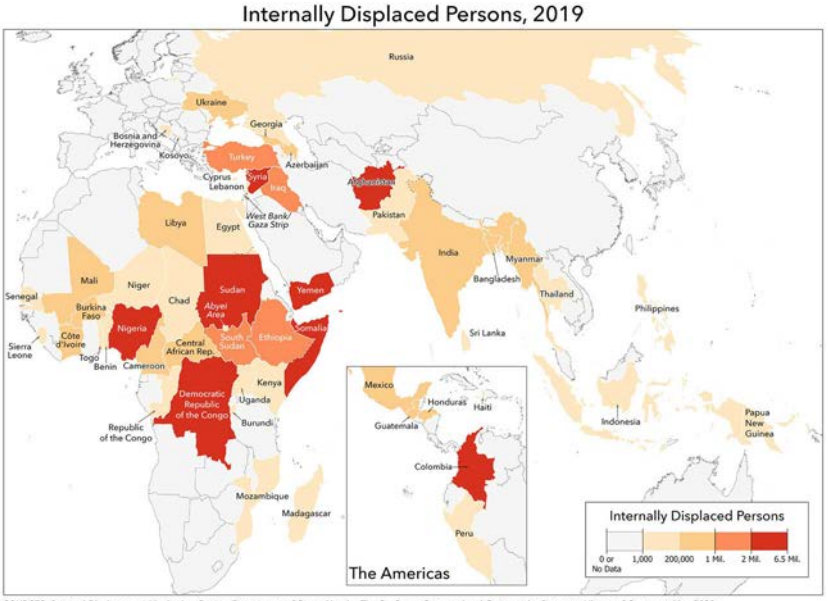
[381] Press Release, UNHCR, UNHCR welcomes Ethiopia's ratification of Kampala Convention, Feb. 14, 2020; Press Release, UNHCR, Niger becomes the first country in Africa to adopt a national law for the protection and assistance of Internally Displaced Persons, Dec. 5, 2018.

[382] UNOHCHR, "Introduction to the mandate of the Special Rapporteur on the Human Rights of Internally Displaced Persons (IDPs)," https://www.ohchr.org/EN/Issues/IDPersons/Pages/Mandate.aspx (last visited June 4, 2020).

[383] Mark Yarnell, "The World Is Failing Internally Displaced People. Here's One Solution," *Refugees Deeply,* July 10, 2018.

[384] Mark Yarnell & Mikaela Rear, "Dear UN secretary-general, don't forget the internally displaced," *The New Humanitarian,* July 15, 2019; Press Release, UN, High-Level Panel on Internal Displacement, Dec. 3, 2019;"UN chief: New panel to focus on millions of displaced people," *AP,* Oct. 23, 2019.

[385] Press Release, UN, High-Level Panel on Internal Displacement, Dec. 3, 2019; "UN panel to rally global political will to tackle internal displacement crisis," *UN News,* Feb. 25, 2020.



SOURCES: Internal Displacement Monitoring Centre, Department of State. Map by Tim St. Onge, Congressional Cartography Program, Library of Congress. May 2020.

SHRINKING ACCESS TO TRADITIONAL SOLUTIONS

UNHCR's statute mandates that the organization searches for "permanent solutions for the problem of refugees."[386] Therefore, UNHCR, in line with the broader international community, promotes three "durable solutions" for refugees:

- Voluntarily return to their country or place of origin once the conditions there are deemed permissible;
- Integration into the host community with legal status; or
- Resettlement in a third country.[387]

The Guiding Principles on Internal Displacement and corresponding Framework on Durable Solutions for Internally Displaced Persons discuss the need for durable solutions for IDPs and describes solutions of return, local integration, and settlement.[388] However, the promotion and creation of such solutions is left up to "national and local authorities, humanitarian and development actors" without any international mechanisms for monitoring or enforcement.[389]

Other forced migrant populations, such as those displaced by severe climate-related events, who are not covered by the 1951 Ref-

[386] UNHCR, *Statute of the Office of the United Nations High Commissioner for Refugees,* at 8 (Dec. 14, 1950).

[387] UNHCR, "Solutions," https://www.unhcr.org/en-us/solutions.html (last visited June 4, 2020).

[388] UN Human Rights Council, *Report of the Representative of the Secretary-General on the human rights of internally displaced persons,* Walter Klin: *Framework on Durable Solutions for Internally Displaced Persons,* 13th Session, at 1-2 (Feb. 9, 2010).

[389] *Id.* at 2; Roberta Cohen, *Introduction to the Guiding Principles on Internal Displacement,* The Brookings Institution (Sept. 23, 2001); Global Protection Cluster Working Group, *Handbook for the Protection of Internally Displaced Persons,* at 32 (Oct. 2009).

ugee Convention and 1967 Protocol, also do not have a formal international mechanism to assist them in evaluating and facilitating solutions to their forced migration.[390] For all forced migrant populations, however, accessing durable solutions has become increasingly challenging.[391]

Voluntary return, for example, is predicated on the assumption that a forced migrant could return home after fighting stopped or the repressive regime was replaced—and that the timeline for such returns would be months or years, not the decades seen today.[392] Most forced migrants will never be able to return home because their homes are engulfed by protracted conflict or because they fear persecution if they return. In 2018, only three percent of global refugees and five percent of IDPs voluntarily returned to their country or place of origin.[393] As climate change forces more migration, return may be increasingly impossible as communities of origin are submerged underwater, vulnerable to frequent disasters, or otherwise uninhabitable.[394]

For the vast majority of forced migrants, local integration into the host community, while imperfect, is the most viable path to a secure life. A host of legal, regulatory, and other systemic challenges, however, stand in the way. Refugees in many countries face serious restrictions to human rights, including the right to work, freedom of movement, access to identity documentation, and access to healthcare and education, all of which prevent them from achieving self-sufficiency or contributing to host communities.[395] At the same time, research demonstrates how inclusive integration policies lead to benefits for refugees and their host communities.[396] According to one such study in 2014 in Kampala, Uganda, one of the few countries where refugees have the right to work, 21 percent of refugees run a business with one or more employees, of which 40 percent are Ugandan citizens.[397]

Finally, while resettlement can be a lifesaving permanent solution for extremely vulnerable refugees, the opportunity is available to less than one percent of the world's refugees.[398] Refugee resettlement is reserved for only the most vulnerable refugees who cannot return home and who cannot find safety in countries of first refuge. These include victims of torture or gender-based violence who may need specific support, families with medical needs, victims of religious or ethnic persecution who remain at risk in countries of first

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[390] Megan Bradley and Jane McAdam, *Rethinking Durable Solutions to Displacement in the Context of Climate Change,* The Brookings Institution (May 14, 2012).

[391] Megan Bradley, *Resolving Refugee Situations: Seeking Solutions Worthy of the Name,* World Refugee Council, at 1 (Mar. 2019).

[392] Kathleen Newland, *Rethinking Global Protection: New Channels, New Tools,* Transatlantic Council on Migration & Migration Policy Institute, at 6 (Apr. 2015).

[393] UNHCR, *Global Trends: Forced Displacement in 2018,* at 7 (June 2019).

[394] UNHCR, *Reach Out Refugee Protection Training Project: Module 9,* at 5 (2005); Megan Bradley and Jane McAdam, *Rethinking Durable Solutions to Displacement in the Context of Climate Change,* The Brookings Institution (May 14, 2012).

[395] *See* Chapter 3 for details on human rights restrictions.

[396] Catholic Relief Services, *Exploring the Impact of Social Acceptance on Refugee Integration into Host Communities: Policy Research* (2017); Council of Europe, *Human Rights Aspects of Immigrant and Refugee Integration Policies,* at 7-8 (Apr. 16, 2019).

[397] Alexander Betts, et al., *Refugee Economies: Rethinking Popular Assumptions,* University of Oxford Humanitarian Innovation Project, at 19 (June 2014).

[398] International Rescue Committee (IRC), *10 things to know about the Global Refugee Crisis and America's lack of leadership: An IRC analysis of the latest annual reports from the UN Refugee Agency* (July 2019).

refuge, or, specifically for the United States, those at risk because of their assistance to the U.S. Government.[399]

Furthermore, despite the fact that the number of refugees under UNHCR's mandate nearly doubled from 2012 to 2018, the number of global refugee resettlement slots has tumbled in recent years.[400] The gap between resettlement needs and resettlement slots is more than 90 percent.[401] At the 2016 Leaders' Summit on Refugees, hosted by the United States, 52 countries and international organizations made wide-ranging humanitarian commitments, including significant contributions in humanitarian financing and an increased number of global resettlement slots.[402] However, in 2019, just 29 countries were accepting refugees for resettlement.[403] The risk of this retreat has both humanitarian and strategic consequences: as wealthy nations turn away from obligations to refugees, low- and middle-income countries who host the vast majority of refugees are closing borders, tightening policies on refugee access to work or other pathways to self-reliance, and encouraging and coercing premature returns.[404]

These traditionally durable solutions of return, local integration, and resettlement are insufficient to deal with the number of forced migrants nor the length of their displacement.

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[399] UNHCR, *UNHCR Resettlement Handbook,* at 243 (2011); U.S. Department of State Archive, "Refugee Admissions and Resettlement," https://2001-2009.state.gov/g/prm/c26471.htm (last visited June 10, 2020).

[400] UNHCR, *UNCHR Global Report,* at 216 (2017); UNHCR, Refugee Resettlement Facts (Mar. 2020); UNHCR USA, "Information on UNHCR Resettlement," https://www.unhcr.org/en-us/information-on-unhcr-resettlement.html (last visited June 4, 2020); UNHCR, *Global Trends: Forced Displacement in 2018,* at 13 (June 2019).

[401] UNHCR, *Global Trends: Forced Displacement in 2018,* at 30 (June 2019).

[402] Press Release, The White House, Fact Sheet on the Leaders' Summit on Refugees, Sept. 20, 2016.

[403] UNHCR, *Refugee Resettlement Facts* (Mar. 2020); U.S. Department of State, "Leaders' Summit on Refugees," https://2009-2017.state.gov/p/io/c71574.htm (last visited June 10, 2020).

[404] *See* Stephanie Schwartz, "Sending Refugees Back Makes the World More Dangerous," *Foreign Policy,* Nov. 27, 2019; Kareem Chehayeb & Sarah Hunaidi, "Turkey's Deportation Policy is Killing Syrian Refugees," *Foreign Policy,* Aug. 8, 2019; *Afghanistan's refugees: forty years of dispossession,* Amnesty International, June 20, 2019.

Ashique Rushdi, [Rohingya] Group of women and children, USAID, Jan. 16, 2018.

INCONSISTENT COUNTRY-LEVEL RESPONSES TO FORCED MIGRATION

Given the limitations of current international frameworks, countries have met today's global forced migration crisis with wildly varying responses. Some countries have made commendable efforts to address forced migration and protect forced migrants—at least as far as refugees are concerned. When refugee numbers surged in 2015, Germany opened its borders to those fleeing Syria, Iraq, and Afghanistan, admitting close to 900,000 refugees in 2015 alone.[405] Jordan hosted over 1.3 million Syrians as of December 2018 and has sought to create livelihood opportunities for both Syrians and Jordanians.[406] Uganda, the largest refugee-hosting country in Africa, has a history of providing refugees freedom of movement and the right to work, as well as small plots of land for growing food.[407]

Committee staff observed the progressive refugee policies of both Ethiopia and Colombia. In Ethiopia, the government has instituted a number of reforms supporting refugees. In February 2019, the government passed a Refugee Proclamation providing refugees the right to work, freedom of movement, and access to education among other rights.[408] Since 2016, the Ethiopian government has also improved refugee access to vital documentation by issuing birth certificates for refugees and capturing them in the national

[405] Wesley Dockery, "Two years since Germany opened its borders to refugees: A chronology," *Deutsche Welle,* Sept. 4, 2017; Pew Research Center, *Number of Refugees to Europe Surges to Record 1.3 Million in 2015* (Aug. 2, 2016).

[406] Nazanin Ash & Cindy Huang, *Using the Compact Model to Support Host States and Refugee Self-reliance,* World Refugee Council, at 6-7 (Dec. 2018).

[407] Sulaiman Momodu, "Uganda Stands Out in Refugees Hospitality," *Africa Renewal,* Dec. 2018-Mar. 2019.

[408] This proclamation was done in the context of the Global Compact on Refugees and to align with the Comprehensive Refugee Response Framework; [ETHIOPIA FEDERAL REGISTER] Refugees Proclamation, Proclamation No. 1110/2019, Federal Negarit Gazette of the Federal Democratic Republic of Ethiopia, Feb. 27, 2019, at 1, 15-24.

system.[409] Civil documentation is critical in helping to prevent statelessness, protect a range of human rights, and provide access to services.[410] While these developments are positive steps for Ethiopia's treatment of refugees, however, the Ethiopian government has also been overwhelmed and unable to meet the needs of its millions of IDPs.

In Colombia, the government granted many Venezuelans temporary border-crossing and temporary residence permits, allowing them access to basic health services, education, and work for up to two years.[411] To prevent statelessness among children of Venezuelan refugees, Colombia's president announced in August 2019 that his government would grant them Colombian citizenship.[412] Committee staff visited the border city of Cúcuta where the hospital serves over 3,000 Venezuelans monthly, half of the 1,600 school students are Venezuelan children, and a soup kitchen serves two meals daily to over 4,000 Venezuelans.[413]

As generous as some governments have been, available resources do not match the level of need among vulnerable forced migrants, including unaccompanied minors, sick children and infants, pregnant women, and elderly. Some Venezuelans whom Committee staff spoke with at the soup kitchen in Colombia, for example, said they had walked for several hours just to get a meal.[414] The Venezuelans that staff spoke with hoped they would be able to find work in Colombia, but had not been able to obtain citizenship documentation from their own government and, therefore, a Colombian temporary work visa.[415] The school staff visited only received 1,050 lunch rations a day for its 1,600 students.[416] Consequently, unregistered Venezuelan children over age eight do not get fed on a daily basis.[417] The hospital in Cúcuta was at three times its capacity.[418] Undocumented Venezuelans were only able to access emergency healthcare, and subsequently emergency rooms along the border were on the verge of collapse due to strain.[419] Despite positive efforts to address the forced migrant crisis, the need for additional assistance, services, documentation, and jobs in Colombia remains critical.

Without additional international support, Colombia will not be able to sustain its early progressive policies for displaced Venezuelans, and the Venezuelan displacement crisis could possibly

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[409] Cindy Huang et al., *Tackling the Realities of Protracted Displacement: Case Studies on What's Working and Where We Can Do Better,* Center for Global Development (CGD) and International Rescue Committee (IRC), at 8 (Apr. 18, 2018).

[410] Norwegian Refugee Council & the International Human Rights Clinic at Harvard Law School, *Registering rights: Syrian refugees and the documentation of births, marriages, and deaths in Jordan* (Oct. 2015).

[411] Senate Foreign Relations Committee Staff Visit to Colombia, Mar. 2019; Melanie Teff & Daphne Panayotatos, *Crisis Colliding: The Mass Influx of Venezuelans Into the Dangerous Fragility of Post-Peace Agreement Colombia,* Refugees International, at 10-12 (Jan. 13, 2019).

[412] Anatoly Kurmanaev & Jenny Carolina Gonazalez, "Colombia Offers Citizenship to 24,000 Children of Venezuelan Refugees," *The New York Times,* Aug. 5, 2019.

[413] Senate Foreign Relations Committee Staff Visit to Hospital in Cúcuta, Colombia, Mar. 2019.

[414] Senate Foreign Relations Committee Staff Visit to Colombia, Mar. 2019.

[415] *Id.*

[416] Senate Foreign Relations Committee Staff Visit to School in Cúcuta, Colombia, Mar. 2019.

[417] *Id.*

[418] *Id.*

[419] *Id.*

catalyze further crisis across the region.[420] The Venezuelan crisis remains severely underfunded relative to the scale of displacement. In 2019, the UN's humanitarian response plan for Venezuela was only 34 percent funded; the regional response plan was 53 percent funded.[421] In 2020, funding needs for the region doubled to 1.4 billion dollars.[422]

Today's forced migration crisis has also resulted in restrictive practices shrinking protection space. Countries have closed borders, increased detention, refused asylum on the basis of nationality, coerced early returns, externalized border controls, and fomented xenophobic violence by depicting refugees and asylum seekers as threats to public health and national security.[423] This in turn has served to increase the vulnerability of already desperate populations and exacerbated the effects of an already growing crisis.

For example, although refugees are not explicitly denied the right to work in Egypt, refugees need permits to work, which are costly and require evidence that no Egyptian is available to fill the same job.[424] Without access to the labor market, refugees are unable to achieve self-sufficiency, contribute to the local economy, and are often pushed into informal markets where exploitation is rampant.[425]

The European Union has spent millions of euros supporting the Libyan Coast Guard in intercepting and forcibly returning migrants and refugees to often inhumane detention centers in Libya rife with trafficking, sexual abuse, and torture.[426] Italy and Malta have also denied embarkation to rescue boats that reach their shores, and Italy passed a law fining boats that rescue refugees and migrants in the Mediterranean.[427] In 2019 alone, more than 1,200 migrants died while trying to cross the Mediterranean to Europe.[428] The fate of hundreds more remains unknown.

The COVID-19 pandemic has further exposed and exacerbated inconsistencies in protections and available services for forced migrant populations around the world. The pandemic is a huge con-

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[420] International Rescue Committee, *The Venezuelan Displacement Crisis: A Test of Global Commitments and Solidarity,* at 1 (Oct. 2019).

[421] UNOCHA Financial Tracking Service, "Venezuela 2019 (Humanitarian response plan)," https://fts.unocha.org/appeals/827/summary (last visited June 4, 2020); UNOCHA Financial Tracking Service, "Regional Refugee and Migrant Response Plan (for Refugees and Migrants from Venezuela) (Other)," https://fts.unocha.org/appeals/726/summary (last visited June 4, 2020).

[422] UNOCHA Financial Tracking Service, "Regional Refugee and Migrant Response Plan (for Refugees and Migrants from Venezuela) (Other)," https://fts.unocha.org/appeals/726/summary (last visited June 4, 2020); UNOCHA Financial Tacking Service, "Refugee and Migrant Response Plan 2020 for Refugees and Migrants from Venezuela (RMRP (Other))," https://fts.unocha.org/appeals/944/summary (last visited June 4, 2020).

[423] *See* Amnesty International, *Fears and Fences: Europe's Approach to Keeping Refugees at Bay,* at 7-10, 79 (Nov. 2015); Kavitha Surana, "Italy quietly rejects asylum seekers by nationality, advocates say," *Al Jazeera,* Oct. 19, 2015.

[424] Asylum Access & the Refugee Work Rights Coalition, *Global Refugee Work Rights Report 2014,* at 26 (Sep. 2014).

[425] *Id.* at 6, 38 (Sep. 2014).

[426] *See e.g.*, Tom Miles & Steve Scherer, "EU support of Libyan coast guard 'inhuman:' UN rights chief," *Reuters*, Nov. 15, 2017; UN Support Mission in Libya & UNOHCHR, *Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya,* at 4-7 (Dec. 20, 2018); UN Support Mission in Libya & UNOHCHR, *Abuse Behind Bars: Arbitrary and unlawful detention in Libya,* at 3-6 (Apr. 2018).

[427] "Italy forces 130 migrants to stay on docked coast guard vessel," *Deutsche Welle,* July 28, 2019; Associated Press, "Migrant ship with 64 people denied safe port by Italy and Malta," *The Guardian,* Apr. 4, 2019; Samuel Osborne, "Italy passes law to fine people who rescue refugees at sea: Repeat offenders risk having boats seized," *The Independent,* June 12, 2019.

[428] Press Release, IOM, IOM: Mediterranean Arrivals Reach 110,699 in 2019; Deaths Reach 1,283. World Deaths Fall, Jan. 3, 2020.

cern for already vulnerable populations of forced migrants living in crowded environments, often with limited access to basic sanitation, health services, and reliable information, and frequently dependent on humanitarian aid.[429] The UN, aid groups, and experts have all pleaded with national governments to include forced migrant populations in national COVID-19 plans and allow forced migrant populations access to national health systems.[430] Similarly, groups have appealed to Bangladesh's government to lift telecommunications restrictions on Cox's Bazaar that hinder the delivery of critical and credible health information to hundreds of thousands of Rohingya refugees.[431] Amid the pandemic, some governments have barred access to asylum systems and placed additional restrictions on forced migrants. Greece, Hungary, Belgium, the Netherlands, and the United States effectively shut down access to asylum systems.[432] In Lebanon, at least eight municipalities used COVID-19 as justification for implementing discriminatory curfews that targeted Syrian refugees.[433] Furthermore, countries and leaders across the world have exploited the virus to advance xenophobia.[434] In Malaysia, authorities conducted mass raids to detain refugees and migrants after the COVID-19 pandemic stoked a spike in xenophobia against refugees.[435]

Without consistent implementation and enforcement of international legal protections, countries violate refugees' human rights with impunity. The situation is often more dire for forced migrants without the same international legal conventions for protection as refugees, including millions of victims of generalized violence, severe climate-related events, and internal displacement.

IN FOCUS: *SITUATION OF IDPs IN ETHIOPIA*

Ethiopia has struggled to deal with a growing population of IDPs. In 2018, the number of conflict-induced IDPs in Ethiopia was almost three million people—more than four times the number in 2017.[436] While the government of Prime Minister Abiy Amed has been praised for its positive response to refugee influxes, the government only ratified the Kampala Convention in February 2020 and has struggled to deal with its IDP crisis.[437]

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[429] Refugees International, *COVID-19 and the Displaced: Addressing the Threat of the Novel Coronavirus in Humanitarian Emergencies* (Mar. 30, 2020).

[430] UNHCR, *Coronavirus emergency appeal UNHCR's preparedness and response plan (REVISION),* at 13 (May 9, 2020); Jonathan Clayton, "Q&A: Access to health services is key to halting COVID-19 and saving refugee lives," UNHCR, Mar. 27, 2020; Jillian Kestler-D'Amours, "New front: Worry over COVID—19 spreading in African refugee camps," *Al Jazeera,* Mar. 29, 2020.

[431] "Joint Letter: Re: Restrictions on Communication, Fencing, and COVID-19 in Cox's Bazar District Rohingya Refugee Camps," April 2, 2020; "Bangladesh Urged to Lift Telecom Ban on Rohingya Camps to Ease COVID-19 Risks," *Voice of America,* Apr. 2, 2020.

[432] Refugees International, *COVID-19 and the Displaced: Addressing the Threat of the Novel Coronavirus in Humanitarian Emergencies* (Mar. 30, 2020).

[433] "Lebanon: Refugees at Risk in COVID-19 Response," Human Rights Watch, Apr. 2, 2020.

[434] "Covid-19 Fueling Anti-Asian Racism and Xenophobia Worldwide," Human Rights Watch, May 12, 2020.

[435] Zsombor Peter, "Malaysia Rounds up Hundreds of Undocumented Migrants amid Coronavirus Fears," *Voice of America,* May 3, 2020.

[436] Internal Displacement Monitoring Centre, *Global Report on Internal Displacement,* at 14 (May 2019).

[437] Press Release, UNHCR, *UNHCR welcomes Ethiopia law granting more rights to refugees,* Jan. 18, 2019. For details on Refugee Proclamation see Press Release, UNHCR, *UNHCR welcomes Ethiopia's ratification of Kampala Convention,* Feb. 14, 2020; Mark Yarnell, *The Crisis*

Continued

After over 800,000 Ethiopians were displaced by ethnic clashes and violence in the first half of 2018, the government initially collaborated with the UN and other organizations to mobilize a large-scale humanitarian response.[438] Within a couple of months, however, the government began pushing for the premature return of IDPs to their homes.[439] The government even restricted aid—including food assistance—at IDP sites, telling IDPs they would receive assistance if they returned home.[440] And in May 2019, the Ethiopian government announced a new Strategic Plan to Address Internal Displacement in Ethiopia, forcing all IDPs to return home within 2 months.[441]

In Ethiopia, Committee staff visited horrendous IDP sites lacking any semblance to "satisfactory conditions" as called for in the Guiding Principles and Kampala Convention.[442] At one IDP site Committee staff visited, tiny makeshift shelters made of cloth and sticks housed whole families, and left them completely vulnerable to the impending rainy season.[443] At this same site, the NGO that delivered water had to shut down its operations two days prior due to lack of funding.[444] Recently-built latrines were located hundreds of feet from the makeshift shelters, with no lights or other protection mechanisms along the way.[445] People therefore chose instead to defecate out in the open instead of risk the journey.[446] At another IDP site, IDPs had not received food for three days, also due to the provider's lack of funding.[447] Many of the IDPs were already on the brink of starvation, and yet food assistance was not expected for two weeks.[448] Host communities, who were often quite poor themselves, were generously providing rice for the IDPs.[449]

Despite the horrible conditions of the IDP sites, IDPs often preferred to stay. For many IDPs, there was nothing to return to. Their homes had been burned, their property looted, and their livelihoods destroyed. Without significant assistance upon their return, IDPs who returned in effect experienced secondary displacement.[450] IDPs most often ended up in abandoned churches or warehouses—osten-

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Below the Headlines: Conflict Displacement in Ethiopia, Refugees International, at 4 (Nov. 2018).

[438] Mark Yarnell, *The Crisis Below the Headlines: Conflict Displacement in Ethiopia,* Refugees International, at 8-9 (Nov. 2018).

[439] *Id.* at 9.

[440] *Id.* at 9.

[441] Ethiopian Ministry of Peace and National Disaster Risk Management Commission, *Strategic Plan to address internal displacement in Ethiopia,* at 3 (Apr. 2019).

[442] *UN Guiding Principles on Internal Displacement (GPID),* E.S.C. Res. 1998/53, UN DOC E/CN.4/1998/53/Add.2, at 7 (July 22, 1998); African Union Commission, *African Union Model Law for the Implementation of the African Union Convention for the Protection of and Assistance to Internally Displaced Persons in Africa* ["Kampala Convention"], at 8 (Apr. 2018).

[443] Senate Foreign Relations Committee Staff Visit to Ethiopia, May 24-June 1, 2019.

[444] *Id.*

[445] *Id.*

[446] *Id.*

[447] *Id.*

[448] *Id.*

[449] *Id.*

[450] Mark Yarnell, *The Crisis Below The Headlines: Conflict Displacement in Ethiopia,* Refugees International, at 7-10 (Nov. 2018).

sibly the same as IDP sites, except with fewer services available.[451]

Moreover, IDPs still feared the armed groups that drove them from their homes. Although the government had brokered peace deals among local ethnic groups in the IDPs' home areas, these areas were still active conflict zones, and IDPs did not believe it was safe to return. Committee staff heard from U.S. and NGO officials that some IDPs were forcibly displaced multiple times as the government continued to force IDP returns amidst continued violence.[452]

CONCLUSION

Traditional international frameworks have been unable to adequately protect and address today's forced migrants. Traditional diplomacy has failed to prevent and mitigate conflicts and crises. Humanitarian assistance has not grown and evolved to meet the scale and demands of need. And finally, the failure to mandate specific legal protection for those persons displaced by war, violence, climate change, and internal displacement leaves millions vulnerable. Individual countries are reacting to a global crisis with wildly inconsistent standards.

Our international response needs a reboot. The UN Security Council and its permanent members must recommit to their core mandate of maintaining international peace and security, and consider measures to prevent obstructions in the Council that thwart efforts to effectively address conflict and flagrant violations of international humanitarian law. The United States and other UN member states should redouble efforts to prevent and end protracted conflict, as well as violations of international human rights law. Innovative reforms to humanitarian assistance that have proven to be best practice, including multi-year funding and cash assistance, should be quickly implemented. Governments of host communities, international leaders like the United States, and the United Nations should consider codifying complementary protections for forced migrants not included under the 1951 Convention and 1967 Protocol in order to address this growing population that includes IDPs and those displaced by severe climate-related events.

By reinvigorating international norms, laws, and solutions, we can ensure better responses, greater protection for forced migrants, and more effective international coordination.

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[451] Tom Gardner, "'Go and we die, stay and we starve': the Ethiopians facing a deadly dilemma," *The Guardian,* May 15, 2019.

[452] Senate Foreign Relations Committee Staff Visit to Ethiopia, May 24-June 1, 2019.

Photo: Robert Bushell, U.S. Marines fortify the border near San Luis PoE, U.S. Customs and Border Protection, Nov. 21, 2018.

CHAPTER FIVE
Trump's Domestic Agenda: Blocking All Legal Pathways to Refuge

For many in the United States, our history with immigration is best exemplified by Emma Lazarus's poem at the Statue of Liberty: "Give me your tired, your poor, Your huddled masses yearning to breathe free ... Send these, the homeless, tempest-tost to me!"[453] Lazarus's vision, however, fails to reflect the varied history of U.S. immigration policies, which have always existed in tension with debates about U.S. identity. At our most inclusive, the United States was perceived as the world's standard-bearer in welcoming immigrants, asylum-seekers, and refugees. In times of hostility towards foreigners, the United States has banned and mistreated desperate victims of violence and persecution seeking refuge within our borders.

The ebb and flow of U.S. immigration policy is most apparent in the periods before and after World War II. In the late 19th and early 20th centuries, growing religious, racial, and ethnic intolerance resulted in exclusionary policies against Asians and the establishment of national-origin quotas.[454] In 1939, Jewish passengers fleeing Nazi Germany on the St. Louis were denied the opportunity to disembark in the United States.[455] After World War II, the United States' refusal of these Jewish refugees, in conjunction with the United States' enhanced role on the global stage, pushed us to become a leader in responding to refugee crises around the world.[456] In the decades following, the United States provided refuge to Hungarian dissidents, Indochinese boat people, Soviet Jewry, Sudanese orphans and Kosovar victims of ethnic cleansing, among many others.[457]

Under the Trump administration, the United States has reverted to xenophobic and racist migration policies creating some of the darkest chapters in our history. President Trump and his administration have enacted executive actions and policies to restrict legal pathways to refuge in the United States, including travel restrictions on people from Muslim-majority countries, the destruction of the U.S. refugee resettlement program, and additional barriers to asylum. These policies represent a regression on forced migrant

[453] Emma Lazarus, "The New Colossus," National Park Service, Nov. 2, 1883, https://www.nps.gov/stli/learn/historyculture/colossus.htm.

[454] Walter A. Ewing, *Opportunity and Exclusion: A Brief History of U.S. Immigration Policy,* American Immigration Council, at 3-4 (Jan. 2012).

[455] David W. Haines, *Learning from Our Past: The Refugee Experience in the United States,* American Immigration Council, at 4 (Nov. 25, 2015).

[456] *Id.*

[457] International Crisis Group, *How to Save the U.S. Refugee Admissions Program,* Sept. 12, 2018.

issues and a failure to uphold international law, including the principle of non-refoulement, and have been received with domestic and international criticism.[458]

Furthermore, the Trump administration's actions have violated the rights outlined in the U.S. Constitution, conferred on the basis of personhood—not citizenship.[459] The violation of these rights, including the right to due process and the right to legal counsel, undermine the sanctity of our laws and our values in the name of hatred and fear.[460]

THE TRUMP ADMINISTRATION'S DECIMATION OF EXISTING PROGRAMS

SUMMARY OF TRUMP ADMINISTRATION ACTIONS AIMED TO RESTRICT OR PREVENT REFUGE SOUGHT IN THE UNITED STATES

The following courses of action have been pursued by the Trump administration to restrict legal pathways for seeking refuge in the United States for those fleeing dire situations in their home countries:

- *Travel restrictions for individuals from 14 countries,* including 10 Muslim-majority countries: Iran, Iraq, Libya, Somalia, Sudan, Syria, Yemen, North Korea, Venezuela, Nigeria, Burma, Kyrgyzstan, Sudan, and Tanzania;[461]
- *Suspension of all refugee admissions* for 120 days;[462]
- Reduction in the U.S. refugee ceiling from FY 2016 to FY 2020 *by 79 percent;*[463]
- New regional and thematic allocations for refugee resettlement *irrespective of global need;*[464]
- The *discontinuation of UNHCR referrals* for resettlement;[465]
- Reduction in refugees resettled in the United States from FY 2016 to FY 2019 *by 65 percent;*[466]

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[458] *See, e.g.*, Andy Newman, "Highlights: Reaction to Trump's Travel Ban," *The New York Times,* Jan. 29, 2017; Ana Campoy, "Pro-immigrant Americans are beating Trump back with a flood of lawsuits," *Quartz,* July 25, 2018; Letter from Chad Hayward, CEO of Accord Network, et al., to President Trump & Vice President Pence, Jan. 29, 2017; Sophia Tareen, "Jewish groups speaking out against Trump immigration policy," *AP,* Aug. 22, 2019; "Trump executive order banning refugees: World reacts," *BBC,* Jan. 29, 2017; Amnesty International, *Overlooked and Under-Protected: Mexico's Deadly Refoulemont of Central Americans Seeking Asylum* (Jan. 2018).

[459] Corey Brettschneider, "Why Trump's Immigration Rules Are Unconstitutional," *Politico,* Feb. 1, 2017; Gretchen Frazee, "What constitutional rights do undocumented immigrants have?," *PBS,* June 25, 2018.

[460] Gretchen Frazee, "What constitutional rights do undocumented immigrants have?," *PBS,* June 25, 2018.

[461] Executive Order 13769, "Protecting the Nation From Foreign Terrorist Entry Into the United States," 82 Fed. Reg. 58977, Jan. 27, 2017.

[462] *Id.*

[463] Press Release, U.S. Department of State, Bureau of Population, Refugees and Migration (PRM), *Proposed Refugee Admissions for FY 2016,* Oct. 1, 2015; Press Release, U.S. Department of State, PRM, *Presidential Determination on Refugee Admissions for FY 2020,* Nov. 2, 2019.

[464] President Donald J. Trump, *Presidential Determination on Refugee Admissions for FY 2020,* The White House, Nov. 1, 2019.

[465] *Id.*

[466] U.S. Department of State, PRM, Office of Admissions—Refugee Processing Center, "Summary of Refugee Admissions," Jan. 31, 2020, https://www.wrapsnet.org/documents/Refugee%20Admissions%20Report%20FY 2020—01—31—.xlsx.

- *Termination of Temporary Protected Status* for 6 countries: El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan;[467]
- *Termination of the Central American Minors Program;*[468] and
- *Disqualification of domestic violence* and gang violence asylum claims.[469]

Demonstrators block traffic as they protest against Donald Trump's immigration order at San Francisco International Airport. Getty Images, Jan. 28, 2017.

The Muslim Ban

On January 27, 2017—just days after taking office—President Trump issued an executive order decreasing the number of refugees admitted to the United States in Fiscal Year 2017 from 110,000 to 50,000, suspending the U.S. Refugees Admissions Program (USRAP) for 120 days, suspending the entry of Syrian refugees indefinitely, and suspending the entry of individuals from Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen for 90 days.[470] This order came to be known as the "Muslim Ban," since all of the countries targeted were predominately Muslim.[471]

Tens of thousands of Americans denounced the Trump administration's actions, showing up to more than forty protests across the country.[472] Muslim, Jewish, and Christian religious groups voiced

[467] Press Release, U.S. Department of Homeland Security (DHS), Secretary of Homeland Security Kirstjen M. Nielsen Announcement on Temporary Protected Status for El Salvador, Jan. 8, 2018; Press Release, DHS, Acting Secretary Elaine Duke Announcement on Temporary Protected Status for Haiti, Nov. 20, 2017; Press Release, DHS, Acting Secretary Elaine Duke Announcement on Temporary Protected Status for Nicaragua and Honduras, Nov. 6, 2017; Press Release, DHS, Secretary Kirstjen M. Nielsen Announcement on Temporary Protected Status for Nepal, Apr. 26, 2018; Press Release, U.S. Citizenship and Immigration Services (USCIS), Temporary Protected Status for Sudan to Terminate in November 2018, Sept. 18, 2017.

[468] Termination of the Central American Minors Parole Program, 82 Fed. Reg. 38926, Aug. 16, 2017.

[469] *Matter of A-B-,* Interim Decision 3929, 27 I&N Dec. 316 (A.G. June 11, 2018).

[470] Executive Order 13769, "Protecting the Nation From Foreign Terrorist Entry Into the United States," 82 Fed. Reg. 58977, Jan. 27, 2017.

[471] Pew Research Center, "Religious Composition by Country, 2010-2050," Apr. 2, 2015.

[472] Andy Newman, "Highlights: Reaction to Trump's Travel Ban," *The New York Times,* Jan. 29, 2017.

public criticism.[473] Lawyers set up informal pro-bono shops at airports to provide legal services to those impacted by the ban.[474] Legal challenges began almost immediately.[475]

The executive order tasked the Secretary of State, Secretary of Homeland Security, and Director of National Intelligence (DNI) with reviewing the refugee admissions process and implementing new procedures to ensure that prospective refugees do not threaten U.S. security and welfare.[476] The agency heads concluded that refugee admissions could resume subject to certain conditions, including the de-prioritization of refugee admissions of nationals from 11 countries designated as higher risk on the Security Advisory Opinion (SAO) list.[477] The memo also declared an indefinite pause in admitting all "following-to-join" refugees—spouses and unmarried minor children of principal refugees—until further screening mechanisms were implemented.[478] However, a District Court injunction on December 23, 2017 blocked the administration's enforcement of most provisions in the memo, particularly those regarding refugees from the 11 SAO countries and "following-to-join" refugees.[479] These actions sought to gut U.S. migration from Muslim-majority countries and paralyze the U.S. refugee program.

On October 24, 2017, President Trump issued another executive order resuming the refugee admissions program subject to certain conditions, including "special measures" for refugees who "pose potential threats" to U.S. security and welfare based on a review by the U.S. Department of Homeland Security (DHS).[480] In January 2018, following the 90-day review, DHS announced "additional security enhancements and recommendations," including:

- Additional screening for certain nationals of "high-risk countries;"
- Administering the Refugee Admissions Program with an emphasis on risk when considering the overall admissions ceiling, allocations, and groups of applicants considered for resettlement; and

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[473] Letter from Chad Hayward et al., to President Trump & Vice President Pence, Jan. 29, 2017; Sophia Tareen, "Jewish groups speaking out against Trump immigration policy," *AP,* Aug. 22, 2019; Hans Holznagel, "UCC, Muslim leaders urge limits on presidential travel bans," United Church of Christ, Aug. 29, 2019; Press Release, CAIR, CAIR Files Federal Lawsuit Challenging Constitutionality of Trump's 'Muslim Ban,' Jan. 30, 2017.

[474] Andy Newman, "Highlights: Reaction to Trump's Travel Ban," *The New York Times,* Jan. 29, 2017.

[475] American Civil Liberties Union (ACLU), "Timeline of the Muslim Ban," https://www.aclu-wa.org/pages/timeline-muslim-ban (last visited Apr. 17, 2020).

[476] Executive Order 13769, "Protecting the Nation From Foreign Terrorist Entry Into the United States," 82 Fed. Reg. 58977, Jan. 27, 2017; Executive Order 13780, "Protecting the Nation From Foreign Terrorist Entry Into the United States," 82 Fed. Reg. 13209, Mar. 6, 2017.

[477] Memorandum from Rex W, Tillerson, Secretary of State, et al., to President Trump, "Resuming the United States Refugee Admissions Program with Enhanced Vetting Capabilities," Oct. 23, 2017; Krishnadev Calamur, "Trump's New Refugee Policy Targets These 11 Countries," *The Atlantic,* Oct. 25, 2017 (Although the 11 countries were not named, they were widely understood to be Egypt, Iran, Iraq, Libya, Mali, North Korea, Somalia, South Sudan, Sudan, Syria, and Yemen).

[478] Memorandum from Rex W, Tillerson, Secretary of State, et al., to President Trump, "Resuming the United States Refugee Admissions Program with Enhanced Vetting Capabilities," Oct. 23, 2017.

[479] *Doe et al.* v. *Trump,* Findings of Fact, Conclusions of Law, and Order Issuing a Preliminary Injunction, No. 2:17-cv-00178-JLR (W.D. Wash. Dec. 23, 2017); Josh Gerstein, "Judge blocks Trump refugee order," *Politico,* Dec. 23, 2017.

[480] Executive Order 13815, Resuming the United States Refugee Admissions Program with Enhanced Vetting Capabilities, 82 Fed. Reg. 50055, Oct. 27, 2017.

- Periodic reviews and updates of the refugee "high-risk country" list and selection criteria.[481]

On June 26, 2018, the Supreme Court upheld the Trump administration's travel bans and restrictions in a 5-4 ruling.[482]

On January 31, 2020, President Trump expanded the travel ban, adding travel restrictions for six additional countries in a proclamation.[483] This expansion suspended immigrant visas for four countries—Nigeria, Burma, Eritrea, and Kyrgyzstan—while people from Sudan and Tanzania were barred from the U.S. diversity visa program.[484]

SIDEBAR: *BACKGROUND ON U.S. REFUGEE ADMISSIONS PROGRAM*

Congress passed the Refugee Act of 1980 to create a permanent and systematic procedure for refugee resettlement to the United States.[485] The act, which amended the U.S. Immigration and Nationality Act (INA), largely incorporated the 1967 Refugee Protocol's definition of a refugee into U.S. law and established the U.S. Refugee Admissions Program (USRAP).[486] The INA authorizes the admission of refugees to the United States who satisfy certain requirements. The INA generally defines a refugee as a person who is outside his or her country and is unable or unwilling to return to his or her country of origin because of persecution or a well-founded fear of persecution on the grounds of race, religion, nationality, membership in a particular social group, or political opinion.[487] To be eligible for admission as a refugee, an individual must meet the above definition, must not be firmly resettled in any foreign country, must be determined to be of special humanitarian concern to the United States, and must be admissible to the United States according to the terms of the INA.[488]

A Bipartisan U.S. Tradition in Refugee Resettlement

Until recently, the United States was by far the global leader in refugee resettlement, admitting more refugees than all other reset-

[481] *Id.*; Press Release, DHS, DHS Announces Additional, Enhanced Security Procedures for Refugees Seeking Resettlement in the United States, Jan. 31, 2018.

[482] *Trump* v. *Hawaii,* 585 U.S. (2018); Adam Liptak & Michael D. Shear, "Trump's Travel Ban Is Upheld by the Supreme Court," *The New York Times,* June 26, 2018.

[483] President Donald J. Trump, "Proclamation on Improving Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry," White House, Jan. 31, 2020; Caitlin Oprysko et al., "Trump administration expands travel ban," *Politico,* Jan. 31, 2020.

[484] President Donald J. Trump, "Proclamation on Improving Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry," White House, Jan. 31, 2020; Caitlin Oprysko et al., "Trump administration expands travel ban," *Politico,* Jan. 31, 2020.

[485] Refugee Act of 1980, Pub. L. No. 96-212.

[486] Immigration and Naturalization Act § 101(a)(42)(A), 8 U.S.C. § 1001(a)(42)(A) (A unique aspect of the refugee definition in U.S. law is that it allows for in-country processing. In addition, the Refugee Act incorporated the 1967 Protocol's criteria for excluding individuals from admission to the United States as refugees, such as perpetrating war crimes or crimes against humanity. This definition conforms with the definition used in the United Nations 1951 Convention relating to the Status of Refugees and 1967 Protocol relating to the Status of Refugees.)

[487] *Id.*

[488] *Id.*

tlement countries combined.[489] Prior to the Trump administration, the United States resettled roughly 80,000 refugees per year since 1980, reaching near record-high totals under Republican administrations.[490] Even in the years following 9/11, when "security protocols threatened to strangle it in red tape," both the Bush and Obama administrations maintained a robust U.S. resettlement program.[491]

The USRAP was not only viewed as an important humanitarian program for protecting some of the world's most vulnerable people, but also as a tool for advancing U.S. strategic interests.[492] Republican and Democratic national security leaders recognized that refugee resettlement enhanced America's global influence, demonstrated U.S. burden-sharing with refugee-hosting countries such as Jordan, Thailand, and Kenya, undercut anti-U.S. and anti-Western propaganda, supported the recruitment of military partners and foreign intelligence assets abroad, and helped promote stability in countries to which refugees initially flee.[493] In addition, prioritizing resettlement for highly vulnerable refugees, such as female-headed households, the elderly, and victims of torture, reflected a proud U.S. tradition of responding to grave human suffering.[494]

In recent years, efforts have sought to diversify the USRAP to better meet the resettlement needs of highly vulnerable refugees.[495] The program evolved from focusing on refugee admissions from relatively few nationalities to resettling refugees from over 60 nationalities by 2011.[496]

President Trump, however, has drastically cut the number of refugee resettlement slots and has distorted the few remaining allocations to serve his political objectives.[497] New security screenings and criteria also have substantially reduced the number of refugees resettled to the United States, particularly from Muslim-majority countries.[498]

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[489] Jens Manuel Krogstad, "Key facts about refugees to the U.S.," Pew Research Center, Oct. 7, 2019.

[490] U.S. Department of State, PRM, Office of Admissions—Refugee Processing Center, "Summary of Refugee Admissions," Jan. 31, 2020, https://www.wrapsnet.org/documents/Refugee%20Admissions%20Report%20FY 2020—01—31—.xlsx.

[491] International Crisis Group, *How to Save the U.S. Refugee Admissions Program,* at i (Sept. 2018).

[492] Idean Salehyan, *Insider's Perspectives: Forgotten Refugee Resettlement Consensus and Motivation,* Niskanen Center, at 2 (Sept. 2019).

[493] Refugee Council USA, "20 Former National Security Officials Sign Letter to Congress in Support of the U.S. Refugee Program," Dec. 1, 2015; Letter from General Keith B. Alexander, Former Director, National Security Agency, et al., to President Donald J. Trump, Sept. 3, 2019; Julie Hirschfeld Davis & Michael D. Shear, "Trump Administration Considers a Drastic Cut in Refugees Allowed to Enter U.S.," *The New York Times,* Sept. 6, 2019.

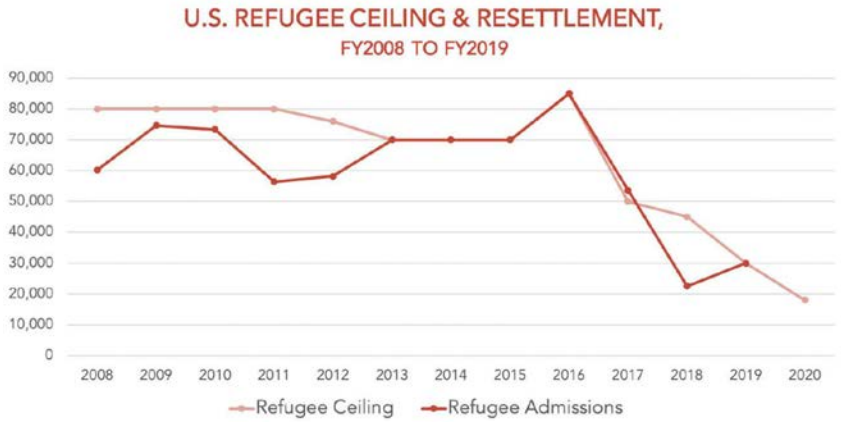
[494] David Miliband, *Rescue: Refugees and the Political Crisis of Our Time,* TED Books Simon & Schuster, at 94-95 (2017).

[495] Congressional Research Service (CRS), *U.S. Refugee Resettlement Assistance,* at 1 (Jan. 4, 2011).

[496] *Id.*

[497] Kristie De Peña & Matthew La Corte, "The Devil is in the Details: Digging Deeper into 2020 Refugee Resettlement Changes," Niskanen Center, Nov. 18, 2019.

[498] Statement of Eric Schwartz, President of Refugees International, *A Global Crisis: Refugees, Migrants, and Asylum Seekers,* Hearing before the House Committee on Foreign Affairs, Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, Feb. 26, 2019, at 6.



Committee staff analysis based on U.S. Department of State, Bureau of Population, Refugees, and Migration, Office of Admissions—Refugee Processing Center, Summary of Refugee Admissions, Jan. 31, 2020.

Sharp Reductions to Refugee Resettlement Ceilings

By law, annual refugee admission numbers are set by the President in consultation with Congress.[499] One of the President's first official acts upon taking office was to reduce the FY 2017 refugee ceiling from 110,000 to 50,000 with an executive order.[500] This downward trend continued in FY 2018 when the ceiling was lowered to 45,000, again in FY 2019 when the ceiling was lowered to 30,000, and most recently in FY 2020 when the administration announced a ceiling of just 18,000.[501] In the midst of the world's worst displacement crisis in modern history, the Trump administration authorized the lowest refugee ceiling in U.S. history.[502] As a result, global refugee resettlement capacity has plummeted. UNHCR reports that 92,400 refugees were resettled to 25 countries during 2018, representing only 7 percent of refugees in need of resettlement, and only 0.4 percent of the global refugee population.[503] Other resettlement countries have not stepped up to fill the large gap created by the United States, and the bold resettlement commitments made at President Obama's 2016 Leaders' Summit and subsequent Global Compact on Refugees remain largely neglected.

Fiscal Year 2020 Changes to Refugee Resettlement

In addition to drastically lowering the refugee ceiling, the administration altered the composition of where refugees are being resettled from. From FY 2016 to FY 2018, the largest increase was from

[499] INA § 207(a), 8 USC § 1157(a).

[500] Executive Order 13769, Protecting the Nation From Foreign Terrorist Entry Into the United States, 82 Fed. Reg. 58977, Jan. 27, 2017.

[501] U.S. Department of State, PRM, *Proposed Refugee Admissions for FY 2018,* at 6 (Oct. 4, 2017); U.S. Department of State, PRM, *Proposed Refugee Admissions for FY 2019,* at 4 (Nov. 24, 2018); Press Release, U.S. Department of State, PRM, *Presidential Determination on Refugee Admissions for FY 2020,* Nov. 2, 2019.

[502] UNHCR, *Global Trends: Forced Displacement in 2018,* at 2 (June 2019); Press Release, PRM, *Presidential Determination on Refugee Admissions for FY 2020,* Nov. 2, 2019.

[503] UNHCR, *Global Trends: Forced Displacement in 2018,* at 2-3, 30, 32 (June 2019) (Committee staff calculations based on 92,400 refugees resettled, 1.4 million refugees in need of resettlement, and 25.9 million refugees).

Europe (from 5 to 16 percent) and the largest decrease was from Near East/South Asia (from 42 to 17 percent).[504] Whereas the top five home countries for refugees admitted to the U.S. in FY 2016 were the Democratic Republic of Congo, Syria, Burma, Iraq, and Somalia, in FY 2018 the top five were Democratic Republic of Congo, Burma, Ukraine, Bhutan, and Eritrea.[505] With measures meant to prevent refugee admissions from Muslim-majority countries, admissions from Syria, Iraq, and Somalia dropped dramatically in FY 2018 to less than 2 percent of FY 2016 admissions.[506]

In its FY 2020 plan, the administration took the unprecedented step of designating new regional and thematic allocations for resettlement—not only altering how many refugees the United States resettles, but who we resettle.[507] These changes represent a dramatic shift from resettlement decisions that have historically considered global needs as well as U.S. interests, to decisions now solely based on national or "special interest" to the United States.[508] The new categories include allocations for refugees persecuted on account of religion, but exclude designations for crises resulting in large numbers of refugees, including the Democratic Republic of Congo, Somalia, and Syria.[509] Many groups allege that these categorizations surreptitiously complicate the process in order to make it all but impossible to meet the annual ceiling.[510]

In keeping with the Trump administration's pattern of cutting ties with international organizations, the administration also eliminated UNCHR referrals, except those related to the new categories in its FY 2020 plan.[511] As a result, the United States is squandering valuable data that UNHCR has collected on millions of refugees seeking resettlement—data that could help vet refugees, improve the security of resettlement programs, and make U.S. decision more informed.[512] The United States also loses insight into whether individuals are already under consideration for resettle-

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[504] U.S. Department of State, PRM, Office of Admissions—Refugee Processing Center, "Summary of Refugee Admissions," Jan. 31, 2020, https://www.wrapsnet.org/documents/Refugee%20Admissions%20Report%20FY 2020—01—31—.xlsx.

[505] CRS, Research Conducted for Committee Staff, Apr. 12, 2019. U.S. Department of State, PRM, Office of Admissions—Refugee Processing Center, "Summary of Refugee Admissions," Jan. 31, 2020, https://www.wrapsnet.org/documents/Refugee%20Admissions%20Report%20FY 2020—01—31—.xlsx.

[506] U.S. Department of State, PRM, Office of Admissions—Refugee Processing Center, "Summary of Refugee Admissions," Jan. 31, 2020, https://www.wrapsnet.org/documents/Refugee%20Admissions%20Report%20FY 2020—01—31—.xlsx (Committee staff calculations based on 459 admissions in FY 2018 and 31,487 admission in FY 2016. Admissions from these three countries combined represented about 37% of total refugee admissions in FY 2016 and about 2% of total refugee admissions in FY 2018 admissions.)

[507] President Donald J. Trump, *Presidential Determination on Refugee Admissions for FY 2020,* The White House, Nov. 1, 2019; Kristie De Peña & Matthew La Corte, "The Devil is in the Details: Digging Deeper into 2020 Refugee Resettlement Changes," Niskanen Center, Nov. 18, 2019.

[508] International Rescue Committee, *Who is left behind when the U.S. resettles fewer refugees?,* Mar. 17, 2020.

[509] President Donald J. Trump, *Presidential Determination on Refugee Admissions for FY 2020,* The White House, Nov. 1, 2019; Kristie De Peña & Matthew La Corte, "The Devil is in the Details: Digging Deeper into 2020 Refugee Resettlement Changes," Niskanen Center, Nov. 18, 2019.

[510] Kristie De Peña & Matthew La Corte, "The Devil is in the Details: Digging Deeper into 2020 Refugee Resettlement Changes," Niskanen Center, Nov. 18, 2019; Letter from Senator Kamala D. Harris, et al., to Michael R. Pompeo, Secretary of State & Kevin McAleenan, Acting Secretary of the Department of Homeland Security, Nov. 6, 2019.

[511] Ted Hesson, "Trump ending U.S. role as worldwide leader on refugees," *Politico,* Oct. 11, 2019; Kristie De Peña & Matthew La Corte, "The Devil is in the Details: Digging Deeper into 2020 Refugee Resettlement Changes," Niskanen Center, Nov. 18, 2019.

[512] Kristie De Peña & Matthew La Corte, "The Devil is in the Details: Digging Deeper into 2020 Refugee Resettlement Changes," Niskanen Center, Nov. 18, 2019.

ment to another country, thereby making U.S. resettlement activities far more inefficient and ineffective.[513] Lastly, without UNHCR referrals and an active system for embassy referrals, it is unclear how the United States will fill its pipeline to meet its annual ceilings.[514]

In September 2019, President Trump issued an executive order providing state and local officials with the authority to consent or reject to refugee resettlement placements in their jurisdictions.[515] The order required that refugee resettlement organizations receive written consent from state and local jurisdictions in order to pursue resettlement.[516] As of January 2020, 42 states and 100 localities had consented to receive refugees.[517]Only one state, Texas, had rejected refugee resettlement.[518] On January 15, 2020, the District Court of Maryland issued a preliminary injunction, placing a hold on the executive order's implementation.[519]

The cumulative effect of the Trump administration's restrictive policies has decimated the U.S. Refugee Resettlement Program. As a result, the number of refugees resettled in the United States represented a 65 percent drop in FY 2019 from FY 2016 levels.[520] This drastic drop has impacted the capacity of non-profit and faith-based agencies to support refugees' reception and integration into American communities. From January 2017 to April 2020, over 100 local resettlement offices closed, weakening the United States' refugee resettlement infrastructure and the ability to reverse current trends and respond to growing resettlement needs.[521]

Ending Temporary Protected Status Designations

As part of the Immigration Act of 1990 (Public Law 101-649), Congress established the Temporary Protected Status (TPS) program to provide humanitarian relief to foreign nationals within the United States who are unable to return to their country of origin due to armed conflict, natural disaster, or other extraordinary circumstances that prevent their safe return. In establishing TPS, Congress re-affirmed the need to provide temporary safe haven to certain foreign nationals that did not meet the legal definition of refugee or asylee.[522]

In 2017 and 2018, the Trump administration announced plans to terminate TPS designations for six of the ten countries whose citizens were eligible: El Salvador, Haiti, Honduras, Nepal, Nicaragua,

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[513] *Id.*

[514] *Id.*

[515] President Donald J. Trump, *Executive Order on Enhancing State and Local Involvement in Refugee Resettlement,* The White House, Sept. 26, 2019.

[516] Bobby Allyn, "Judge Blocks Trump's Executive Order Allowing Local Officials to Reject Refugees," NPR, Jan. 15, 2020.

[517] Miriam Jordan, "Judge Halts Trump Policy That Allows States to Bar Refugees," *The New York Times,* Jan. 15, 2020.

[518] *Id.*

[519] *Hias* v. *Trump,* Memorandum Opinion, No. 8:19-cv-03346 (D. Md. Jan. 15, 2020); Bobby Allyn, "Judge Blocks Trump's Executive Order Allowing Local Officials to Reject Refugees," NPR, Jan. 15, 2020; Miriam Jordan, "Judge Halts Trump Policy That Allows States to Bar Refugees," *The New York Times,* Jan. 15, 2020.

[520] U.S. Department of State, PRM, Office of Admissions—Refugee Processing Center, "Summary of Refugee Admissions," Jan. 31, 2020, https://www.wrapsnet.org/documents/Refugee%20Admissions%20Report%20FY 2020—01—31—.xlsx.

[521] Refugee Council USA, *Where are the Refugees?: Drastic Cuts to Refugee Resettlement Harming Refugees, Communities, and American Leadership,* at 19-20 (2019).

[522] CRS, Temporary Protected Status: Overview and Current Issues, Mar. 29, 2019.

and Sudan.[523] The administration argued that conditions in these countries no longer warranted extending their TPS status.

The administration's plans to terminate TPS for these six countries would affect more than 400,000 current TPS beneficiaries, including many who have been living the United States for at least 20 years.[524] More than 80 percent of these beneficiaries are Central American, including approximately 252,000 Salvadorans, 81,000 Hondurans, and 4,500 Nicaraguans.[525] While the U.S. Government does not keep data on the number of U.S.-born children of TPS recipients, external organizations have produced estimates of 273,000 to 279,000 children of TPS recipients from El Salvador, Honduras, and Haiti.[526] In terminating the TPS designations for these countries, the Trump administration consciously decided to strip legal protections from hundreds of thousands of foreign-born individuals and put hundreds of thousands of their U.S.-citizen children at risk.

Additionally, the termination of TPS would result in lost work authorization and potential removal from the U.S. for beneficiaries. According to the Center for Migration Studies, more than 80 percent of TPS recipients from El Salvador, Honduras, and Haiti have jobs, and many hold home mortgages.[527] The U.S. Chamber of Commerce has expressed concern that termination will result in a shortage of authorized, experienced workers for the construction, food services, landscaping, and childcare industries.[528]

The U.S. District Court for Northern California issued a preliminary injunction on October 3, 2018 enjoining DHS from terminating TPS for El Salvador, Haiti, Nicaragua, and Sudan.[529] The court ruled that DHS had failed to consider recent events in those countries when making its decision, and noted serious questions as to whether DHS's decision violated the equal protection clause given Trump's statements suggesting race was "a motivating fac-

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[523] Press Release, DHS, Secretary of Homeland Security Kirstjen M. Nielsen Announcement on Temporary Protected Status for El Salvador, Jan. 8, 2018; Press Release, DHS, Acting Secretary Elaine Duke Announcement on Temporary Protected Status for Haiti, Nov. 20, 2017; Press Release, DHS, Acting Secretary Elaine Duke Announcement on Temporary Protected Status for Nicaragua and Honduras, Nov. 6, 2017; Press Release, DHS, Secretary Kirstjen M. Nielsen Announcement on Temporary Protected Status for Nepal, Apr. 26, 2018; Press Release, USCIS, Temporary Protected Status for Sudan to Terminate in November 2018, Sept. 18, 2017; President Donald J. Trump, *Presidential Memorandum for the Secretary of State and the Secretary of Homeland Security,* The White House, Mar. 27, 2018 (The Trump Administration also attempted to phase-out Deferred Enforced Departure (DED) for Liberians. DED is similar to TPS but is based on the President's constitutional powers to conduct foreign relations, and Liberia is the only country currently with this designation. The number of Liberians affected is between 850 and 4,000).

[524] CRS, Temporary Protected Status: Overview and Current Issues, Mar. 29, 2019; Robert Warren & Donald Kerwin, "A Statistical and Demographic Profile of the US Temporary Protected Status Populations from El Salvador, Honduras, and Haiti," *Journal on Migration and Human Security* 5, no. 3, at 1 (2017).

[525] CRS, Temporary Protected Status: Overview and Current Issues, Mar. 29, 2019.

[526] Robert Warren & Donald Kerwin, "A Statistical and Demographic Profile of the US Temporary Protected Status Populations from El Salvador, Honduras, and Haiti," *Journal on Migration and Human Security* 5, no. 3, at 2 (2017); Nicole Prchal Svajlenka, "What Do We Know About Immigrants With Temporary Protected Status?," Center for American Progress, Feb. 11, 2019.

[527] Robert Warren & Donald Kerwin, "A Statistical and Demographic Profile of the US Temporary Protected Status Populations from El Salvador, Honduras, and Haiti," *Journal on Migration and Human Security* 5, no. 3, at 1 (2017).

[528] Letter from Neil L. Bradley, Senior Vice President & Chief Policy Officer at the Chamber of Commerce of the United States of America, to Elaine Duke, Acting Secretary of Homeland Security, Oct. 26, 2017.

[529] *Ramos* v. *Nielsen,* Order Granting Plaintiffs' Motions for Preliminary Injunction (N.D. Cal. Oct. 3, 2018); U.S. Citizenship and Immigration Services (USCIS), "Temporary Protected Status," https://www.uscis.gov/humanitarian/temporary-protected-status (last visited Apr. 15, 2020).

tor."[530] Separate court cases enjoined the termination of TPS for Honduras and Nepal pending resolution of the government's appeal.[531]

A Human Rights Watch report investigated 138 cases of Salvadorans killed after deportation from the United States, underscoring the dangerous and often fatal conditions for those forcibly returned to El Salvador and other TPS countries.[532]

IN FOCUS: *TERMINATION OF THE CENTRAL AMERICAN MINORS PROGRAM*

In December 2014, the Obama administration stood up the Central American Minors (CAM) Program, a refugee/parole program created in response to a surge in unaccompanied child arrivals from the Northern Triangle.[533] The program allowed eligible minors with a parent lawfully present in the United States to apply for refugee resettlement in the United States while remaining in their home country. The objective was to remove the need for unaccompanied children to undertake the dangerous journey across Mexico to the U.S. border to seek asylum. Applicants ineligible for refugee status under the program were considered for parole, which allowed temporary entrance to the United States for urgent humanitarian reasons or significant public benefit.[534] According to the Department of State, about 2,300 individuals were granted refugee status and about 1,500 granted parole under the CAM program.[535] The majority of refugees and parolees were from El Salvador.[536]

Despite the fact that the CAM program pertained only to vulnerable children who were legally processed in-country, legally travelled to the United States, and legally placed in the care of relatives, in August 2017, the Trump administration announced it was ending the CAM parole program and would no longer automatically consider unsuccessful refugee applicants for parole.[537] Furthermore, the administration indicated in a report on proposed refugee admissions for FY 2018 that it planned to phase out

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[530] *Ramos* v. *Nielsen,* Order Granting Plaintiffs' Motions for Preliminary Injunction (N.D. Cal. Oct. 3, 2018).

[531] *Bhattarai* v. *Nielsen,* Stipulation to Stay Proceedings, No. 3:19-cv-00731-EMC, (N.D. Cal. Mar. 12, 2019); USCIS, "Temporary Protected Status," https://www.uscis.gov/humanitarian/temporary-protected-status (last visited Apr. 15, 2020).

[532] Human Rights Watch, *Deported to Danger: United States Deportation Policies Expose Salvadorans to Death and Abuse,* Feb. 5, 2020.

[533] USCIS, "In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors—CAM)," Nov. 15, 2017, https://www.uscis.gov/CAM; David Nakamura, "Trump administration ends Obama-era protection program for Central American minors," *The Washington Post,* Aug. 16, 2017.

[534] U.S. Department of State, PRM, "In-Country Refugee/Parole Program for Minors in El Salvador, Guatemala, and Honduras With Parents Lawfully Present in the United States," Nov. 14, 2014; USCIS, "In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors—CAM)," Nov. 15, 2017, https://www.uscis.gov/CAM (Qualified parents included individuals with lawful permanent resident status, temporary protected status, deferred enforced departure, and deferred action, among others).

[535] CRS, Research Conducted for Committee Staff, Apr. 12, 2019.

[536] *Id.*

[537] Termination of the Central American Minors Parole Program, 82 Fed. Reg. 38926, Aug. 16, 2017; David Nakamura, "Trump administration ends Obama-era protection program for Central American minors," *The Washington Post,* Aug. 16, 2017.

the CAM refugee program, because most of the individuals applying were not eligible for refugee resettlement.[538] Indeed, State stopped accepting new CAM applications in November 2017 and DHS stopped interviewing applicants in early 2018.[539] In March 2019, a federal court ordered the U.S. government to resume processing the applications of the approximately 2,700 children in the CAM program.[540]

Disqualification of Domestic & Gang Violence Asylum Claims in Matter of A-B-

Prior to the Trump administration, gender-based persecution had been recognized as a basis for asylum for decades in the United States.[541] In 2016, the Board of Immigration Appeals found that the applicant in Matter of A-B- qualified for asylum as a "particular social group" because as a woman in El Salvador, her government was not able to protect her.[542] A-B- had credibly testified that she had endured 15 years of abuse by her husband, including death threats, rapes, and beatings, and had fled to different parts of El Salvador, divorced her husband, and filed two restraining orders against him, yet he continued to find and abuse her without consequence.[543] In June 2018, Attorney General Sessions vacated the 2016 Board of Immigration Appeals decision and remanded the case to the immigration judge for further proceedings.[544] Sessions concluded that domestic and gang violence asylum cases involve "private criminal activity" and "generally … will not qualify for asylum."[545] This decision was then passed down into U.S. Citizenship and Immigration Services (USCIS) guidance for officers screening asylum cases.[546]

In December 2018, the U.S. District Court for the District of Columbia ruled that policies set forth in Matter of A-B- and USCIS's memorandum conflicted with provisions of the Immigration and Nationality Act and the Refugee Act, and defied Congress' intention for the credible fear determination to be a "low screening standard."[547] The court thus vacated several of the policies established by Matter of A-B- and USCIS's policy memorandum, and en-

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[538] U.S. Department of State, DHS, United States Department of Health and Human Services, *Proposed Refugee Admissions for FY 2018 Report to Congress,* at 43 (Sept. 2017).

[539] CRS, Research Conducted for Committee Staff, Apr. 12, 2019.

[540] *S.A.* v. *Trump,* Order Granting in Part and Denying in Part Plaintiffs' Motion for Preliminary Injunction, Case No. 18-cv-03539-LB (N.D. Cal. Mar. 1, 2019); Press Release, International Refugee Assistance Project, Court Orders Government to Resume Processing Central American Minors in Terminated Humanitarian Program, Mar. 4, 2019.

[541] Cody Wofsy & Katrina Eiland, "Jeff Sessions' Illegal Attacks on Asylum Seekers," ACLU, Aug. 7, 2018.

[542] Katie Benner & Caitlin Dickerson, "Sessions Says Domestic and Gang Violence Are Not Grounds for Asylum," *The New York Times,* June 11, 2018.

[543] Center for Gender & Refugee Studies, *Slamming the Door on Domestic Violence Survivors: Matter of A-B-* (July 2019); Deborah Anker, "The History and Future of Gender Asylum Law and Recognition of Domestic Violence as a Basis for Protection in the United States," American Bar Association, Apr. 28, 2020.

[544] CRS, Research Conducted for Committee Staff, Apr. 12, 2019; "In re A-B-," 132 Harv. L. Rev. 803, Dec. 10, 2018.

[545] *Matter of A-B-,* Interim Decision 3929, 27 I&N Dec. 316 (A.G. June 11, 2018).

[546] DHS & USCIS, *Guidance for Processing Reasonable Fear, Credible Fear, Asylum, and Refugee Claims in Accordance with Matter of A-B-,* at 10 (July 11, 2018).

[547] *Grace* v. *Whitaker,* Memorandum Opinion, No. 18-cv-01853 at 8 (D.D.C. Dec. 17, 2018); Jennifer Chang Newell, "Federal Judge Blocks Trump's Policy Gutting Asylum for People Fleeing Domestic and Gang Violence," ACLU, Dec. 19, 2018.

joined the government from applying them in future credible fear screenings.[548]

THE IMPACT OF TRUMP ADMINISTRATION POLICIES AT THE U.S. BORDER

Coupled with efforts to limit the number of refugees resettled in the United States, Trump administration policies have made the process of applying for asylum increasingly difficult and inhumane, particularly for asylum seekers arriving at the U.S.-Mexico border, most of whom are from Central America.

Under the INA, most foreign nationals in the United States or arriving at or between U.S. Ports of Entry may apply for asylum regardless of immigration status.[549] To be granted asylum, an applicant must establish that they meet the INA's refugee definition, among other requirements.[550] The Trump administration has taken a number of troubling and potentially illegal actions to restrict asylum seekers' access to the United States.

Jerry Glaser, Mexico Repatriation Flight, January 16, 2020, U.S. Customs and Border Protection, Jan. 16, 2020

SUMMARY OF TRUMP ADMINISTRATION ACTIONS EXTERNALIZING THE BORDER & HARMING VULNERABLE FORCED MIGRANT POPULATIONS

The following courses of action have been pursued by the Trump administration to restrict entry at our borders, and access to our asylum system and other migration systems:

- Under the "Zero Tolerance Policy" all adults apprehended crossing the border between Ports of Entry

[548] *Grace* v. *Whitaker,* Memorandum Opinion, No. 18-cv-01853 (D.D.C. Dec. 17, 2018).

[549] CRS, Immigration: U.S. Asylum Policy, Feb. 19, 2019. Special asylum provisions apply to aliens who are subject to a streamlined removal process known as expedited removal. To be considered for asylum, these aliens must first be determined by a USCIS asylum officer to have a credible fear of persecution. Under the INA, credible fear of persecution means that "there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to the officer, that the alien could establish eligibility for asylum." Individuals determined to have a credible fear may apply for asylum during standard removal proceedings. *Id.*

[550] INA § 101(a)(42)(A), 8 U.S.C. § 1001(a)(42)(A). This definition conforms with the definition used in the United Nations 1951 Convention Relating to the Status of Refugees and 1967 Protocol relating to the Status of Refugees.

were prosecuted and more than, *4,200 children were separated from their families;*[551]

- Metering policies restricted the number of asylum seekers allowed to cross into U.S. territory—at the El Paso Port of Entry, *the average number of asylum cases processes dropped 66 percent with metering in effect;*[552]
- The Remain in Mexico policy (MPP) has *pushed more than 62,000 asylum seekers into dangerous settings* where they face kidnapping, abuse, murder, and refoulement—75 percent of Doctors Without Borders (MSF) patients in Nuevo Laredo due to MPP had experienced kidnapping;[553]
- A new Interim Final Rule *prevents asylum seekers from applying for asylum in the United States* if they had not already sought protection from countries through which they transited;[554]
- "Safe third country" agreements *allow the swift removal of asylum seekers* to Guatemala, Honduras, and El Salvador, where concerns about threats to safety and protection remain;[555] and
- Under two new expedited removal policies, *asylum seekers are effectively denied counsel* and therefore access to the U.S. asylum system.[556]

Family Separation & Zero Tolerance

The Trump administration has implemented cruel and unusual policies to deter asylum seekers from coming to the United States.[557] On April 6, 2018, the Department of Justice (DOJ) announced a new "Zero Tolerance Policy" that would criminally prosecute all adult migrants apprehended crossing the border in between ports of entry for improper entry into the United States, including asylum seekers and those with minor children.[558] Although thousands of children had been separated prior to the announce-

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[551] Memorandum from Attorney General, Zero-Tolerance for Offenses Under 8 U.S.C. § 1325(a), Apr. 6, 2018; Leila Rafei, "Family Separation, Two Years After Ms. L," ACLU, Feb. 26, 2020.

[552] Stephanie Leutert, et al. *Asylum Processing and Waitlists at the U.S.-Mexico Border,* Robert Strauss Center for International Security and Law, Center for U.S.-Mexican Studies, Migration Policy Centre, at 5, 13 (Dec. 2018).

[553] Press Release, Medecins Sans Frontiers, The devastating toll of 'Remain in Mexico' asylum policy one year later, Jan. 29, 2020.

[554] Asylum Eligibility and Procedural Modifications, 84 Fed. Reg. 33829, July 16, 2019.

[555] DHS, Fact Sheet: DHS Agreements with Guatemala, Honduras, and El Salvador, Nov. 7, 2019; Nicole Narea, "Trump's agreements in Central America are dismantling the asylum system as we know it," *Vox,* Nov. 20, 2019.

[556] American Immigration Council, *Policies Affecting Asylum Seekers at the Border: The Migrant Protection Protocols, Prompt Asylum Claim Review, Humanitarian Asylum Review Process, Metering, Asylum Transit Ban, and How They Interact* (Jan. 2020).

[557] Daniella Diaz, "Kelly: DHS Is Considering Separating Undocumented Children from Their Parents at the Border," *CNN,* Mar. 7, 2017. In a March 7, 2017 interview with CNN's Wolf Blitzer, on "The Situation Room," then-Secretary of Homeland Security John Kelly was asked if DHS was considering separating children from their parents to deter migration to the United States and he responded, "Yes, I am considering [it], in order to deter more movement along this terribly dangerous network, I am considering exactly that." *Id.*

[558] Memorandum from Attorney General, Zero-Tolerance for Offenses Under 8 U.S.C. § 1325(a), Apr. 6, 2018; U.S. Department of Justice, Office of Public Affairs, "Attorney General Sessions Delivers Remarks Discussing the Immigration Enforcement Actions of the Trump Administration," May 7, 2018; CRS, The Trump Administration's "Zero Tolerance" Immigration Enforcement Policy, Feb. 26, 2019.

ment, this represented a drastic escalation in the enforcement of existing law—one that resulted in a substantial increase in family separation.[559]

Under this new level of law enforcement, adults crossing the border between Ports of Entry were criminally prosecuted and subjected to detention in federal criminal detention centers, where children cannot be housed. As a result, any accompanying children were designated as Unaccompanied Alien Children and transferred to the custody of the Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR), which housed them in their own shelter facilities.[560]

A February 2020 Government Accountability Office study found that inaccurate record keeping was due in part to Customs and Border Protection (CBP) officers' human error, preventing an accurate count of the total number of separations.[561] In total, it estimated that the Trump administration separated over 4,200 children from their parents.[562]

After tremendous public uproar, including from Congress, Fortune 500 companies, the United Nations, religious leaders, and medical professionals, President Trump issued an executive order on June 20, 2018, mandating that DHS maintain custody of migrant families together pending any criminal trial or immigration proceedings.[563] CBP subsequently stopped referring most illegal border crossers to DOJ for criminal prosecution, but DHS is still separating some families based on DHS enforcement protocols in place prior to the "Zero Tolerance Policy."[564]

On June 26, 2018, the U.S. District Court for Southern California ruled that the policy violated constitutional rights and issued a preliminary injunction, which remains in effect, barring the Trump administration from involuntarily separating families and requiring the reunification of separated families.[565]

The U.S. government, however, has struggled to reunite families that were separated under the Zero Tolerance Policy. CBP records omitted information about the separated children's family members; the IT systems for tracking families were limited, separate,

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[559] CRS, The Trump Administration's "Zero Tolerance" Immigration Enforcement Policy, Feb. 26, 2019; Family separation occurred prior to the May 2018 policy when DHS suspected the veracity of the familial relationship or were concerned about the child's safety. For example, DHS separated 1,065 children from the parents in FY 2017 and 703 children in the first five months of FY 2018. Email correspondence from U.S. Customs and Border Protection (CBP) Legislative Affairs to CRS, June 8, 2018. *Id.*

[560] CRS, The Trump Administration's "Zero Tolerance" Immigration Enforcement Policy, Feb. 26, 2019.

[561] U.S .Government Accountability Office, *Southwest Border: Actions Needed to Improve DHS Processing of Families and Coordination Between DHS and HHS* (Feb. 2020).

[562] Leila Rafei, "Family Separation, Two Years After Ms. L," ACLU, Feb. 26, 2020.

[563] CRS, The Trump Administration's "Zero Tolerance" Immigration Enforcement Policy, Feb. 26, 2019; Kevin D. Williamson, "Immigration Policy: Bordering on Madness," *National Review,* June 25, 2019; Catherine E. Shoichet, "Doctors Saw Immigrant Kids Separated from Their Parents. Now They're Trying to Stop It," *CNN,* June 14, 2018; Amy Wang, "Officials Blast Trump Policy After Visiting Detained Immigrants," *Chicago Tribune,* June 10, 2018; Emma Green, "Religious Leaders Condemn Family Separations—but Not Necessarily Trump," *The Atlantic,* June 19, 2018; Brad Tuttle, "'Heartless, Cruel, Immoral.' Every Major CEO Who Condemned Trump's 'Zero Tolerance' Border Policy," Money, June 20, 2018; Nick Cumming-Bruce, "U.N. Rights Chief Tells U.S. to Stop Taking Migrant Children From Parents," *The New York Times,* June 18, 2018; Tara Isabella Burton, "Pope Francis Condemns Trump's Family Separation Policy," *Vox,* June 20, 2018; Executive Order 13841, Affording Congress an Opportunity to Address Family Separation, 83 Fed. Reg. 29435, June 25, 2019.

[564] *A.I.I.L.* v. *Sessions,* Class Action Complaint, No. 4:19-cv-00481 (D. Ariz. Oct. 3, 2019).

[565] CRS, Family Separation at the Border and the Ms. L. Litigation, July 31, 2018.

and unable to be integrated with each other; and, uncoordinated implementation forced several thousand children to wait days if not months in Office of Refugee Resettlement shelters for reunification.[566] According to government status reports to the court, 27 children still had not been reunited with their parents as of September 2019—15 months after the District Court's ruling.[567]

IN FOCUS: *FAMILY SEPARATION & THE IMPACT ON CHILDREN*

Thousands of children impacted by the Trump administration's "Zero Tolerance Policy" experienced significant trauma as a result of being unexpectedly separated from their families and placed in detention centers.[568] Once separated, children were often moved several times to different facilities, which exacerbated the trauma they experienced.[569] For some infants, at the time of reunification, they had spent more time in immigration custody than they had with their parents.[570]

The HHS Inspector General released a report on the mental health needs of children in U.S. custody, detailing "intense trauma from a variety of events before and upon their arrival in the United States."[571] In the report, a program director described the extent of emotional trauma in separated children: "A seven or eight year-old boy was separated from his father, without any explanation as to why the separation occurred. The child was under the delusion that his father had been killed and believed that he would also be killed. This child ultimately required emergency psychiatric care to address his mental health distress."[572] A medical director spoke to the physical manifestation of the trauma caused by separation, "Physical symptoms felt by separated children are manifestations of their psychological pain. You get a lot of 'my chest hurts,' even though everything is fine [medically]. Children describe symptoms, 'Every heartbeat hurts,' 'I can't feel my heart,' of emotional pain."[573]

An October 2019 American Civil Liberties Union (ACLU) lawsuit describes the story of Jairo and Beatriz, a father and his three-year-old daughter. Jairo and Beatriz were separated after watching CBP officers beat a mother who refused to turn over her young child. Jairo was told by Im-

[566] DHS Office of Inspector General (OIG), Special Review—Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy (Sept. 27, 2018); U.S. Department of Health and Human Services (HHS) OIG, Separated Children Placed in Office of Refugee Resettlement Care (Jan. 2019).

[567] Mike LaSusa, "Feds Say Dozens of Migrant Kids in Class Suit Still Separated," *Law360,* Sept. 12, 2019. Of the 27 remaining separated, 1 where the parent is not eligible for reunification or discharge at this time, 4 arrived without parents, 8 had parents deemed unfit for reunification, 13 whose parents did not intend to reunify with their children, 1 for whom parental preference could not be obtained. *Id.*

[568] U.S. House of Representatives Committee on Oversight and Reform, *Child Separations by the Trump Administration,* at 1 (July 2019).

[569] *Id.* at 19.

[570] *Id.* at 1.

[571] HHS OIG, *Separated Children Placed in Office of Refugee Resettlement Care,* at 9 (Jan. 2019).

[572] *Id.* at 11.

[573] *Id.*

migration and Customs Enforcement (ICE) officers that if he signed paperwork in English—a language he did not understand—he would be reunited with his daughter sooner. Jairo signed a voluntary deportation form and was sent back to Guatemala. Meanwhile, Beatriz was moved to custody in New York. When Beatriz was finally reunited with her family in Guatemala, they noticed scars on her back and bruises on her legs. Beatriz told Jairo that a woman in New York had hit her with the hard part of a belt. Furthermore, by the time Beatriz was reunited with her family, she had lost the ability to speak Mam, an indigenous Mayan language, and therefore lost the ability to communicate with her mother and other family members.[574]

A Physicians for Human Rights evaluation of 17 adults and 9 children separated under the "Zero Tolerance Policy" found that most individuals experienced severe trauma, met diagnostic criteria for at least one major mental health condition, exhibited ongoing functional impairment, and required further intervention and therapeutic support.[575]

The Trump administration's policies have scarred thousands of children. The families subjected to these policies will deal with the psychological and emotional fallout for years to come.[576]

Metering at U.S. Ports of Entry

The Trump administration has implemented metering policies to discourage and turn away asylum seekers at the U.S. border. Also referred to as "queue management," metering regulates the number of individuals allowed to claim asylum or enter the United States without proper documentation to address overcrowding at U.S. Ports of Entry.[577] When metering is in effect, CBP officers walk halfway across the U.S.-Mexico border to stand at the international boundary. Before allowing a potential asylum seeker to cross into U.S. territory, they radio back to the Port of entry to confirm that space is available in holding facilities.[578] If the facilities are full, the asylum seeker is refused entry until space opens up.[579]

According to a September 2018 DHS Office of the Inspector General report, the metering policy has existed at least as far back as 2016, although a December 2018 report co-authored by the University of Texas's Strauss Center for International Security and Law

[574] *A.I.I.L.* v. *Sessions,* Class Action Complaint, No. 4:19-cv-481 (D. Ariz. Oct. 3, 2019).

[575] Hajar Habbach et al., *"You Will Never See Your Child Again": The Persistent Psychological Effects of Family Separation,* Physicians for Human Rights (Feb. 25, 2020).

[576] *See, e.g.*, Kimberly Howard et al., "Early Mother-Child Separation, Parenting, and Child Well-Being in Early Head Start Families," *Attachment & Human Development Journal* (Jan. 2011).

[577] DHS OIG, *Special Review-Initial Observations Regarding Family Separation Issues under the Zero Tolerance Policy,* at 6 (Sept. 27, 2018); American Immigration Council, *Policies Affecting Asylum Seekers at the Border: The Migrant Protection Protocols, Prompt Asylum Claim Review, Humanitarian Asylum Review Process, Metering, Asylum Transit Ban, and How They Interact,* at 1 (Jan. 2020).

[578] DHS OIG, *Special Review-Initial Observations Regarding Family Separation Issues under the Zero Tolerance Policy,* at 6 (Sept. 27, 2018).

[579] *Id.* at 6.

found that CBP only began "solidifying and uniformly implementing the turn-back practices" in May 2018.[580]

CBP's metering policy raises serious legal questions regarding federal immigration statutes, including whether these statutes apply to foreign nationals who are physically about to enter the United States but have not yet reached the border.[581] Specifically, if CBP officers are stopping migrants before they have an opportunity to request asylum, it is unclear if they are violating asylum processes mandated in the INA.[582]

Metering significantly reduced access to legal processes for asylum seekers at the U.S. border, thus pushing more asylum seekers to seek illegal methods for gaining entry to the United States. By limiting the number of people who could enter at legal Ports of Entry, the metering policy resulted in higher numbers entering between legal Ports of Entry, thus also increasing the likelihood of criminal prosecution.[583] Citing CBP data for the El Paso Ports of Entry, the University of Texas report indicates that between April and June 2018—when metering was in effect—the average number of asylum seekers processed each day fell from 77 to 26.[584] Moreover, the metering practice coincided with the administration's implementation of the "Zero Tolerance Policy" and criminal prosecution of all persons apprehended for not using official ports of entry in May 2018. The DHS Office of Inspector General found that both Border Patrol officers and aliens reported an increase in illegal border crossings when metering was in place.[585]

The Remain in Mexico Policy

In addition to restricting the number of asylum seekers who can enter the United States to begin their asylum process, the administration developed an additional layer of cruelty with the Remain in Mexico policy, denying asylum seekers entrance to the U.S. while they wait for their immigration court date. The Remain in Mexico policy, also known as the Migrant Protection Protocols (MPP), began on January 28, 2019 at the San Ysidro, California Port of Entry—the country's busiest—but subsequently expanded to all ports of entry along the southern U.S. border. The Remain in Mexico policy requires many asylum seekers who arrive at the southern border to wait in Mexico while U.S. immigration courts process

[580] *Id.*; Stephanie Leutert, et al. *Asylum Processing and Waitlists at the U.S.-Mexico Border,* Robert Strauss Center for International Security and Law, Center for U.S.-Mexican Studies, Migration Policy Centre, at 3 (Dec. 2018).

[581] CRS, The Department of Homeland Security's Reported "Metering" Policy: Legal Issues, Aug. 13, 2019.

[582] *Id.* A lawsuit (*Al Otro Lado, Inc.* v. *Nielsen*) brought by an immigration advocacy organization and 14 asylum seekers contends that CBP's metering policy denies, and in some cases unreasonably delays asylum seekers' access to the asylum processes violates INA provisions that allow any alien who is physically present or arriving in the United States to pursue asylum, and that require CBP to refer any alien subject to expedited removal who indicates an intention to apply for asylum or a fear of persecution for a credible fear interview. The plaintiffs also argued that CBP has violated their due process rights by denying or delaying their "access to the asylum process." Finally, the plaintiffs argued that CBP's policy violates the international law concept of *non-refoulement,* which instructs that no country should expel or return an individual to a place where he or she faces persecution. *Id.*

[583] DHS OIG, *Special Review-Initial Observations Regarding Family Separation Issues under the Zero Tolerance Policy,* at 7 (Sept. 27, 2018).

[584] Stephanie Leutert, et al. *Asylum Processing and Waitlists at the U.S.-Mexico Border,* Robert Strauss Center for International Security and Law, Center for U.S.-Mexican Studies, Migration Policy Centre, at 13 (Dec. 2018).

[585] DHS OIG, *Special Review—Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy,* at 7.

their case.[586] As of January 2020, more than 62,000 asylum seekers had been returned to Mexico under MPP, including more than 16,000 children.[587]

While waiting in Mexico, asylum seekers have limited access to lawyers and shelter, making it nearly impossible for them to prepare their cases and effectively denying them meaningful access to the U.S. asylum system.[588] An estimated 4 percent of people returned to Mexico under MPP are able to find representation for their court cases, compared to 32 percent for those who were allowed to stay in the U.S.[589]

The processing of U.S. immigration cases can last for months and even years, forcing a growing number of men, women, and children to wait in dangerous situations in parts of Mexico plagued by violence. Asylum seekers under MPP are still expected to appear at their court hearings in the United States, and are living in dangerous and overcrowded Mexican border cities, including Tijuana, Ciudad Juarez, Nuevo Laredo, and Matamoros.[590] Tijuana, for example, counted 2,009 homicide cases in 2018, an increase of 22 percent from 2017.[591] In Ciudad Juarez, there were 1,004 homicide cases in 2018, a 62 percent increase from 2017.[592] The State Department issued a travel advisory for the Mexican border state of Tamaulipas, which includes the cities of Nuevo Laredo and Matamoros, due to the prevalence of crime and kidnapping.[593] Overcrowding in border cities has forced many migrants to live in large tent encampments without access to drinking water and bathrooms, and vulnerable to severe weather and abuse.[594]

As of May 2020, Human Rights First had documented at least 1,114 publicly reported cases of murder, kidnapping, rape, torture, and violent assault against asylum seekers in Mexico under MPP,

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[586] CBP, "MPP Guiding Principles, Jan. 28, 2019. According to CBP's "MPP Guiding Principles," categories of individuals "not amenable to MPP" include unaccompanied alien children, citizens or nationals of Mexico, aliens processed for expedited removal, and aliens more likely than not to face persecution or torture in Mexico. *Id.*

[587] Press Release, Medecins Sans Frontiers, The devastating toll of 'Remain in Mexico' asylum policy one year later, Jan. 29, 2020; Kristina Cooke et al., "Exclusive: U.S. migrant policy sends thousands of children, including babies, back to Mexico," *Reuters*, Oct. 11, 2019.

[588] Priscilla Alvarez, "'I don't want to return to Mexico, your honor': Asylum seekers make their plea to immigration judges," *CNN,* Mar. 24, 2019; Kate Morrissey, "Scheduling glitch affects first hearings for 'Remain in Mexico' returnees," *San Diego Tribune,* Mar. 14, 2019; Statement of Laura Pena, Pro Bono Counsel, American Bar Association Commission on Immigration, *Examining the Human Rights and Legal Implications of DHS' 'Remain in Mexico' Policy,* Hearing before the Subcommittee on Border Security, Facilitation, and Operations, U.S. House Committee on Homeland Security, Nov. 19, 2019.

[589] TRAC Immigration, "Contrasting Experiences: MPP vs. Non-MPP Immigration Court Cases, https://trac.syr.edu/immigration/reports/587/ (last visited Apr. 20, 2020).

[590] Caitlin Dickerson, "Confusion on the Border as Appeals Court Rules Against Trump's 'Remain in Mexico' Policy," *The New York Times,* Feb. 29, 2020; Caitlin Dickerson, "Desperate Migrants on the Border: 'I Should Just Swim Across,'" *The New York Times,* Nov. 1, 2019.

[591] NBC staff and Telemundo 20 Staff, "More than 2,000 Homicides Reported in Tijuana, Mexico," *NBC San Diego,* Oct. 28. 2018.

[592] Laura Y. Calderon et al., *Organized Crime and Violence in Mexico,* University of San Diego, at 4 (Apr. 2019); Patrick Timmons, "Across Mexico Border from safe El Paso, violence surges in Juarez," *United Press International,* Jan. 23, 2019.

[593] U.S. Department of State, Bureau of Consular Affairs, Mexico Travel Advisory, https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/mexico-travel-advisory.html (last visited June 8, 2019).

[594] Dickerson, "Confusion on the Border as Appeals Court Rules Against Trump's 'Remain in Mexico' Policy," *The New York Times,* Feb. 29, 2020; Caitlin Dickerson, "Desperate Migrants on the Border: 'I Should Just Swim Across,'" *The New York Times,* Nov. 1, 2019; "US 'Remain in Mexico' policy endangers lives of asylum seekers in Tamaulipas state," Medecins Sans Frontiers, Sept. 5, 2019.

including 265 cases of children kidnapped or nearly kidnapped.[595] In October 2019, Doctors Without Borders (MSF) reported that 75 percent of their patients sent to Nuevo Laredo through MPP had been kidnapped.[596] Approximately 80 percent of MSF patients in Nuevo Laredo during the first nine months of 2019 had suffered at least one violent incident.[597]

Since its inception, MPP has been the subject of legal proceedings with mixed results. First, in April 2019, the District Court issued a nationwide preliminary injunction questioning DHS's authority to carry out returns and potential violations of the principle of non-refoulement.[598] However, in May 2019, the U.S. Court of Appeals for the Ninth Circuit granted an emergency stay of the injunction, which effectively allowed for the implementation and enforcement of MPP.[599] Subsequently, in February 2020, the Ninth Circuit reinstated a preliminary injunction on the grounds that the policy violates federal law.[600] However, a few hours later, the judges granted the administration an emergency stay allowing MPP to continue pending further order of the court.[601] In March 2020, the Supreme Court granted a stay allowing MPP to continue while legal challenges play out.[602]

Interim Final Rule

On July 16, 2019, DHS and DOJ jointly issued an Interim Final Rule (IFR) rendering aliens ineligible for asylum in the United States if they arrived at the southern border without first seeking protection from countries through which they transited.[603] The IFR would apply both to unlawful entrants and to aliens who present themselves at ports of entry on the southern border. The IFR effec-

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[595] Human Rights First, "Delivered to Danger: Trump Administration sending asylum seekers and migrants to danger," https://www.humanrightsfirst.org/campaign/remain-mexico (last visited Apr. 20, 2020); Human Rights First, *Publicly reported cases of violent attacks on individuals returned to Mexico under the "Migrant Protection Protocols," as compiled by Human Rights First,* May 13, 2020, https://www.humanrightsfirst.org/sites/default/files/PubliclyReportedMPPAttacks-5.13.2020.pdf.

[596] Press Release, Medecins Sans Frontiers, The devastating toll of 'Remain in Mexico' asylum policy one year later, Jan. 29, 2020.

[597] *Id.*

[598] UN Office of the High Commission on Human Rights, *Protocol relating to the Status of Refugees* (Oct. 4, 1967). The 1967 UN Refugee Protocol, to which the United States is a party, includes language that prohibits member states from returning refugees to territories where their "life or freedom would be threatened" on the basis of race, religion, nationality, membership of a particular social group or political opinion. *Id.*

[599] Stephanie Manning, "Ninth Circuit allows 'Remain in Mexico' policy to stay in effect," Innovation Law Lab, May 8, 2019.

[600] *Innovation Law Lab* v. *Wolf,* Opinion, No. 19-15716 (9th Cir. Feb. 28, 2020); Maria Sacchetti et al., "Federal appeals court blocks President Trump's 'Remain in Mexico' policy but stays its own ruling," *The Washington Post,* Feb. 28, 2020.

[601] Maria Sacchetti et al., "Federal appeals court blocks President Trump's 'Remain in Mexico' policy but stays its own ruling," *The Washington Post,* Feb. 28, 2020.

[602] *Wolf* v. *Innovation Law Lab,* 589 U.S., Mar. 11, 2020; Adam Liptak & Zolan Kanno-Youngs, "Supreme Court Revives 'Remain in Mexico' Policy for Asylum Seekers, *The New York Times,* Mar. 11, 2020; Ariane de Vogue, "Supreme Court lets Remain in Mexico' asylum policy stay in place," *CNN,* Mar. 11, 2020.

[603] Asylum Eligibility and Procedural Modifications, 84 Fed. Reg. 33829, July 16, 2019. The IFR would not apply to Mexicans who seek asylum in the United States, as Mexico is the only country through which they transited. U.S. Department of Justice, DOJ Guidelines Regarding New Regulations Governing Asylum and Protection Claims, July 16, 2019. Exceptions to the Interim Final Rule include: 1) if an alien applied for protection in at least one transit country and was denied; 2) if the alien is a victim of "a severe form of trafficking in persons" provided in 8 C.F.R. 214.11; or 3) if the only countries the alien transited were not (at the time of transit) parties to the 1951 UN Convention relating to the Status of Refugees, the 1967 Protocol, or the United Nations Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment. Asylum Eligibility and Procedural Modifications, 84 Fed. Reg. 33829, July 16, 2019.

tively prohibits almost all non-Mexican nationals who reach the U.S. southern border from seeking asylum. The new rule also makes it easier for DHS to swiftly remove aliens without proceedings in immigration court if they lack visas or other valid entry documents.

By restricting access to the U.S. asylum system, the United States has placed even greater stress on a flawed Mexican immigration system. Mexico's own human rights commission declared the protection system "broken."[604] The Mexican government has at times violated the international legal principle of non-refoulement by involuntarily returning Central American asylum seekers to their home countries despite fears of persecution or torture.[605]

Almost immediately after the IFR was announced, two separate lawsuits were filed challenging the legality of the rule.[606] On July 24, 2019, the U.S. District Court for the Northern District of California issued a preliminary injunction blocking the IFR's implementation nationwide while lawsuits moved forward.[607] On September 11, 2019, the Supreme Court stayed the lower court ruling pending appeal, allowing the administration to enforce the IFR in the interim.[608]

"Safe Third Country" Agreements

Simultaneously with the Interim Final Rule, the Trump administration has pursued "safe third country" agreements—also known as Asylum Cooperative Agreements—that similarly seek to deter and deflect asylum applications in the United States. Under the INA, an alien is ineligible to apply for asylum in the United States if he or she can be removed, pursuant to a bilateral or multilateral agreement, to a third country where the "alien's life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection."

Between July and September 2019, the Trump administration signed "safe third country" agreements with Guatemala, Honduras, and El Salvador, though to date it has only begun implementing the Guatemala agreement.[609] Under these bilateral agreements, some asylum seekers who arrive at a southern U.S. port of entry can be deemed ineligible for protection in the United States, and subsequently sent to the third country where they can apply for

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[604] Human Rights Watch, *Deported to Danger: United States Deportation Policies Expose Salvadorans to Death and Abuse* (Feb. 5, 2020).

[605] Amnesty International, *Overlooked and Under-Protected: Mexico's Deadly Refoulemont of Central Americans Seeking Asylum* (Jan. 2018).

[606] Debra Cassens Weiss, "New Asylum Rule Is Quickly Challenged in Two Lawsuits," *ABA Journal,* July 17, 2019.

[607] *East Bay Sanctuary Covenant* v. *Barr,* Order Granting Preliminary Injunction, No. 19-cv-04073 (N.D. Cal. July 24, 2019).

[608] Pete Williams, "Supreme Court allows Trump administration to enforce toughest restriction yet on asylum requests," *NBC News,* Sept. 12, 2019.

[609] Agreement Between the Government of the United States of American and the Government of the Republic of Guatemala for Cooperation in the Examination of Protection Claims, 84 Fed. Reg. 64095, Nov. 20, 2019; Agreement Between the Government of the United States of American and the Government of the Republic of Honduras for Cooperation in the Examination of Protection Claims, 85 Fed. Reg. 25463, May 1, 2020; DHS, Fact Sheet: DHS Agreements with Guatemala, Honduras, and El Salvador, Nov. 7, 2019; CRS, Safe Third Country Agreements with Northern Triangle Countries: Background and Legal Issues, Jan, 30, 2020.

asylum.[610] Per U.S. law the agreements must satisfy two primary requirements: (i) the partner country provides access to "full and fair" asylum procedures; and (ii) must be a place where the individual would not face persecution.[611]

Shortly after the Guatemala agreement was publicly announced on July 26, 2019, Guatemala's Constitutional Court blocked the agreement from going into force without Congressional approval.[612] The court issued a subsequent ruling that was more ambiguous, however, and the Morales administration proceeded to implement the agreement.

The Trump administration made the determination that asylum seekers in Guatemala have access to a full and fair procedure, although it has not made that determination public nor responded to SFRC requests to provide the determination.[613] The determination reportedly refers to Guatemala having a legal framework meeting that standard, not whether it is implemented in practice.[614] Guatemala passed an immigration law in 2017 that reformed its migration system and listed refugees' rights in accordance with international instruments. However, in 2019, the U.S. Department of State report on Guatemala still cited inadequacies regarding identification and referral mechanisms for asylum seekers, as well as inadequate training for authorities on establishing refugee status.[615]

In the United States, the immigration and humanitarian community expressed serious concerns over the proposed agreement. Refugees International doubted the legality of the Guatemala "safe third country" agreement given that "Guatemala lacks a full and fair procedure for determining a claim to asylum," and "individuals forced into Guatemala would constitute an especially vulnerable social group subject to grave risks at the hands of gangs and other criminal elements" thus constituting persecution.[616]

Since the "safe third country" agreement with Guatemala went into effect in November 2019, more than 900 Central Americans have been sent by the United States to Guatemala, including more than 300 children.[617] On January 15, 2020, the ACLU and its partner organizations filed a lawsuit challenging the Trump administration's "safe third country" agreements, arguing that the countries fail to pass the test of having "full and fair" asylum procedures as required by the INA.[618] One of the plaintiffs in the case, referred to as U.T., is a gay Salvadoran man who was removed by U.S. authorities to Guatemala.[619] U.T. still fears of homophobic

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[610] CRS, Safe Third Country Agreements with Northern Triangle Countries: Background and Legal Issues, Jan, 30, 2020.

[611] *Id.*

[612] Sofia Menchu, "Guatemalan court halts 'safe third country' designation for asylum seekers," *Reuters*, July 15, 2019.

[613] Nicole Narea, "Trump's agreements in Central America are dismantling the asylum system as we know it," *Vox,* Nov. 20, 2019.

[614] *Id.*

[615] U.S. Department of State, "2019 Country Reports on Human Rights Practices: Guatemala," Mar. 11, 2019.

[616] Press Release, Refugees International, Statement: Reported U.S.-Guatemala Asylum Pact 'A Stain on this Nation's Honor,' July 12, 2019.

[617] Kirk Semple, "Asylum Sekers Say U.S. is Returning Them to the Dangers They Fled," *The New York Times,* Mar. 17, 2020; *Reuters*, "Guatemala wants to limit migrants returned under U.S. asylum agreement," *NBC News,* Mar. 6, 2020.

[618] Press Release, ACLU, Groups File Federal Lawsuit Challenging Trump Administration's So-Called 'Safe Third Country' Asylum Policy," Jan. 15, 2020.

[619] *Id.*

persecution in Guatemala, where the UN High Commission on Human Rights found persistent "discrimination and violence against lesbian, gay, bisexual and transgender persons."[620] In March 2020, Guatemala temporarily suspended the transfer of asylum seekers from the United States to Guatemala under the "safe third country" agreement, citing the need to establish "sanitary protocols" amid the COVID-19 pandemic.[621]

Expedited Removal Programs

In October 2019, the Trump administration secretly rolled out two "expedited removal" programs in El Paso, the Prompt Asylum Claim Review (PACR) and the Humanitarian Asylum Review Process (HARP), to speed up asylum processes for non-Mexican and Mexican migrants, respectively.[622] Under PACR and HARP, asylum seekers do not go through the formal asylum process, going through an expedited process instead to receive a decision on their asylum request in less than 10 days.[623] In essence, these programs hollow out an already imperfect asylum process in order to expediently remove asylum seekers from the United States.[624]

Asylum seekers under PACR and HARP are held in short-term CBP holding cells known as hieleras or iceboxes, because of their freezing temperatures.[625] Whereas under formal asylum procedures ICE is required to provide access to a telephone and the ability to meet with attorneys, CBP only provides asylum seekers under PACR and HARP 30 minutes to contact a lawyer or family member before their credible fear interview, which occurs within the first 24 hours of their detainment.[626] CBP does not provide any means to locate people in its custody, and detainees do not have access to a phone outside of their 30-minute window for counsel to return a call or reach out.[627] These processes effectively deny asylum seekers access to counsel and allow for courts to easily deny their cases

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[620] *Id.*; United Nations Human Rights Council, *Activities of the Office of the United Nations High Commissioner for Human Rights in Guatemala: Report of the Office of the United Nations High Commissioner for Human Rights,* 40th Session, at 13 (Jan. 29, 2019).

[621] Camila DeChalus, "Guatemala suspends US flights carrying asylum-seekers," Roll Call, Mar. 17, 2020.

[622] American Immigration Lawyers Association, "Featured Issue: Border Processing and Asylum," Mar. 13, 2020; American Immigration Council, *Policies Affecting Asylum Seekers at the Border: The Migrant Protection Protocols, Prompt Asylum Claim Review, Humanitarian Asylum Review Process, Metering, Asylum Transit Ban, and How They Interact* (Jan. 2020); Press Release, ACLU, ACLU Files Lawsuit Challenging Programs That Push Migrants Through Asylum Screenings Without Access to Attorneys in Border Patrol Facilities, Dec. 6, 2019.

[623] American Immigration Lawyers Association, "Featured Issue: Border Processing and Asylum," Mar. 13, 2020.

[624] Ruth Epstein & Shaw Drake, "Ban on Attorney Access for Asylum Proceedings in Inhumane CBP Jails Key to Trump's Attack on Asylum," ACLU, Feb. 26, 2020.

[625] Ruth Epstein & Shaw Drake, "Ban on Attorney Access for Asylum Proceedings in Inhumane CBP Jails Key to Trump's Attack on Asylum," ACLU, Feb. 26, 2020; J. Edward Moreno, "Federal judge sides with migrants in lawsuit over conditions in border facilities,'" *The Hill,* Feb. 19, 2020.

[626] American Immigration Council, *Policies Affecting Asylum Seekers at the Border;* Press Release, ACLU, ACLU Files Lawsuit Challenging Programs That Push Migrants Through Asylum Screenings Without Access to Attorneys in Border Patrol Facilities, Dec. 6, 2019; Press Release, U.S. House Committee on the Judiciary, Congressional Leaders Call for Immediate Halt of Trump Programs that Rush Migrants Through Asylum Screenings, Jan. 31, 2020.

[627] Press Release, ACLU, ACLU Files Lawsuit Challenging Programs That Push Migrants Through Asylum Screenings Without Access to Attorneys in Border Patrol Facilities, Dec. 6, 2019.

without adequate assessment of their protection needs, and expediently remove them from the United States.[628]

Between October and December 2019, more than 1,000 asylum seekers had been subjected to PACR and HARP programs.[629] The program was set to expand to the rest of the border by early February 2020.[630]

In December 2019, a lawsuit challenged PACR and HARP practices arguing that the policies are wholly inadequate and unlawful substitutes for a fair and meaningful asylum process.[631]

Exploiting the COVID-19 Pandemic

Amidst the backdrop of the COVID-19 pandemic, the Trump administration has effectively halted the United States' asylum and refugee system, closing the U.S.-Mexico border, implementing an expulsion order, and postponing immigration court hearings for those applying for asylum under MPP.[632] Between March 21, 2020 and May 13, 2020, only 2 people seeking humanitarian protection at the southern border were allowed to stay.[633] Over a similar period, the Trump administration chartered more than 59 deportation flights to Guatemala, Honduras, El Salvador, Haiti, the Dominican Republic, and Jamaica.[634] The United States did not test deportees for COVID-19, and several countries have reported positive cases among migrants deported by the United States, including more than 200 cases in Guatemala.[635]

The Trump administration's actions amid the COVID-19 pandemic are only their latest attempts to gut existing refugee, protection, and immigration programs—placing the burden on other countries, including our neighbors in Mexico and Central America, to deal with today's global crisis.

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[628] *Las Americas Immigrant Advocacy Center* v. *Wolf,* First Amended Complaint for Declaratory and Injunctive Relief, No. 1:19-cv-03640 (D.D.C. Dec. 5, 2019).

[629] American Immigration Council, *Policies Affecting Asylum Seekers at the Border;* Ruth Epstein & Shaw Drake, "Ban on Attorney Access for Asylum Proceedings in Inhumane CBP Jails Key to Trump's Attack on Asylum," ACLU, Feb. 26, 2020.

[630] American Immigration Council, *Policies Affecting Asylum Seekers at the Border.*

[631] *Las Americas Immigrant Advocacy Center* v. *Wolf,* First Amended Complaint for Declaratory and Injunctive Relief, No. 1:19-cv-03640 (D.D.C. Dec. 5, 2019.

[632] Priscilla Alvarez, "Refugee admissions to the US temporarily suspended," *CNN,* Mar. 18, 2020; Letter from Grace Meng, senior US researcher at Human Rights Watch & Sirine Shebaya, Executive Director at the National Immigration Project of the National Lawyers Guild, to Joseph V. Cuffari, Department of Homeland Security Inspector General & Cameron Quinn, Officer at DHS Office for Civil Rights & Civil Liberties, Apr. 13, 2020; Letter from Patrick Leahy, United States Senator, et al., to Chad Wolf, Acting Secretary of Homeland Security, Apr. 7, 2020; Nicole Narea, "Trump is continuing deportations during the pandemic. It's causing the coronavirus to spread.," *Vox,* May 12, 2019.

[633] Nick Miroff, "Under Trump border rules, U.S. has granted refuge to just two people since late March, records show," *The Washington Post,* May 13, 2020.

[634] Jake Johnston, "Exporting COVID-19: ICE Air Conducted Deportation Flights to 11 LAC Countries, Flight Data Shows," Center for Economic and Policy Research, Apr. 27, 2020 (between March 23, 2019 and April 26, 2019).

[635] Nicole Narea, "Trump is continuing deportations during the pandemic. It's causing the coronavirus to spread," *Vox,* May 12, 2019.

THE POSITIVE CONTRIBUTIONS OF REFUGEES AND IMMIGRANTS IN THE UNITED STATES

VH Produce owner Vue Her is a Hmong farmer on a 10-acre field, who grows several Asian specialty crops in Singer, CA, near Fresno. Lance Chueng, 20181109-FPAC-LSC-1236, U.S. Department of Agriculture, Nov. 9, 2018.

Since the announcement of his presidential campaign in 2015, in which he described Mexico as sending "drugs," "crime," and "rapists" to the United States, President Trump has spewed xenophobic rhetoric and promoted false anti-immigrant and anti-refugee narratives.[636] These hateful words distort the true public benefit of accepting forced migrants into our communities.

Safe Members of Communities

The Trump administration has sought to justify its restrictive approach to resettlement by suggesting that refugees are potential terrorists, and therefore pose an outsize security risk to the United States.[637] This is a misleading narrative that has been denounced by an array of experienced diplomats, military, and national security experts.[638] In reality, no resettled refugee has committed a lethal attack on U.S. soil since the 1980 Refugee Act.[639] The probability of an American being killed in a terrorist attack carried out

[636] Todd Scribner, "You are Not Welcome Here Anymore: Restoring Support for Refugee Resettlement in the Age of Trump," T3Journal on Migration and Human Security,T1 at 1, 2017.

[637] Dan De Luce and Julia Ainsley, " Trump admin rejected report showing refugees did not pose major security threat," *NBC News,* Sept. 5, 2018.

[638] Refugee Council USA, Blogs & Stories, "20 Former National Security Officials Sign Letter to Congress in Support of the U.S. Refugee Program" Dec. 1 2015; Julie Hirschfeld Davis and Michael D. Shear, "Trump Administration Considers a Drastic Cut in Refugees Allowed to Enter U.S.," *The New York Times,* Sept. 6, 2019.

[639] Alex Nowrasteh, *Terrorists by Immigration Status and Nationality: A Risk Analysis, 1975-2017,* CATO, at 23 (May 2019).

by a refugee in a given year is estimated to be 1 in 3.64 billion.[640] In comparison, the odds of being struck by lightning are far greater at 1 in 1.22 million.[641] The threat in the U.S. of being killed by a U.S.-born terrorist is far greater than a foreign-born terrorist, with the odds of being murdered by a U.S.-born terrorist at 1 in 28 million.[642]

More often, refugees are the victims—not the perpetrators—of terrorism. Many refugees have fled the same terrorist groups, such as the Islamic State, Al Qaeda, and Al Shahab, which the United States and its allies seek to dismantle. Closing the door on refugees and labeling victims potential terrorists emboldens the anti-U.S. narratives of the extremists they have fled.[643]

Refugees were already the most heavily vetted group in the U.S. before the Trump administration added additional security measures in 2017.[644] Refugees considered for resettlement in the United States "face the most rigorous vetting of any individuals or groups that come to the United States," according to James Ziglar and Doris Meissner, former commissioners of the U.S. Immigration and Naturalization Service for Republican and Democratic administrations, respectively.[645] This rigorous screening process can take anywhere from 18 months to 3 years and involves numerous stages of screening that include the collection and analysis of biographical and biometric data, multiple security background checks, and in-person interviews.[646] These screenings are all conducted before a potential refugee sets foot in the United States.[647] Once they arrive at their point of entry, U.S. Customs and Border Protection and Transportation Security Administration officials conduct additional screening.[648] Mostafa Hassoun, a Syrian refugee living in the United States, said of his experience: "Over 15 months I was interviewed five times—in person, over the phone, by the United Nations and by the United States. They asked me about my family, my politics, my hobbies, my childhood, my opinions of the U.S., and even my love life. No less than four U.S. government agencies had the opportunity to screen me. By the time I received my offer to

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[640] *Id.* at 1; Methodological issues involving the distinction between immigration status at time of entry into the U.S. and status at the time of an incident, and a reliance on publicly available data to conduct the research likely impact this estimate, but according to the report, when "conflicting numerical estimates exist, the highest plausible figures are used with the intent to maximize the risks and costs of terrorism in terms of human life. *Id.*

[641] National Weather Service, "How Dangerous is Lightning?," https://www.weather.gov/safety/lightning-odds (last visited June 8, 2019).

[642] Alex Nowrasteh, *Terrorists by Immigration Status and Nationality: A Risk Analysis, 1975-2017,* CATO, at 1 (May 2019).

[643] Refugee Council USA, Blogs & Stories, "20 Former National Security Officials Sign Letter to Congress in Support of the U.S. Refugee Program," Dec. 1 2015; Julie Hirschfeld Davis and Michael D. Shear, "Trump Administration Considers a Drastic Cut in Refugees Allowed to Enter U.S.," *The New York Times,* Sept. 6, 2019.

[644] Amy Pope, The White House, "Infographic: The Screening Process for Refugee Entry into the United States" Nov. 20, 2015.

[645] Doris Meissner & James Ziglar, "Halting refugee resettlement compromises the security of all," *The Hill,* Dec. 3, 2015.

[646] Idean Salehyan, *The Strategic Case for Refugee Resettlement,* Niskanen Center, at 1 (Sept. 2019); U.S. Citizenship and Immigration Service, *Refugee Security Screening Fact Sheet* (June 3, 2020).

[647] U.S. Citizenship and Immigration Service, Refugee Security Screening Fact Sheet, at 4 (June 3, 2020).

[648] *Id.* at 4; Erol K. Yayboke & Aaron N. Milner, *Confronting the Global Forced Migration Crisis, Center for Strategic & International Studies,* at 70 (May 2018); Memorandum from Rex W. Tillerson, Secretary, Department of State, to President Donald Trump, Oct, 23. 2017.

live in the United States, the U.S. officials in charge of my case file knew me better than my family and friends do."[649]

The Economic Contributions of Refugees

The Trump administration has also sought to paint refugees as an economic drain on the United States.[650] In contrast to this misleading message, refugees generally contribute more in taxes than they receive in benefits, revitalize cities and towns by offsetting population decline, and boost economic growth by buying homes and opening businesses.[651]

Research has overwhelmingly debunked the idea that refugees strain the U.S. economy. In July 2017, the U.S. Department of Health and Human Services conducted an internal study subsequently suppressed by the Trump administration, which found that "the net fiscal impact of refugees was positive over the ten year period, at 63 billion dollars, meaning they contributed more in revenue than they consumed in expenditures."[652] Similarly, a National Bureau of Economic Research report based on the U.S. Census Bureau's 2015 Economic Community Survey estimated that on average refugees pay 21,000 dollars more in taxes than they receive in benefits over their first twenty years in the United States.[653] And a New American Economy (NAE) report based on the same U.S. Census data found that refugee households earned 77 billion dollars in 2014, of which 21 billion dollars went to taxes, leaving 56 billion dollars in spending power to be invested into the U.S. economy.[654] The NAE study showed that while refugees may receive initial assistance upon arrival, they see sharp income increases and remarkable upward mobility. The average refugee earned around 21,782 dollars their first 0 to 5 years in the United States, but 67,000 dollars after 25 years in the United States—greater than the median U.S. household income.[655]

On a local level, studies have shown that refugees have a positive economic impact on their communities.[656] In Akron, Ohio, where the local economy has struggled in recent years, the influx of refugees has revitalized the city, boosted property values, and

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[649] Mostafa Hassoun, "I Went Through America's Extreme Vetting," *Politico,* Jan. 28, 2017.

[650] Office of Management and Budget, *Budget of the U.S. Government A New Foundation For American Greatness FY 2018,* at 16 (May 23, 2017); "The Economic Impact of Refugee Admission & Resettlement," University of Pennsylvania, Nov. 20, 2018, https://publicpolicy.wharton.upenn.edu/live/news/2720-the-economic-impact-of-refugee-admission-.

[651] William N. Evans & Daniel Fitzgerald, National Bureau of Economic Research, *The Economic and Social Outcomes of Refugees in the United States: Evidence From The ACS,* at 33 (June 2017); Matthew La Corte, *Refugees are Revitalizing Some Great Americans Cities Facing Decline,* Niskanen Center (June 2016); New American Economy, *From Struggle to Resilience: The Economic Impact of Refugees in America* (June 2017); Charles Kenny, "The Real Immigration Crisis: The Problem Is Not Too Many, but Too Few," *Foreign Affairs,* Nov. 11, 2019; Global Detroit, *The Economic Impact of Refugees in Southeast Michigan* (2017).

[652] Department of Health and Human Services, *The Fiscal Costs of the U.S. Refugee Admissions Program at the Federal, State, and Local Levels, from 2005-2014* (Draft), at 31 (July 29, 2019).

[653] William N. Evans & Daniel Fitzgerald, National Bureau of Economic Research, *The Economic and Social Outcomes of Refugees in the United States: Evidence From The ACS,* at 33 (June 2017).

[654] New American Economy, *From Struggle to Resilience: The Economic Impact of Refugees in America,* at 5-6 (June 2017). The 2.3 million "likely refugees" categorized based on country of origin and year of arrival. *Id.*

[655] *Id.* at 8; Gloria Guzman, "New Data Show Income Increased in 14 States and 10 of the Largest Metros," U.S. Census Bureau, Sept. 26, 2019.

[656] Matthew La Corte, *Refugees are Revitalizing Some Great Americans Cities Facing Decline,* Niskanen Center (June 2016).

turned once vacant neighborhoods into vibrant economic corridors.[657] In Erie, Pennsylvania, where refugees and their children comprise approximately one-fifth of the population, refugees have opened an estimated 100 businesses and helped forestall population decline.[658] In the 2010 census, Michigan was the only U.S. state whose population declined. Since then, refugees have been responsible for the state's net population growth, and Michigan was the fourth largest state for resettlement between 2007 and 2016.[659] A study of Southeast Michigan, where over half of the refugees who arrived in that period resettled, found that refugees arriving between 2007 and 2016 created over 220 million dollars in new spending and over 1,700 new jobs.[660] In Georgia, where the state does not fund any programs specifically for refugees, 91 percent of refugee households manage to work and pay their own expenses within 6 months of arrival.[661]

Staff Sgt. Ryan Crane, *Refugee camp,* U.S. Air Force, Jan. 19, 2014.

DAMAGE TO U.S. MILITARY INTERESTS

The Trump administration's gutting of the refugee system has damaged the effectiveness of U.S. military, diplomatic, and intelligence operations abroad. For example, tens of thousands of Iraqi and Afghan nationals have put their lives on the line to support U.S. intelligence gathering, operations planning, and other essential services during the Afghan and Iraq conflicts. Resettlement is not only an instrument to ensuring their safety, but also maintaining strong intelligence and counter-terrorism partnership in Iraq and Afghanistan. Despite this—as well as the fact that they are

[657] Partnership For A New American Economy & Knight Foundation, *Welcome to Akron: How Immigrants and Refugees Are Contributing to Akron's Economic Growth* (June 2016).

[658] Tim Henderson, "Immigrants Prevented or Minimized Population Loss in a Fifth of U.S. Counties," The Pew Charitable Trusts, Apr. 24, 2019; Deborah Fallows, "What It Takes to Settle Refugees," *The Atlantic,* Oct. 28, 2016.

[659] Global Detroit, *The Economic Impact of Refugees in Southeast Michigan,* at 7 (2017).

[660] *Id.*; In Macomb, Oakland, Washtenaw, and Wayne Counties, including cities like Detroit and Ann Arbor. New spending was estimated between 229.6 million to 295.3 million, and jobs created was between 1,798 and 2,311. *Id.*

[661] "Refugees and Immigrants in Georgia: The Facts," Coalition of Refugee Services Agencies, Feb. 2017.

heavily vetted before ever serving alongside U.S. troops—the Trump administration has severely reduced resettlement numbers through the U.S. Government's Special Immigrant Visa (SIV) and the Iraqi direct access (P-2) programs. Responding to the administration's resettlement reductions, 27 national security leaders, including General Martin Dempsey, General Joseph Votel, and General Raymond Odierno wrote to the President. In their letter they explained that, "U.S. military, diplomatic and intelligence operations abroad rely on the support of thousands of interpreters, translators, advisors, engineers and others to fulfill their objectives. When their lives and those of their families are threatened because of this support, the U.S. refugee resettlement provides a critical lifeline. We have personally borne witness to how these programs ensure the safety of our service members and success of US missions."[662]

Drastically reducing refugee numbers also feeds into the anti-American narratives of terrorist groups, threatening the success of U.S. counter-terrorism work. In refusing to admit refugees into the United States and issuing travel bans for Muslim-majority countries, the United States' reputation abroad suffered. Narratives propagated by al-Qaida and ISIS about U.S. and Western hostility towards Muslims is validated by the Trump administration's actions. As General Michael Hayden and Admiral James Stavridis stated, "Welcoming refugees regardless of their religion, nationality, or race exposes the falseness of terrorist propaganda and counters the warped vision of the extremists."[663]

CONCLUSION

The Trump administration's destructive policies toward immigrants and asylum seekers have sparked domestic dissent from humanitarian organizations, immigration organizations, civil rights groups, religious groups, and individuals from coast to coast.[664] Moreover, the Trump administration's actions have been met with significant international criticism. United Nations High Commissioner for Human Rights Michelle Bachelet responded to the United States' "Zero Tolerance" and family separation policies, stating: "This should never happen anywhere."[665] On the issue of the Muslim Ban alone, UNHCR, IOM, the United Kingdom Prime Minister, the German Chancellor, and the French President all spoke out against the administration's actions.[666] These domestic policies undermine the United States' ability to speak and lead with credibility on the global stage.

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[662] Letter from General Keith B. Alexander, et al., to President Donald J. Trump, Sept. 3, 2019.

[663] Michael Hayden & James Stayridis, "U.S. must lead on refugee crisis," *Miami Herald,* July 8, 2016.

[664] *See, e.g.*, Andy Newman, "Highlights: Reaction to Trump's Travel Ban," *The New York Times,* Jan. 29, 2017; Ana Campoy, "Pro-immigrant Americans are beating Trump back with a flood of lawsuits," *Quartz,* July 25, 2018; Letter from Chad Hayward, CEO of Accord Network, et al., to President Trump & Vice President Pence, Jan. 29, 2017; Sophia Tareen, "Jewish groups speaking out against Trump immigration policy," *AP,* Aug. 22, 2019.

[665] "UN rights chief 'appalled' by US border detention conditions, says holding migrant children may violate international law," *UN News,* July 8, 2019.

[666] "Trump executive order banning refugees: World reacts," *BBC,* Jan. 29, 2017; Press Release, United Nations High Commissioner for Refugees, Joint IOM-UNHCR Statement on President Trumps' Refugee Order, Jan. 28, 2017.

In order to re-establish U.S. leadership on the global stage, the United States must first reckon with the morality of actions taken within and at our borders. As a first step, the United States must terminate harmful policies, including the Remain in Mexico policy and "safe third country" agreements, ensure that asylum seekers, immigrants, migrants, and refugees are afforded protections, restore refugee resettlement to historic norms, and create new methods for resettlement and complementary protections in order to help meet tremendous global need.

CHAPTER SIX

The Trump Administration's Global Retreat from Forced Migration

Over the past three years, the Trump administration has drastically eroded U.S. diplomatic engagement and leadership in addressing humanitarian crises and forced migration. Prior to the Trump administration, the United States helped lead the world through humanitarian assistance, political engagement, and coordination on the international stage. President Trump, however, has promoted an "America First" foreign policy that often rejects multilateral action and coordination.[667] The Trump administration has pulled the United States out of international agreements that U.S. diplomats helped design, proposed severe cuts to humanitarian funding, and drastically reduced the number of refugees resettled to the United States. The Trump administration's anti-immigrant policies and mistreatment of asylum seekers and refugees have badly undercut the United States' credibility in advocating for other countries to offer protection and asylum, and in some cases, even emboldened harsh policies by foreign governments.[668] As a result, the United States has ceded international leadership and emboldened other nations to turn their backs on the current global forced migration crisis.

REPEATED ATTEMPTS TO CUT U.S. HUMANITARIAN ASSISTANCE FUNDING

Global humanitarian need is rapidly outpacing the provision of aid. These are international, system-wide challenges, but as the world's largest humanitarian donor, the United States plays a critical role in shaping global responses to these challenges.[669] U.S. contribution to humanitarian funding accounts for one quarter to

[667] *See, e.g.*, Press Release, The White House, President Donald J. Trump's Foreign Policy Puts America First, Jan. 30, 2018; President Donald J. Trump, Remarks by President Trump to 74th Session of the United Nations General Assembly, United Nations Headquarters, New York, NY, Sept. 24, 2019. Donald Trump, President of the United States, Remarks at the 73rd Session of the United Nations General Assembly, United Nations, Sept. 25, 2018. In his remarks before the UN General Assembly in 2018, President Trump said, "America is governed by Americans. We reject the ideology of globalism, and we embrace the doctrine of patriotism."

[668] *See* "Jordan, US Discuss Ties, Refugee Crisis," *Jordan Times,* Feb. 14, 2017. Shortly after the White House announced its first travel ban and reduction in the U.S. refugee admissions ceiling, in Feb. 2017 Acting Assistant Secretary of State Simon Henshaw met with Jordanian government officials to urge them not to forcibly return Syrian refugees. Instead, Jordanian authorities increased deportations of Syrian refugees, including some already approved for resettlement in the United States. *Id.*; "Aid Groups: Jordan Deports Thousands of Syrian Refugees," *Voice of America,* May 12, 2017.

[669] Development Initiatives, *Global Humanitarian Assistance Report 2019,* at 10-11 (2019). The United States is the largest international humanitarian assistance donor, spending more than $6 billion in 2018.

one third of global public expenditures.[670] As a percentage of Gross National Income (GNI), however, the United States is the seventeenth largest international donor.[671] Under the Trump administration, multiple proposed cuts to humanitarian assistance have signaled a global retreat. The global community has largely followed, resulting in a stagnation of global humanitarian financing in the face of growing needs. For example, the growth in financing from 2017 to 2018 was just one percent, which stands in stark contrast to 30 percent cumulative growth over the five years before 2018.[672]

Every year in office, President Trump has proposed significant reduction in humanitarian assistance funding from previously appropriated levels. And every year, Congress has come to the rescue by appropriating humanitarian assistance funding levels far greater than the administration's request, allowing lifesaving humanitarian assistance programs to continue. In the administration's first budget proposal, for FY 2018, the request for 5.3 billion dollars in humanitarian funding was a 43 percent decrease from the previous years' appropriation.[673] In FY 2021, the Trump administration requested 6.27 billion dollars—a 34 percent decrease from the 9.55 billion dollars appropriated in FY 2020.[674]

In most years, the United States allocates more than half of its humanitarian assistance to UN entities, many of which address the needs of forced migrant populations. Key recipients of this assistance include UNHCR, IOM, and numerous other specialized UN agencies and programs.[675] Thanks to Congress's engagement and recognition of pressing global needs, U.S. obligations to UNHCR increased from 1 billion dollars in FY 2013 to 1.57 billion dollars in FY 2018, and U.S. funding to IOM has remained steady based on needs and priorities.[676]

Despite robust Congressional support for humanitarian assistance to address forced migration, the administration has successfully cut funding to a number of critical UN programs that seek to assist these populations. In August 2018, the administration announced it would no longer provide voluntary funding to the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), an organization that provides life-saving assistance to Palestinian refugees in the West Bank, Gaza, Syria, Jordan, and Lebanon.[677] In addition, the Trump administration has withheld funding from the UN Population Fund (UNFPA), the lead UN

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[670] *Id.* at 36.

[671] *Id.* at 38.

[672] *Id.* at 32; Ben Parker, "Ten Donors and 10 Crises Dominate Humanitarian Spending," *The New Humanitarian,* Oct. 9, 2019.

[673] U.S. Global Leadership Coalition, *Administration's Detailed FY18 Budget Request Similar to Skinny Budget: Proposal Would Make America Less Safe by Slashing International Affairs Budget,* at 4 (May 23, 2017).

[674] U.S. Department of State, *Congressional Budget Justification: Department of State, Foreign Operations, and Related Programs Fiscal Year 2021* (Feb. 10, 2020); U.S. Global Leadership Coalition, *Out of Touch With America's Interests: International Affairs Programs Slashed for Fourth Straight Year Despite Growing Global Crises,* at 8 (Feb. 10, 2020).

[675] CRS, Research Conducted for Committee Staff, May 9, 2019, at 4. The International Committee of the RedCross, WFP, UNICEF, and UNOCHA also receive assistance. *Id.*

[676] U.S. Department of State, Bureau of Population, Refugees, and Migration, *FY 2018 Summary of Major Activities,* at 4 (Feb. 2019).

[677] Hady Amr, "In One Move, Trump Eliminated US Funding for UNRWA and the US Role as Mideast Peacemaker," The Brookings Institution, Sept. 7, 2018; United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA), "Who We Are," https://www.unrwa.org/who-we-are (last visited Apr. 21, 2020).

agency for ensuring that women and girls who have fled conflict have access to life-saving services relating to gender-based violence, and sexual and reproductive health.[678] In doing so, the Trump administration has further endangered women and girls, who are particularly vulnerable to abuses in humanitarian settings.[679] Furthermore, in April 2020 amid the COVID-19 pandemic, President Trump suspended U.S. financial support for the World Health Organization (WHO), and, in May 2020, President Trump declared that the United States would terminate its relationship with the WHO.[680] In doing so, the Trump administration suspended critical support for global activities working to combat COVID-19, polio, Ebola, HIV/AIDS, tuberculosis, malaria, and other diseases, particularly among vulnerable populations like forced migrants.[681]

A huge number of Haitians make their way to the relief supplies (food and water) handed out at the stadium in Port au Prince, Haiti. Master Sgt. Jeremy Lock, 00120-F-1644L-189, U.S. Air Force, Jan. 20, 2010.

SIDEBAR: *PROPOSED CHANGES TO U.S. HUMANITARIAN FUNDING AND POLICY OPERATIONS*

In addition to slashing humanitarian assistance funding in its annual budget request to Congress, the Trump administration has sought to consolidate distinct U.S. overseas humanitarian assistance accounts into a single new global International Humanitarian Assistance (IHA) account.[682] Under the new proposal, the U.S. Agency for International Development's (USAID) newly established Humanitarian Assistance Bureau would manage the IHA

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[678] Planned Parenthood, "Tracking Trump," https://www.plannedparenthoodaction.org/tracking-trump/policy/un-population-fund (last visited Apr. 21, 2020); Liz Ford & Nadia Khomami, "Trump Administration Halts Money to UN Population Fund over Abortion Rules," *The Guardian,* Apr. 4, 2017; see Congressional Research Service, Abortion and Family Planning-Related Provision in U.S. Foreign Assistance Law and Policy, Oct. 23, 2019.

[679] Eric Schwartz, *A Global Crisis: Refugees, Migrants, and Asylum Seekers,* Refugees International, at 9 (Feb. 26, 2019).

[680] Kaiser Family Foundation, "The U.S. Government and the World Health Organization," Apr. 16, 2020; Berkeley Lovelace Jr., "Trump Says the U.S. Will Cut Ties with World Health Organization," CNBC, May 29, 2020.

[681] Stephanie Nebehay & Kate Kelland, "Explainer: What the U.S. Funds Freeze Could Mean for WHO and Its Work," *Reuters*, Apr. 15, 2020; Amy S. Patterson & Emmanuel Balogun, "Trump Wants to Defund the World Health Organization. That Could Hurt Health Partnerships in Africa," *The Washington Post,* May 5, 2020.

[682] U.S. Global Leadership Coalition, *Analysis of the Administration's FY 20 International Affairs Budget Request* (Mar. 12, 2019).

account, while the Department of State's Population, Refugees, and Migration (PRM) Bureau would lose its authorities to program and administer humanitarian assistance in response to overseas crises.[683]

For the United States to effectively respond to humanitarian crises, most of which are the result of conflict, the Department of State must be enabled to marshal a wide range of tools, including diplomatic engagement, humanitarian assistance funding, and refugee resettlement.[684] The existing architecture between State and USAID provides for comprehensive responses to crises, including diplomatic pressure for political resolutions to humanitarian emergencies, collaborative work toward permanent solutions for refugees and other displaced populations, and strategic engagement on emerging humanitarian policy issues.[685] State's PRM bureau excels at leveraging robust humanitarian diplomacy and policies to protect refugees, internally displaced people, and other vulnerable forced migrants based on experience managing programs on the ground.[686] The direct channels of communication between PRM field staff and the Ambassador, or between PRM program officers in Washington and the Secretary of State, are critical to advocating for humanitarian access, humane border policies, and other life-saving protections under international human rights and humanitarian laws.

Contrary to the administration's desire to shift PRM's mandate to USAID and potentially even DHS, it is imperative that PRM remain positioned with State to coordinate directly with State Department officials, UN agencies, foreign governments, and NGO partners on the ground.[687] The United States' stellar record at responding to international humanitarian emergencies relies upon a fusion of diplomatic and humanitarian expertise, and dismantling this would hamper U.S. efforts in this time of immense global humanitarian need.

WITHDRAWAL FROM INTERNATIONAL FORA

Over the past several years, the international community has convened high-level meetings and events to address the forced migration crisis. The United States was previously an active participant and lead convener of these diplomatic efforts to address humanitarian issues, including the forced migration crisis. For example:

- At the first UN World Humanitarian Summit in May 2016, 180 countries came together to address the challenges facing

[683] U.S. Department of State, *Congressional Budget Justification: Department of State, Foreign Operations, and Related Programs, Fiscal Year 2020,* at 77 (Mar. 2019); U.S. Department of State, *Congressional Budget Justification: Department of State, Foreign Operations, and Related Programs Fiscal Year 2021,* at 78 (Feb. 10, 2020).

[684] Refugees International, *Congress Urged to Resist Massive Cuts in U.S. Humanitarian Aid,* Mar. 26, 2019; UNOCHA, *Global Humanitarian Overview 2019,* at 5-6 (2019).

[685] Refugees International, *Congress Urged to Resist Massive Cuts in U.S. Humanitarian Aid.*

[686] *Id.*

[687] *Id.*

the global humanitarian system.[688] A key outcome was the signing of a "Grand Bargain," which aimed to make aid more efficient and effective, to include greater local and national participation and partnerships, and to establish coherence between humanitarian and development responses.[689] USAID led the U.S. delegation, which also included representatives from the White House, Department of State, and the Department of Defense.[690]

- On September 19, 2016, at the UN General Assembly High-Level Plenary Summit on Refugees and Migrants, world leaders agreed to the New York Declaration, which aimed to save lives, protect rights, and share responsibility for refugees and migrants on a global scale.[691] The United States participated in the High-Level Plenary Summit as part of the regular General Assembly session that unanimously adopted the Declaration.[692]
- On September 20, 2016, as a complement to the High-Level Plenary Summit, President Obama co-hosted a Leaders' Summit on Refugees asking nations to increase their efforts to respond to the global displacement crisis.[693] Participants agreed to increase contributions to UN appeals, expand options for resettlement and other legal channels of admission, and improve access to education for one million refugee children and lawful work for one million refugees.[694]

Since President Trump took office, however, the United States has disengaged from cooperative international efforts and even jeopardized their success.

- Under President Obama, the United States participated in all of the member state consultation meetings prior to the start of negotiations of the Global Compact for Safe, Orderly, and Regular Migration (GCM).[695] Under the Trump administration, however, the United States withdrew from negotiations in December 2017, stating concerns regarding U.S. sovereignty even though the Compact is nonbinding.[696] In early December 2018, the international community met in Marrakech, Morocco to sign the GCM. The United States was not present in Marra-

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[688] Agenda for Humanity, "World Humanitarian Summit," https://agendaforhumanity.org/summit (last visited Apr. 22, 2020).

[689] Inter-Agency Standing Committee, "The Grand Bargain (Official website)," https://interagencystandingcommittee.org/grand-bargain (last visited Apr. 22, 2020).

[690] Press Release, The White House, Fact Sheet: World Humanitarian Summit—U.S. Government Priorities, May 24, 2016.

[691] UNHCR, "New York Declaration for Refugees and Migrants," https://www.unhcr.org/en-us/new-york-declaration-for-refugees-and-migrants.html (last visited Oct. 2, 2019).

[692] Press Release, United Nations, *General Assembly Adopts Declaration for Refugees and Migrants, as United Nations, International Organization for Migration Sign Key Agreement,* Sept. 19, 2016; UNHCR, *The New York Declaration for Refugees and Migrants: Answers to Frequently Asked Questions,* at 2 (Feb. 2018).

[693] Press Release, The White House, Fact Sheet on the Leaders' Summit on Refugees, Sept. 20, 2016.

[694] *Id.*

[695] Olivia Beavers, "US Pulls out of Global Compact on Migration,'" *The Hill,* Dec. 3, 2017.

[696] Press Release, U.S. Mission to International Organizations in Geneva, U.S. Ends Participation in the Global Compact on Migration, Dec. 3, 2017; Press Release, United States Mission to the United Nations, National Statement of the United States of America on the Adoption of the Global Compact for Safe, Orderly, and Regular Migration, Dec. 7, 2018.

kech.[697] The United States did, however, attend a December 19, 2018 session of the UN General Assembly where member 154 member states voted in favor of adopting a resolution endorsing the GCM.[698] At the session, the United States called for a vote on the resolution and subsequently voted against it.[699] Moreover, according to reporting, the United States sought to convince other nations to vote against the Compact.[700] Ultimately, the Czech Republic, Hungary, Israel, and Poland also voted against it.[701]

- Similar to the GCM, the United States participated in the consultative process for the Global Compact on Refugees (GCR). However, at the eleventh hour the Trump administration withdrew from the GCR in November 2018 based on objections to its reference to the New York Declaration.[702] In December 2018, the UN General Assembly adopted the GCR in New York by a voting margin of 181-2, with only the United States and Hungary voting against the resolution adopting the Compact.[703] The United States explained that: "Although we value much of what is contained in the resolution and the [GCR], including improving UNHCR's responses to refugee crises as well as facilitating the work of UNHCR in refugees hosting countries, concerns expressed by my government during negotiations remain unaddressed."[704]
- In addition to withdrawing from the Compacts, the Trump administration has also ceased U.S. participation in IOM's annual International Dialogues on Migration, which discuss challenges and opportunities related to migration. Whereas the State Department sent three delegates in 2016 and two delegates in 2017, no U.S. government officials attended the Dialogues in 2018 and 2019.[705]

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[697] Faras Ghani, "UN members adopt global migration pact," *Al Jazeera,* Dec. 10, 2018.

[698] Press Release, United Nations, General Assembly Endorses First-Ever Global Compact on Migration, Urging Cooperation among Members States in Protecting Migrants, Dec. 19, 2018.

[699] *Id.*

[700] Georgi Gotev, "Nine EU Members Stay Away From UN Migration Pact," EURACTIV, Dec. 20, 2018; AFP & The Times of Israel Staff, "UN Ratifies Migrant Pact; Israel and US Among Five to Vote Against," The Times of Israel, Dec. 19, 2018.

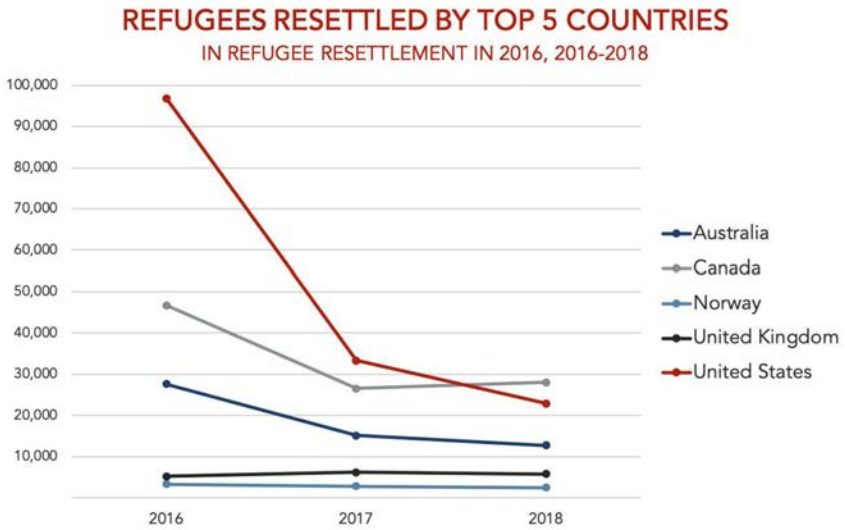
[701] Press Release, United Nations, General Assembly Endorses First-Ever Global Compact on Migration, Urging Cooperation among Members States in Protecting Migrants, Dec. 19, 2018.

[702] Alice Thomas & Mark Yarnell, *Ensuring that the Global Compacts on Refugees and Migration Deliver,* Refugees International (Nov. 2018).

[703] CRS, Research Conducted for Committee Staff, May 9, 2019; Nayla Rush, "A Historic Victory for the UN: Global Compacts on Migration and Refugee Adopted This Week," Center for Immigration Studies, Dec. 20, 2018.

[704] Press Release, United States Mission to the United Nations, Explanation of Vote in a Meeting of the Third Committee on a UNHCR Omnibus Resolution, Nov. 13, 2018.

[705] CRS, Research Conducted for Committee Staff, May 9, 2019.



Committee staff calculations based on data from UNHCR, "Population Statistics: Resettlement," (last visited June 15, 2020).

THE INTERNATIONAL IMPLICATIONS OF THE TRUMP ADMINISTRATION'S RETREAT

Leading the World in Retreat from the Global Forced Migration Crisis

While the United States is still the world's largest humanitarian donor, the Trump administration's efforts to undercut a holistic response to the global forced migration crisis sends a message to other nations and impacts their actions. It was U.S. leadership at the 2016 Leaders' Summit on Refugees that drew commitments from countries on funding, resettlement slots, and basic human rights protections.[706] By the same token, the absence of U.S. humanitarian leadership since then has contributed to a lack of global progress on meeting the 2016 commitments. For example, although global funding has increased, it has not caught up nor kept pace with increasing need; underfunding of UN appeals has grown from a 28 percent shortfall in 2007 to 46 percent in 2019.[707]

Furthermore, the U.S. led the world in a global retreat from refugee resettlement. In 2016, the United States was by and far the world's leader in refugee resettlement, resettling over 96 thousand refugees—50 thousand more refugees than the next highest refugee resettlement country.[708] Therefore, when U.S. refugee resettlement

[706] Press Release, The White House, Fact Sheet: World Humanitarian Summit—U. S. Government Priorities, May 24, 2016.

[707] UNOCHA, **Global Humanitarian Overview 2020,** at 26 (Dec. 31, 2019); David Miliband, "A Battle Plan for the World Bank: Why Refugees Are at the Center of the Fight Against Poverty," *Foreign Affairs,* Feb. 19, 2019.

[708] Committee staff calculations based on U.S. Department of State, PRM, Office of Admissions—Refugee Processing Center, "Summary of Refugee Admissions," Jan. 31, 2020, https://www.wrapsnet.org/documents/Refugee%20Admissions%20Report%20FY 2020—01—31—.xlsx

Continued

declined by over 65 percent in 2017, this gap was felt globally.[709] Furthermore, the next leading refugee resettlement country, Canada, followed the United States' suit, reducing refugee resettlement by 43 percent in 2017.[710] Overall, while refugee resettlement in the United States alone has declined by 76 percent from 2016 to 2018, refugee resettlement totals for the next four largest refugee resettlement countries in 2016—Canada, Australia, the United Kingdom, and Norway—also declined by 41 percent from 2016 to 2018.[711]

Global refugee resettlement fell by 51 percent in 2018 compared to 2016.[712] While 37 countries committed to resettling refugees in 2016, just two years later only 25 countries resettled refugees.[713] In 2019, 63,696 refugees were resettled through UNHCR—just 4.5 percent of the 1.4 million refugees in need of resettlement.[714]

Regardless of intent, the United States leads by example. The Trump administration's regressive actions towards forced migrants in the international sphere have set the stage for other countries to follow suit. These actions have aggravated imbalanced burden sharing, increased global instability, and furthered the plight of forced migrants worldwide.

Placing Increased Burden on U.S. Allies & Partners

Refugee resettlement programs and humanitarian assistance can serve as political release valves, relieving economic and social pressure to ease some of the burden for countries hosting large refugee populations.[715] Though global refugee resettlement accounts for less than one percent of the refugee population, the Trump administration's decision to slash U.S. resettlement has significantly impacted major refugee-hosting countries, many of which are developing countries.[716] In the past, the United States leveraged its willingness to resettle a small percentage of refugees to encourage host countries to provide safe haven to significantly larger populations of displaced people, thereby preventing forced returns of refugees as well as discouraging onward migration.

Today, however, these same countries are less willing to continue hosting large refugee populations when the United States and

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(based on calendar year); UNHCR, "Population Statistics: Resettlement," http://popstats.unhcr.org/en/resettlement (last visited June 15, 2020).

[709] Committee staff calculations based on U.S. Department of State, PRM, Office of Admissions—Refugee Processing Center, "Summary of Refugee Admissions," Jan. 31, 2020, https://www.wrapsnet.org/documents/Refugee%20Admissions%20Report%20FY 2020—01—31—.xlsx (calendar year figures of 96,874 resettled in 2016 and 33,368 resettled in 2017);

[710] Committee staff calculations based on UNHCR, "Population Statistics: Resettlement," http://popstats.unhcr.org/en/resettlement (last visited June 15, 2020).

[711] Committee staff calculations based on U.S. Department of State, PRM, Office of Admissions—Refugee Processing Center, "Summary of Refugee Admissions," Jan. 31, 2020, https://www.wrapsnet.org/documents/Refugee%20Admissions%20Report%20FY 2020—01—31—.xlsx (based on calendar year); UNHCR, "Population Statistics: Resettlement," http://popstats.unhcr.org/en/resettlement (last visited June 15, 2020) (2019 figures not yet available).

[712] Committee staff calculations based on UNHCR, "Population Statistics: Resettlement," http://popstats.unhcr.org/en/resettlement (last visited June 15, 2020).

[713] International Rescue Committee (IRC), *10 things to know about the Global Refugee Crisis and America's lack of leadership: An IRC analysis of the latest annual reports from the UN Refugee Agency* (July 2019).

[714] Press Release, UNHCR, More resettlement needed as only 4.5 per cent of global resettlement needs met in 2019, Feb. 5, 2020.

[715] Amanda Taub & Max Fisher, "Trump's Refugee Cuts Threaten Deep Consequences at Home and Abroad," *The New York Times,* Sept. 11, 2019.

[716] UNHCR, "Resettlement," https://www.unhcr.org/en-us/resettlement.html (last visited Apr. 22, 2020).

other wealthy nations will not. In 2016, almost 19,300 of Jordan's mostly Syrian refugees were resettled to countries like the United States and Canada, providing critical relief.[717] In FY 2018, however, the United States resettled just 47 refugees from Jordan.[718] As Jordan continues to host a significant number of Syrian refugees, the abdication of U.S. commitments has not gone unnoticed. King Abdullah of Jordan has made clear his country needs greater international support, saying, "We are shouldering an immense refugee burden and cannot be left alone as we undertake this humanitarian responsibility on behalf of the world."[719] Queen Rania of Jordan went further, saying that the country has reached a breaking point: "Our infrastructure, social services and economy are buckling under the strain. Nonetheless, Jordan—and other countries such as mine—continues to do the right thing. The same cannot be said of wealthy nations."[720]

Jordan is not alone in its criticism of the United States and other wealthy, developed nations for their inadequate response to the current forced migration crisis. For example, Bangladesh's Prime Minister Sheikh Hasina stated that she does not expect any help from the United States: "Already America declared that they will not allow any refugees. . . . What I can expect from them, and especially [the] president. He already declared his mind . . . so why should I ask?"[721] UN High Commissioner for Refugees, Filippo Grandi, has said that President Trump's slashing of refugee resettlement slots leaves thousands without a "life saving" option and hurts the UN's efforts to increase resettlement numbers across the world.[722] This sentiment was echoed by UNHCR officials who spoke with Committee staff in Egypt in May 2019: "U.S. actions have greatly affected UNHCR's work. The United States had been taking three-quarters of our resettlement slots. Now they've gone from number one [in terms of slots] to number seven. People who would have proceeded onwards are now in a protracted asylum situation. Absence of U.S. leadership has made it tougher to convince other countries to accept more."[723] The United States' failure to accept and resettle refugees domestically emboldens other countries to also shirk responsibility and amplifies the tremendous burden placed on those countries who have chosen to respond positively.

Increased Risk of Global Instability

This increased burden has implications for security and global stability. Of the 25.9 million refugees in 2018, 84 percent lived in

[717] UNHCR, *Jordan Factsheet* (June 2017); U.S. Department of State, U.S. Department of Homeland Security, U.S. Department of Health and Human Services, *Proposed Refugee Admissions for Fiscal Year 2017 Report to Congress,* at iv, September 2016; Press Release, UNHCR, Canada's 2016 record high level of resettlement praised by UNHCR, April 24, 2017.

[718] IRC, *Refugee resettlement by the numbers: FY17 vs. FY18 Arrivals Comparison* (Sept. 18, 2018).

[719] Michele Kambas, "Jordan, Greece and Cyprus Say More Support Needed to States on Refugee Frontline," *Reuters*, Jan. 16, 2018.

[720] Queen Rania Al Abdullah of Jordan, "Why Global Leadership on Refugees Matters," *CNN,* Sept. 20, 2017.

[721] Michelle Nichols, "Exclusive: Bangladesh PM Says Expects No Help From Trump on Refugees Fleeing Myanmar," *Reuters*, Sept. 18, 2017.

[722] Rebecca Kheel, "UN Refugee Chief: Trump Refugee Cap Takes Away 'Life Saving' Option," *The Hill,* Oct. 20, 2017.

[723] Senate Foreign Relations Committee Staff Visit to Cairo, Egypt, May 2019.

developing regions.[724] These countries included Ethiopia, Bangladesh, Ecuador, Turkey, and Lebanon, which hosts the largest percentage of refugees relative to its national population—1 out of every 6 people in Lebanon is a refugee.[725]

As discussed in Chapter 5, research shows that in the long-run forced migrants are a great benefit to societies; however, in the immediate-term, large influxes of forced migrants can increase security concerns and place enormous economic and political pressure on host countries.[726] These poor and middle-income countries hosting large numbers of forced migrants have weak political and socio-economic infrastructures less equipped to handle a large influx of forced migrants—many of whom will remain for decades, unable to return home due to ongoing instability.[727]

In addition, since 4 out of 5 refugees live in host countries which neighbor their home country, conflicts that triggered refugees to flee their own country in the first place may potentially spill across borders and destabilize host countries.[728] In Tunisia, for example, government officials told Committee staff they fear their fragile democratic transition could be reversed if a large influx of Libyan forced migrants suddenly enter Tunisia and strain its already fragile economic situation.[729] In Colombia, Committee staff heard from government officials, civil society leaders and journalists their fear that the Venezuelan refugee crisis would place additional pressure on the country's fragile peace process with the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN).[730] Reporting from 2019 suggests that Colombia's armed groups were keen to recruit desperate Venezuelan civilians as they crossed the porous 1,380-mile border, with some forced migrants willing to take up arms in return for food and shelter.[731] Colonial Arnulfo Traslavina, a military commander of a special unit fighting armed groups in Colombia's eastern border states, noted that, "[r]ecruitment of Venezuelans is happening. The ranks of the illegal armed groups are increasing. It's a major threat to Colombia."[732]

The abdication of U.S. leadership on forced migrant issues is felt globally—by wealthy countries who have chosen to mimic the United States' inaction and regression, by poor and middle-income countries forced to deal with large influxes of forced migrants, and by forced migrants struggling in their quest to find safety and security.

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[724] UNHCR, *Global Trends: Forced Displacement in 2018,* at 2, 18 (June 2019).

[725] *Id.* at 3.

[726] William N. Evans & Daniel Fitzgerald, National Bureau of Economic Research, *The Economic and Social Outcomes of Refugees in the United States: Evidence From The ACS,* at 33 (June 2017); UNHCR, *Social and economic impact of large refugee populations on host developing countries,* Executive Committee of the High Commissioner's Programme (Jan. 6, 1997); *see* Kevin Shellito, *The Economic Effect of Refugee Crises on HostCountries and Implications for the Lebanese Case, University of Pennsylvania* (2016).

[727] UNHCR, *Global Trends: Forced Displacement in 2018,* at 18, 22 (June 2019); Stephanie Nebehay, "Poor Nations Hosting Most Refugees Worldwide, Need More Western Help: U.N.," *Reuters*, June 18, 2019.

[728] UNHCR, *Global Trends: Forced Displacement in 2018,* at 2 (June 2019).

[729] Senate Foreign Relations Committee Staff Visit to Tunis, Tunisia, April 2019.

[730] Senate Foreign Relations Committee Staff Visit to Colombia, March 2019.

[731] Helen Murphy & Luis Jaime Acosta, "Exclusive: Colombian Armed Groups Recruiting Desperate Venezuelans, Army Says," *Reuters*, June 20, 2019.

[732] *Id.*

Forced Returns and Cycles of Conflict & Forced Migration

Stymied by inadequate resources and solutions to deal with large influxes of forced migrants, some developing countries resort to policies that force or even coerce premature returns of forced migrants to their home countries.[733] As opposed to being a solution, however, forced returns to unstable environments can foment instability and result in repeated forced migration.[734] Measures to coerce returns—including threats of camp closures, reduction in humanitarian assistance, and harassment by government officials—have been implemented with regard to Rohingya in Bangladesh, Somalis in Kenya, Afghans in Pakistan, Syrians in Lebanon and Turkey, and Burundians in Tanzania.[735]

Forced and premature returns of refugees and other forced migrants to unstable areas can exacerbate current conflicts.[736] Of the fifteen largest population returns since 1991, approximately one-third were followed by renewed fighting within a couple of years.[737] As the U.S. military works to contain terrorist insurgencies in Afghanistan, Iraq, Syria, and the Horn of Africa, compelling refugees and other forced migrants to return would not only violate international law and risk their safety, but would also challenge existing efforts to create peace.[738]

The United States' refugee resettlement reductions have contributed to the dire situations of developing host countries, and the United States' retreat from international responsibilities has compromised its ability to prevent countries from enacting policies and taking actions that lead to forced and premature returns. In 2016, Kenya threatened to close Dadaab—at that time the largest refugee camp in the world—and return hundreds of thousands of refugees back to an unstable Somalia.[739] Intense engagement from U.S. diplomats at the time helped convince the Kenyan government to reverse course.[740] However, the threat of camp closure and reduced food rations in Dadaab, combined with diminished hope for resettlement, has left many Somali refugees with no option other than to consider premature return to Somalia.[741] Meanwhile, refugees continue to flee from Somalia, and in some cases, refugees who

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[733] Jeff Crisp, "Unwilling and Fearful Refugees Should Not Be Forced to Return Home," *The Guardian,* Oct. 7, 2019; Jesse Marks, "Why Syrian Refugees Are at Risk of A Forced Return to Syria," *The Washington Post,* Feb. 13, 2019.

[734] Stephanie Schwartz, "Sending Refugees Back Makes the World More Dangerous," *Foreign Policy,* Nov. 27, 2019.

[735] Jeff Crisp, "Unwilling and Fearful Refugees Should Not Be Forced to Return Home," *The Guardian,* Oct. 7, 2019; UNHCR, *Global Trends: Forced Displacement in 2018,* at 29 (June 2019).

[736] *See* World Bank, *Forcibly Displaced: Toward a Development Approach Supporting Refugees, the Internally Displaced, and Their Hosts* (2017).

[737] *Id.* at 108.

[738] Thomas Gibbons-Neff & Eric Schmitt, "Despite Vow to End 'Endless Wars,' Here's Where About 200,000 Troops Remain," *The New York Times,* Oct. 21, 2019.

[739] Michel Martin & Gregory Warren, "Kenya Threatens to Close Refugee Camp," NPR, May 21, 2016.

[740] Abdi Latif Dahir, "Kenya Backpedals on Decision to Close World's Biggest Refugee Camp Yet Again," *Quartz Africa,* Aug. 24, 2016.

[741] Maggie Fick, "Somali Refugees in Kenya Caught Between Ration Cuts and War at Home," *Reuters*, Dec. 19, 2017; Amnesty International, *Not Time to Go Home: Unsustainable Returns of Refugees to Somalia,* at 19 (Dec. 21, 2017).

have returned to Somalia have fled again back to Kenya in search of safety.[742]

Obstacles to Legal Pathways Make Forced Migrants More Vulnerable to Exploitation

There are also profound, unintended security consequences of drastically reducing safe and legal ways for forced migrants to find asylum. In 2016, President Trump was elected, in part, by promising to extend a wall the entire length of the U.S. border with Mexico to keep out Central American asylum seekers among others.[743] Other foreign leaders have promised or built barriers to keep Africans out of Israel, Zimbabweans out of South Africa, and Pakistanis out of Iran to name a few.[744] But shutting down borders and closing off legal pathways to refuge only serve to create greater security risks. Desperate people fleeing for their lives are going to flee one way or another. When countries shut their borders or severely restrict access to their asylum systems, people have no choice but to move into the shadows.[745]

Forcing people into the shadows, however, means that governments have less insight into who enters their countries and by which means. When states restrict legal pathways for people to escape danger, many forced migrants are driven to use irregular migration routes also used by smugglers and traffickers.[746] Human traffickers, for example, not only enslave and exploit vulnerable people, but their illicit trafficking activities can in turn fuel the growth of national and international organized criminal networks.[747]

Along the U.S.-Mexico border, for example, a wide range of actors including gangs, "coyotes," and ad hoc smugglers have taken up migrant smuggling and human trafficking because of the enormous profits derived from their human cargo.[748] In the Sahel region of Africa, smugglers and human traffickers prey on vulnerable forced migrants attempting to cross the Sahara on their way to the Mediterranean and on to Europe.[749] At the mercy of smugglers, migrants are subject to starvation, dehydration, physical abuse, and even abandonment in the desert.[750] Close to 7,000 migrants have died trying to cross the Sahara over the past five years.[751] For those who make it to Libya, the final crossing to Europe can prove

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[742] Tonny Onyulo, "Somalis Who Returned Home Flee to Kenya a Second Time," *News Deeply,* Jan. 10, 2018.

[743] "Trump Wants to Build a Wall on the Border with Mexico. Can He Do It?" *PBS,* May 2, 2016.

[744] Charles Bybelezer & Terrance J. Mintner, "Israel's Border Walls: a Case Study for Trump's Mantra," *The Jerusalem Post,* Dec. 17, 2018; Maxim Bolt, "The Precarious Road Zimbabweans Travel to Seek a New Life in South Africa," The Conversation, May 8, 2016; Naimat Khan, "Pakistan Approves $18.6 Million to Fence Border with Iran," *Arab News,* Apr. 29, 2020.

[745] Erol K. Yayboke & Aaron N. Milner, *Confronting the Global Forced Migration Crisis,* Center for Strategic & International Studies, at 35 (May 2018).

[746] *Id.* at 35-37.

[747] Victoria Greenfield et al., *Human Smuggling from Central America to the United States,* RAND Corporation (2019).

[748] *Id.* Yayboke & Milner, *Confronting the Global Forced Migration Crisis,* Center for Strategic & International Studies, at 36 (May 2018).

[749] Richard Skretteberg, "Living off human suffering," Norwegian Refugee Council, June 20, 2016.

[750] *Id.*

[751] Lisa Schlein, "Thousands of African Migrants Die Crossing Sahara Desert," *Voice of America,* Dec. 23, 2018.

fatal—since 2014, more than 20,000 people have died or gone missing while making the dangerous Mediterranean Sea crossing.[752] In Libya itself, these same smugglers and traffickers taking advantage of the chaos are helping to fuel militias in the armed conflict.[753]

CONCLUSION

Today's unprecedented levels of forced migration demand action from world leaders. In the face of this global crisis, the United States has abandoned its role as an exemplar and abdicated its responsibilities to shoulder this increased burden. More than ever, we are demonstrating a willingness to turn away those who seek our protection, spurn international mechanisms designed to support forced migrants throughout the world, and actively reduce our financial and diplomatic support for these efforts worldwide. Consequently, our global standing is compromised, not only in the humanitarian sector but more broadly as a global force for good. The Trump administration has transformed the United States from a leader on addressing forced migration issues to a deadweight ignoring the plight of today's global forced migration crisis and emboldening other countries to do the same.

In order to reverse this trend and resuscitate U.S. moral and global leadership, the United States must first end harmful practices toward forced migrants, revive humanitarian assistance to meet global need, restore refugee resettlement to historic norms, and rejoin global efforts to address the forced migration crisis and its drivers. Then, the work of proactively addressing the crisis and supporting forced migrants and their host communities can begin.

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[752] Retrieved data from International Organization for Migration Missing Migrants Project, "Download Missing Migrants Project data," https://missingmigrants.iom.int/downloads (last visited Apr. 23, 2020).

[753] *See* UN Support Mission in Libya & UNOHCHR, *Detained and Dehumanized: Report on Human Rights Abuses Against Migrants in Libya* (Dec. 13, 2016); UN Support Mission in Libya & UNOHCHR, *Desperate and Dangerous: Report on the human rights situation of migrants and refugees in Libya* (Dec. 20, 2018).

CHAPTER SEVEN
Current Innovative Efforts

The scale, complexity, and protracted nature of forced migration has resulted in need that far surpasses the world's traditional efforts to respond to forced migration. Recent diplomatic efforts have proved inadequate to resolve protracted conflicts that simmer and flare in a seemingly unending cycle.[754] Without conditions of peace and safety, the number of voluntary returns of forced migrants to their home countries has hovered at historic lows.[755] Refugee resettlement has also plummeted in the absence of U.S. leadership.[756] Government donors have not kept pace with the growing humanitarian needs.[757]

Diminishing access to voluntary return and resettlement as solutions has spurred new responses in support of local integration as an interim solution.[758] At the crux of these efforts is the mission to provide not only short-term humanitarian aid, but also longer-term development assistance.[759] With access to work education, and the right support, many forced migrants are net contributors to their host nations.[760] While the international community has undertaken some efforts to reform and innovate to meet today's challenges, new solutions will be critical to bend the trajectory of global forced migration.

NEW COMPACTS TO IMPROVE INTERNATIONAL COORDINATION & RESPONSE

In response to the acute challenges posed by global forced migration, members of the international community have come together in a variety of forums to identify innovative ways to better manage the crisis. In 2016 alone, international events included President Obama's Leaders' Summit on Refugees, the Supporting Syria and the Region conference in London, the World Humanitarian Sum-

[754] *See e.g.*, Katy Collin, "The Year in Failed Conflict Prevention," The Brookings Institution, Dec. 14, 2017; Thomas M. Hill & Nate Wilson, "From Foreign Interference to Failed Diplomacy, Libya's Conflict Drags On," United States Institute of Peace, Mar. 24, 2020.

[755] Kathleen Newland, *Rethinking Global Protection: New Channels, New Tools,* Transatlantic Council on Migration & Migration Policy Institute, at 2-3 (Apr. 2015).

[756] World Refugee Council, Centre for International Governance Innovative, *A Call to Action: Transforming the Global Refugee System,* at 6 (2019).

[757] David Miliband, "A Battle Plan for the World Bank," *Foreign Affairs,* Feb. 19, 2019.

[758] UNHCR, "Local Integration," https://www.unhcr.org/en-us/local-integration-49c3646c101.html (last visited Apr. 14, 2020).

[759] "Consequences of Severe Global Funding Shortages for Refugees and Migrants 'All Too Real', Warns UNHCR," *UN News,* Oct. 9, 2018; UN High-Level Panel on Humanitarian Financing, *Too important to fail—addressing the humanitarian financing gap* (Jan. 2016); Development Initiatives, *Global Humanitarian Assistance Report 2019* (2019); Organisation for Economic Co-operation and Development (OECD), *The United States: Development Assistance Committee Peer Review 2011* (2011).

[760] Dany Bahar, "Why Accepting Refugees is a Win-Win-Win Formula," The Brookings Institution, June 19, 2018.

mit, and the UN General Assembly High-Level Plenary Summit on Refugees and Migrants.[761] At the latter event, the UN General Assembly unanimously adopted the New York Declaration for Refugees and Migrants.[762] The Declaration expressed a determination to address the root causes of mass movements, save lives, protect human rights, and increase responsibility sharing through cooperation on a global scale.[763] As a result of this initiative, UN member states developed two global compacts—a Global Compact on Refugees (GCR), and a Global Compact on Safe, Orderly and Regular Migration (GCM).[764] Both compacts were launched in politically turbulent global contexts that pose challenges to their implementation.[765]

Global Compact on Refugees

Despite the United States' vote against it, the GCR was approved with overwhelming support by UN member states on December 17, 2018.[766] The GCR put forward a wealth of policy ideas for addressing the record flow of refugees by not only engaging traditional humanitarian actors, but also multilateral institutions, global development actors, and the private sector.[767] The GCR is a legally non-binding pledge to strengthen international cooperation for "predictable and equitable burden- and responsibility-sharing" for hosting and supporting refugees among Member States and other stakeholders.[768]

The GCR's four objectives are to:

- Ease pressures on host countries;
- Enhance refugee self-reliance;
- Expand access to resettlement in third countries; and
- Support conditions in countries of origin for return in safety and dignity.[769]

The GCR provides a potentially transformative blueprint for refugee response in a period of rising nationalism and xenophobia.[770] By incorporating the New York Declaration's Comprehensive Refugee Response Framework, the GCR provides an action plan to facilitate comprehensive responses geared towards the GCR's objectives.[771] Critics argue, however, that instead of a non-binding GCR, the international community should move toward binding multi-

[761] Elizabeth Ferris, *In Search of Commitments: The 2016 Refugee Summits,* Kaldor Centre for International Refugee Law, at 1-2 (Nov. 2016).

[762] United Nations General Assembly, *Resolution Adopted by the General Assembly on 19 September 2016: New York Declaration for Refugees and Migrants,* 71st Session (Oct. 3, 2016).

[763] *Id.*

[764] Cindy Huang et al., *Tackling the Realities of Protracted Displacement: Case Studies on What's Working and Where We Can Do Better,* Center for Global Development (CGD) and International Rescue Committee (IRC), at 2 (Apr. 18, 2018).

[765] Solon Ardittis, "What's to Fear in the U.N. Global Compact for Migration?," *News Deeply,* Dec. 5, 2018.

[766] Edith M. Lederer, "UN Approves Compact to Support World's Refugees; US Objects," *AP,* Dec. 17, 2018.

[767] UNHCR, *Global Compact on Refugees,* UN Doc. A/73/12 (Part II) (Aug. 2, 2018).

[768] *Id.* ¶ 3.

[769] *Id.* at 4.

[770] Alice Thomas & Mark Yarnell, *Ensuring that the Global Compacts on Refugees and Migration Deliver,* Refugees International (Nov. 2018).

[771] Sergio Carciotto & Filippo Ferraro, "Building Blocks and Challenges for the Implementation of the Global Compact of Refugees in Africa," *Journal on Migration and Human Security* , at 87 (2020).

national solutions, pointing to failed refugee governance before World War II, which relied on the voluntary, collective action of states.[772]

Global Compact on Safe, Orderly, and Regular Migration

The Global Compact on Safe, Orderly, and Regular Migration (GCM) is the first global pact to create a universal framework to address all aspects of international migration, and was adopted overwhelmingly by UN member states on December 18, 2018.[773] The GCM sets forth 23 objectives, including:

- Utilizing accurate and timely information for decision-making;
- Providing access to basic services;
- Managing borders in integrated, secure, and coordinated manners; and
- Enhancing the availability and flexibility of pathways for regular migration.[774]

Participating states committed to fulfilling these objectives by implementing measures at the global, regional, and national levels, "taking into account different national realities, capacities and levels of development, and respecting national policies and priorities."[775] As with the GCR, implementation and review of progress involves an International Migration Review Forum to take place every four years beginning in 2022.[776]

While U.S. participation in the Compact process began in 2016, the Trump administration ended US participation, asserting its global approach was "simply not compatible with U.S. sovereignty."[777] It is also notable that the United States—the world's largest humanitarian donor and, until recently, the largest refugee resettlement country—voted against both Global Compacts in December 2018.[778] While the vast majority of member states voted for and easily adopted the Compacts, there were a few nations who followed the United States' lead in voting against them, including Israel and Hungary.[779]

INNOVATIVE MODELS OF FINANCIAL ASSISTANCE

The World Bank has launched significant new financing mechanisms focused on the economic development of refugee populations and host communities. Specifically, the World Bank helped create the Global Concessional Financing Facility (GCFF) for middle-in-

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[772] Lama Mourad & Kelsey P. Norman, "The World Is Turning Its Back on Refugees," *The Atlantic,* Dec. 24, 2019.

[773] *See* UN, *Global Compact for Safe, Orderly ad Regular Migration* (July 13, 2018); Nick Cummings-Bruce, "U.N. Approves Sweeping Deal on Migration, but Without U.S. Support," *The New York Times,* Dec. 10, 2018.

[774] UN, *Global Compact for Safe, Orderly ad Regular Migration,* ¶ 16-39 (July 13, 2018).

[775] *Id.* ¶ 41.

[776] *Id.* ¶ 49. The International Migration Review Forum will take the place of the High-level Dialogue on International Migration and Development, previously scheduled to take place every fourth session of the General Assembly. *Id.*

[777] Press Release, United States Mission to the United Nations, "United States Ends Participation in Global Compact on Migration," Dec. 2, 2017.

[778] "UN Affirms 'Historic' Global Compact to Support World's Refugees," *UN News,* Dec. 17, 2018; "General Assembly Officially Adopts Roadmap for Migrants to Improve Safety, Ease Suffering," *UN News,* Dec. 19, 2018.

[779] Georgi Gotev, "Nine EU Members Stay Away From UN Migration Pact," *Euractiv,* Dec. 20, 2018.

come countries impacted by refugee crises, and the International Development Association (IDA) Window for Host Communities and Refugees (WHR) for low-income countries hosting large refugee populations.[780]

It is still too early to know whether these two new World Bank financing mechanisms will be transformative of the current global response to forced migrant populations; however, they do represent some of the most significant and innovative new financing streams in decades.[781] They also point towards a new model in refugee response providing long-term, development financing to host countries to support refugees, while encouraging host governments to reform policies to allow refugees access to work, education, and other benefits that support refugee self-reliance and ultimately independence from aid.[782] Both mechanisms require host governments to enact policy changes favorable to refugees, as well as focus programming to benefit host communities and refugees alike.[783] Both are unique in that they provide multi-year concessional financing and grants through host government systems to meet the needs of refugees and their hosts.[784]

Global Concessional Financing Facility

The World Bank first established the Global Concessional Financing Facility (GCFF) to help middle-income countries hosting at least 25,000 refugees that otherwise could not access financing on concessional terms. The World Bank, UN, Islamic Development Bank, and other organizations created the GCFF in 2016 to address this gap, with an initial focus on Jordan and Lebanon, who were hosting large influxes of Syrian refugees.[785] In Lebanon, for example, 1 in 6 residents was a refugee in 2017.[786] As of June 2019, 695 million dollars had been pledged in total, with the United States pledging 75 million dollars, of which 35 million dollars has been received.[787] To date, Jordan has received the most GCFF funding, which the government has used to support the Jordan Compact, detailed below.[788]

IDA18 Regional Sub-Window for Refugees and Host Communities

The second World Bank mechanism is a fund for the poorest countries, the International Development Association (IDA). In late

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[780] Global Concessional Financing Facility, "About Us," https://globalcff.org/about-us/ (last visited May 18, 2020); Rebecca Root, "World Bank Pledges $2.2B for Refugees and Host Communities," Devex, Dec. 19, 2019.

[781] Courtenay Cabot Venton et al., *Innovative Financing For Responses to Refugee Crises,* at 14 (Mar. 2019); Lauren Post et al., *World Bank Financing to Support Refugees and Their Hosts: Recommendations for IDA19,* CGD & IRC, at 1 (June 2019).

[782] Lauren Post et al., *World Bank Financing to Support Refugees and Their Hosts: Recommendations for IDA19,* CGD & IRC (June 2019).

[783] *Id.*

[784] *Id.*

[785] World Bank, *Global Concessional Financing Facility 2017-2018 Annual Report,* at 5 (2018).

[786] UNHCR, *Global Trends: Forced Displacement in 2017,* at 2 (June 2018).

[787] World Bank, *2018-2019 Global Concessional Financing Facility Annual Report,* at 59 (2019).

[788] Veronique Barbelet et al., *The Jordan Compact: Lessons Learnt and Implications for Future Refugee Compacts,* Overseas Development Institute (ODI), at 2 (Feb. 2018) (Recognition of the dual nature of protracted displacement in countries that are already struggling economically gave rise to a new policy model, the so-called refugee compacts); Cindy Huang et al., *Tackling the Realities of Protracted Displacement: Case Studies on What's Working and Where We Can Do Better*, CGD & IRC, at 13 (Apr. 2018) (These compacts seek sustainable solutions in displacement contexts through enabling refugee self-reliance, which makes them less dependent on aid while also allowing them to contribute to and thus strengthen their local host communities).

2016, the Bank decided to raise a dedicated 2 billion dollars in its IDA18 replenishment (for the period of July 1, 2017 to June 30, 2020) to create a regional sub-window for refugees and host communities.[789] The IDA18 sub-window, renewed for IDA19 with an additional 2 billion dollars in financing, makes concessional financing available to low-income countries hosting large refugee populations.[790] Like the GCFF, the IDA18 and IDA19 sub-windows require host governments to enact policy changes, and funds are provided on more favorable terms for medium-term investments that benefit host communities as well as refugees.[791]

Early results are promising. Fourteen countries are eligible for refugee sub-window financing; as of June 2019, 10 countries had projects approved.[792] All projects are designed to deliver benefits to both refugee and host communities.[793] For example, a project in Djibouti aims to strengthen existing host country health systems to improve services for host communities and extend services to refugees.[794]

While it may be too soon to gauge programmatic impact, the promise of financing alone though the GCFF and the IDA18 sub-window has had a positive impact on national refugee policies and on the inclusion of refugees in national systems in select countries. In Jordan, World Bank financing and dialogue secured a commitment to provide 200,000 work permits to refugees, and the legalization of refugee home-based business.[795] In Lebanon, World Bank engagement has extended education to half the population of Syrian refugee children.[796] In Ethiopia, World Bank dialogue led to the adoption of reforms that shift away from the decades-old encampment model and offer refugees socioeconomic rights, including to move freely, work, and access services.[797] In Pakistan, World Bank dialogue contributed to a new policy that allows refugees to open bank accounts.[798] In Cameroon and Chad, the World Bank is

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[789] World Bank Group International Development Association, "IDA18 Regional Sub-Window for Refugees and Host Communities," http://ida.worldbank.org/replenishments/ida-18replenishments/ida18-regional-sub-window-for-refugees-host-communities (last visited June 8, 2020).

[790] Press Release, World Bank, *World Bank Announces $2.2 Billion Scale-up in Support for Refugees and Host Communities at First Global Refugee Forum,* Dec. 17, 2019.

[791] World Bank Group International Development Association, "IDA18 Regional Sub-Window for Refugees and Host Communities," http://ida.worldbank.org/replenishments/ida-18replenishments/ida18-regional-sub-window-for-refugees-host-communities (last visited Apr. 14, 2020).

[792] Lauren Post et al., *World Bank Financing to Support Refugees and Their Hosts: Recommendations for IDA19,* CGD & IRC, at 1 (June 2019).

[793] World Bank Group International Development Association, "IDA18 Regional Sub-Window for Refugees and Host Communities," http://ida.worldbank.org/replenishments/ida-18replenishments/ida18-regional-sub-window-for-refugees-host-communities (last visited Apr. 14, 2020).

[794] Press Release, World Bank, *Djibouti: World Bank Approves $6 Million to Ensure Refugees and Host Communities Access Healthcare Services,* May 3, 2019.

[795] World Bank International Bank for Reconstruction and Development and International Development Association, *Program Appraisal Document on Proposed Loan and Credit in the Amount of US$300 Million to the Hashemite Kingdom of Jordan for Economic Opportunities for Jordanian and Syrian Refugees Program-for-Results,* at 4, 29 (Sept. 2, 2015); World Bank, *Economic Opportunities for Jordanians and Syrian Refugees P4R (P159522)* (July 20, 2018).

[796] World Bank, "Reaching All Children with Education in Lebanon Support Project," https://projects.worldbank.org/en/projects-operations/project-detail/P159470?lang=en&tab=ratings (last visited Apr. 14, 2020); see Noah Yarrow, "Addressing the Education Emergency in Lebanon," World Bank Blog, Mar. 24, 2016.

[797] Lauren Post et al., *World Bank Financing to Support Refugees and Their Hosts: Recommendations for IDA19,* CGD & IRC, at 1 (June 2019).

[798] *Id.*

supporting the transition from humanitarian to national service delivery of health, education, and social protection, reducing reliance on humanitarian financing and supporting sustainable service provision.[799]

Finally, World Bank financing has proven most effective at incentivizing policy change when paired with diplomatic efforts and incentives beyond aid, such as trade concessions and private investment.[800] Although the IDA18 sub-window provides funds on more favorable terms than they would be available otherwise, it is still politically challenging for any country—and particularly, poor countries like Ethiopia—to accept more debt for the purpose of dealing with refugees.[801] Crowding in additional bilateral donors such as the United States, United Kingdom, Germany and the European Union could increase grant financing and incentives for policy change. Such compact models, detailed below, hold the greatest promise for new, sustainable approaches to protracted displacement.

THE COMPACT MODEL

The country compact model has emerged as a prototype for coordinating donors, humanitarian and development actors, and host governments around multi-year agreements that achieve shared outcomes for refugees and host communities in protracted crises.[802] Compacts leverage financial and political incentives, as well as expertise, to advance joint solutions.[803] They also balance the needs of refugees and host communities, with a focus on unlocking key policy constraints to refugee self-reliance and local integration.[804]

The most prominent examples of country compacts are the Jordan and Lebanon Compacts, agreed in 2016.[805] The Jordan Compact promised 700 million dollars annually in 3-year grants, concessional loans of 1.9 billion dollars, and relaxed trade regulations with the EU in return for access to the labor market and education for Syrian refugees in Jordan.[806] Since 2016, Syrian refugees in Jordan have gained greater access to the formal labor market and are permitted to own and operate home-based businesses.[807]

The World Bank's concessional financing mechanisms have been critical to these compact agreements.[808] However, the World Bank's financial incentives alone are not always sufficient to generate critical policy changes. Compacts can be significantly improved by pooling funds and systematizing joint analysis and planning across donors, and by leveraging the political and diplomatic

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[799] *See* Press Release, World Bank, Cameroon: World Bank Approves $274 Million to Support Refugees and Host Communities, May 1, 2018; Press Release, World Bank, Chad: A $60 Million World Bank Grant to Support Refugees and Host Communities, Sept. 12, 2018.

[800] Lauren Post et al., World Bank *Financing to Support Refugees and Their Hosts: Recommendations for IDA19,* CGD & IRC, at 3 (June 2019).

[801] *See* Leah Zamore, "Refugees, Development, Debt, Austerity: A Selected History," *Journal on Migration and Human Security* (2018).

[802] CGD & IRC, *Refugee Compacts: Addressing the Crisis of Protracted Displacement,* at 6 (2017).

[803] *Id.*

[804] *Id.*

[805] *Id.* at 9.

[806] Veronique Barbelet et al., *The Jordan Compact: Lessons Learnt and Implications for Future Refugee Compacts, ODI,* at 2 (Feb. 2018).

[807] *Id.*

[808] CGD & IRC, *Refugee Compacts: Addressing the Crisis of Protracted Displacement,* at 10 (2017).

heft of the United States and other key donors to offer host governments "beyond aid" support that can have outsized benefits for refugees and host communities in the long term.

IN FOCUS: *LESSONS LEARNED FROM THE JORDAN COMPACT*

The Jordan Compact was groundbreaking for its new approach to dealing with protracted displacement, focusing on improving access to education and legal employment for Syrian refugees, in order to foster inclusive growth for refugees and host communities. While the Compact has made considerable progress, including policy reforms that have improved the overall business environment in Jordan, implementation has also dealt with considerable challenges and there are lessons to be learned. Two years into the Compact, just 80,000 of 200,000 promised work permits have been issued.[809] Necessary improvements include:

- *Better understanding of refugee needs and constraints:* The initial focus on work permits in limited sectors and factories ignored both the inability of refugees to logistically reach these factories as well as the importance of home-based businesses for women refugees, who often face many barriers to leaving their home for employment, such as child care, safety concerns, and cultural norms.[810]
- *More robust review and evaluation of evidence base prior to program design:* A focus on outputs rather than outcomes contributed to insufficient analysis of the investments and policy changes necessary for success. As a result, some of the interventions did not strongly reflect evidence of effective tactics.[811]
- *Increased multi-stakeholder participation:* The lack of inclusion of civil society, NGOs, the private sector, and in particular, refugees and host communities, in the analysis and planning process contributed to suboptimal outcomes. Including these stakeholders could have identified some obstacles refugees face in seeking decent employment opportunities.[812]
- *Better understanding of private sector needs and constraints:* Insufficient consultation with the private sector led to a lacking understanding of the necessary support and mechanisms needed to translate private sector commitments into concrete engagement aligned with needs on the ground.[813]
- *Leveraging and "crowding-in" of additional donors:* Acting alone, the World Bank's financing incentives,

[809] Katharine Lenner & Lewis Turner, "Learning from the Jordan Compact," *Forced Migration Review* (Feb. 2018).
[810] Nazanin Ash & Cindy Huang, *Using the Compact Model to Support Host States and Refugee Self-reliance,* Centre for International Governance Innovation (CIGI) & World Refugee Council (WRC) at 9 (Dec. 2018).
[811] *Id.* at 9-10.
[812] *Id.*
[813] *Id.* at 10-11.

> and particularly their concessional nature, are insufficient for incentivizing robust policy reforms. By partnering with additional donors and leveraging more aid and non-aid incentives, such as trade concessions, under a shared strategy and set of policy changes, compact approaches can vastly strengthen outcomes.[814]

Overall, the GCR, GCM, and national compacts like the Jordan Compact are hugely positive steps and important tools for the international community to have at its disposal, but implementation is still nascent. Moreover, none of these initiatives addresses the plight of IDPs. Lack of innovative solutions for IDPs, who make up over half of those forcibly displaced, is a huge gap that the international community needs to address.

SOLUTIONS TO BETTER SERVE FORCED MIGRANTS

As the situation of forced migrants has changed, new tools have been invented and implemented to serve their needs. Contemporary forced migrants, who are often displaced for decades, living in urban environments, and among developing host communities, require different solutions than short-term, camp-based forced migrants.[815] Below we have outlined a few examples of new efforts and responses aimed to improve the situations of today's forced migrants.

Emphasis on Evidence- & Outcomes-Based Humanitarian Action

Over the past decade, humanitarian organizations and donors have increasingly emphasized the role of evidence and data to inform humanitarian programs. Donors are increasingly holding organizations accountable to demonstrate program impacts and outcomes.[816] As a result, humanitarian organizations are increasingly pursuing rigorous and impartial efforts to assess community needs, monitor programs and their implementation, and evaluate impact.[817]

Effective humanitarian responses rely on understanding the needs of communities they are serving. As such, humanitarian needs assessments have become institutionalized across the sector.[818] The highest coordinating forum within the UN—Inter-Agency Standing Committee (IASC)—has provided best practices for humanitarian actors conducting needs assessments. The UN relies upon needs assessments to create Humanitarian Needs Overviews, the UN's flagship document serving as a basis for funding appeals.[819]

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[814] *Id.* at 4.

[815] Elizabeth Ferris for The Brookings Institution, "When Refugee Displacement Drags on, Is Self-reliance the Answer?" June 19, 2018; UNHCR, *Global Trends: Forced Displacement in 2018,* at 18, 56 (June 2019).

[816] David Miliband & Ravi Gurumurthy, "Improving Humanitarian Aid: How to Make Relief More Efficient and Effective," *Foreign Affairs,* July/Aug. 2015.

[817] Tom Bundervoet, *Monitoring vs. Monitoring, International Rescue Committee* (Aug. 2011).

[818] James Darcy et al., *The Use of Evidence in Humanitarian Decision Making: ACAPS Operational Learning Paper,* Feinstein International Center (Jan. 2013).

[819] UNOCHA, "Needs Assessment and Analysis," https://www.unocha.org/es/themes/needs-assessment-and-analysis (last visited Mar. 30, 2020).

The result of increasing emphasis on evidence-based approaches are numerous studies demonstrating effective and ineffective mechanisms for serving displaced populations, which can inform future programming. For example, a partnership between the UK Department for International Development, the World Bank, and UNHCR is conducting impact evaluations on projects addressing protracted forced displacement over a seven-year period (2016 to 2023).[820] Assessments are currently being conducted on programs across 14 different countries tackling education, reintegration of returnees, child protection, the prevention of intimate partner violence, healthcare, labor outcomes, and more.[821]

Emphasis on evidence and measurable outcomes should not hinder overall assistance and donations to humanitarian organizations providing life-saving aid. Robust evaluations often require additional resources—namely time and money.[822] The ability to collect and generate meaningful evidence is often difficult in the context of conflict and other urgent and sudden emergencies. Although it can be costly to gather, data and evidence can significantly improve how we understand forced migration crises and help us identify best practices for response.[823]

[820] World Bank, "DFID—UNHCR—World Bank Program: Building the Evidence on Forced Displacement," https://www.worldbank.org/en/topic/fragilityconflictviolence/brief/building-the-evidence-on-forced-displacement-a-multi-stakeholder-partnership (last visited June 8, 2020).
[821] *Id.*
[822] Tom Bundervoet, *Monitoring vs. Monitoring,* International Rescue Committee (Aug. 2011).
[823] *Id.*

Saboune Adakar Abdoukaye lost everything, including his home and business, when his village in Chad was burned to the ground by militia. Now living in an IDP camp in Goz Beida, Chad, Saboune cares for his own six children, as well as his sister's seven children, after she died from illness in the camp. He is seen here in the successful shop he opened with the help of World Concern's Cash for Work program, which is funded by USAID. He used his earnings from daily labor to feed and clothe the 13 children in his care, as well as purchase goods for his shop. His business now not only supports his family, but he employs seven other people as well. Derek Sciba, *November 2010 FrontLines Photo Contest Top Entry,* World Concern, July 9, 2010.

As mentioned in Chapter 4, cash and voucher assistance (CVA) is widely recognized as one of the most significant areas of innovation in humanitarian assistance, with profound potential to revolutionize the scale, efficiency, and efficacy of assistance.[824] In comparison to conventional humanitarian assistance focused on delivering specific services, cash and voucher assistance shifts decision-making directly to the recipient, allowing for flexibility based on individual needs and providing beneficiaries with a greater sense of dignity.[825] Studies show that cash and voucher assistance not only facilitates access to basic needs such as food, health, and shelter, but also reduces the cost of delivering humanitarian aid.[826] Moreover, CVA has demonstrated additional positive impacts on longer-term goals, including financial inclusion and support to host communities.[827]

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[824] *See, e.g.*, Thabani Maphosa, "Cash Transfers: An Innovative Solution to Humanitarian Challenges," *Global Citizen,* May 23, 2016.

[825] Jeremy Konyndyk, *Rethinking the Humanitarian Business Model,* CGD, at 9 (May 2018),

[826] Development Initiatives, *Global Humanitarian Assistance Report 2019,* at 13 (2019); ODI & CGD, *Doing Cash Differently: How Cash Transfers Can Transform Humanitarian Aid,* at 8 (Sept. 2015).

[827] ODI & CGD, *Doing Cash Differently: How Cash Transfers Can Transform Humanitarian Aid,* at 8, 14 (Sept. 2015)

While the benefits of cash and voucher assistance in many settings have resulted in adoption, efforts to scale CVA are still needed. From 2015 to 2018, CVA volume grew by 135 percent.[828] Over the same time period, the proportion of cash transfers also grew, as UN agencies and NGOs increasingly used cash over vouchers.[829] In 2018, an estimated 4.7 billion dollars in humanitarian assistance was disbursed through CVA.[830] However, this figure only represents 16 percent of global humanitarian assistance and year-over-year growth in CVA has slowed.[831] CVA programming grew by 10 percent from 2017 to 2018, compared to 38 percent from 2015 to 2016.[832]

Advances to Address the Education & Learning Crisis

New education solutions for forced migrant populations not only increase access, but also efficiency and efficacy. First, humanitarian organizations are increasingly moving away from creating schools specifically for forced migrants, to promoting the inclusion of forced migrants in national education systems.[833] This new approach, articulated by UNHCR in 2012, recognizes the reality of contemporary forced migrants' situations as increasingly protracted, increasingly urban, and without adequate, stable funding for education.[834] While many host countries already struggle with under-resourced education systems, support for forced migrant education through national systems aims to not only improve learning for forced migrants, but host communities as well.[835]

Furthermore, new education initiatives aim to improve the quality of education—addressing inefficiencies in current education programs that hinder learning. Recognizing that school systems organized by age and grade are often unable to address the evolving needs of students, the Indian NGO Pratham created a simple assessment tool, Teaching at the Right Level, that facilitates the grouping of learning levels and tailored curriculums.[836] In Nigeria, a six-week Teaching at the Right Level intervention increased the proportion of children able to read a simple paragraph by 9 to 23 percent.[837] In Syria, easy-to-use assessment instruments not only help teachers measure reading and numeracy skills, but also social-emotional skills for IDP and conflict-affected children.[838]

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[828] Development Initiatives, *Global Humanitarian Assistance Report 2019,* at 71 (2019) (some of this growth was due to newly available data.)

[829] *Id.* at 72.

[830] *Id.*

[831] *Id.* at 10, 71 (based on $28.9 billion in global humanitarian assistance).

[832] *Id.* at 71.

[833] Sarah Dryden-Peterson et al., *Inclusion of Refugees in National Education Systems, United Nations Educational, Scientific and Cultural Organization (UNESCO) Global Education Monitoring Report, at 7 (2018).*

[834] *Id.*; UNHCR, *Education Strategy: 2012-2016,* at 8 (Jan. 2012).

[835] Sarah Dryden-Peterson et al., *Inclusion of Refugees in National Education Systems,* United Nations Educational, Scientific and Cultural Organization (UNESCO) Global Education Monitoring Report, at 8-9 (2018); UNHCR, *Refugee Education 2030: A Strategy for Refugee Inclusion,* at 2 (2019).

[836] Abdul Latif Jameel Poverty Action Lab, "Teaching at the Right Level to improve learning," https://www.povertyactionlab.org/case-study/teaching-right-level-improve-learning (last visited June 1, 2020).

[837] Teaching at the Right Level, "Kano and Akwa Ibom, Nigeria," https://www.teachingattherightlevel.org/tarl-in-action/kano-akwaibom-nigeria/ (last visited June 1, 2020).

[838] Email from Sean Snyder, Public Partnerships Manager, UN Children's Fund (UNICEF), to SFRC Staff, June 2, 2020.

Improving How We Feed the World's Hungry

Hunger can be both a cause and a consequence of forced migration.[839] After steadily declining for a decade, world hunger is once again on the rise.[840] In 2014, there were an estimated 775 million undernourished people worldwide.[841] By 2018, that number had increased to 820 million.[842] The World Food Programme has warned that the COVID-19 pandemic could almost double the number of people suffering from acute hunger worldwide.[843] As the global imperative to provide food assistance becomes increasingly urgent, a renewed emphasis on innovation in food science, food production, food delivery, and treatment of malnutrition is improving support for the world's hungry.[844]

Scientific research has significantly improved malnutrition treatments. Research has emphasized the critical role of adequate nutrition on growth and development within the first 1,000 days or before the age of 2.[845] In addition, ready-to-use food products have revolutionized food assistance and malnutrition treatment.[846] These products not only enable humanitarian organizations to target specific populations in need of emergency food assistance, but are easier to distribute and store.[847] To ensure that humanitarian actors can meet rising global needs, increased and sustained investment is needed to improve coordination, simplify treatment protocols for malnutrition, and better enable community health workers to provide treatment.[848]

INCORPORATING TECHNOLOGY

The recent global forced migration crisis has occurred in a world markedly different from that of the post-World War II era. New technologies, and specifically the advent of digital technology with mobile phones, internet connectivity, and new data and analysis capabilities, have transformed the daily lives of people around the world. For humanitarian organizations, the adoption of innovative technological tools and techniques has enhanced their ability to monitor forced migration crises and implement effective programs. For forced migrants specifically, technology opens new channels of access for communication, information, education, language and translation, employment, faith-based activities, health care, iden-

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[839] Laura Hammond, "Forced Migration and Hunger," SOAS University of London, Oct. 2018.
[840] Action Against Hunger, "World Hunger: Key Facts and Statistics,"
[841] *Id.*
[842] *Id.*
[843] Press Release, World Food Programme (WFP), Covid-19 will double number of people facing food crises unless swift action is taken, Apr. 21, 2020.
[844] WFP, *World Food Assistance 2017,* at 136 (July 2017).
[845] Jessica Hartl, "From the Lab to the Field: New Science for Better Food Aid," U.S. Agency for International Development, Nov./Dec. 2011; WFP, WFP and Nutrition (Oct. 2018), https://docs.wfp.org/api/documents/WFP-0000099337/download/?—ga=2.16029686.1314341884.1590779765-1018911202.1579039603.
[846] Jessica Hartl, "From the Lab to the Field: New Science for Better Food Aid," U.S. Agency for International Development, Nov./Dec. 2011; Action Against Hunger, "What is Therapeutic Food (Plumpy' Nut)?," https://actionagainsthunger.ca/what-is-acute-malnutrition/what-is-therapeutic-food/ (last visited June 9, 2020).
[847] Marion Hart & Sarah Ferguson, "What Is Ready-to-Use Therapeutic Food?." UNICEF USA, Mar. 6, 2019.
[848] David Miliband, President and CEO, International Rescue Committee, Remarks at "2018 World Innovation Summit for Health," Doha, Qatar, Nov. 13, 2018.

tity documentation, financial management, and much more.[849] A renewed, comprehensive response to the forced migration crisis will need to utilize technology effectively, but must be aimed at long-term gains as opposed to short-sighted quick fixes.

Data to Inform Humanitarian Responses

Innovations in data collection and analysis have profoundly impacted the humanitarian sector by improving understandings of ongoing crises and coordination in response. From tracking migration patterns to rapidly mapping areas impacted by conflict and displacement to collecting detailed data on humanitarians needs, the availability of near real-time data has improved humanitarian responses to forced migration crises.[850] Furthermore, improved data collection and analysis has also allowed humanitarian organizations to assess impact, evaluate effectiveness, and improve evidence-based decision-making.[851]

Across the board, UN agencies and humanitarian NGOs have embraced the role of data in humanitarian responses. In 2017, the UN Secretary-General launched the Centre for Humanitarian Data, which works to expand data usage and impact in the humanitarian sector.[852] By aggregating data, creating data standards, and making data easily accessible, the Centre has enabled users in over 200 countries and territories to access critical humanitarian data.[853] At the same time, organizations working on the ground play a vital role in collecting data to inform other agencies working in the response. For example, IOM's Displacement Tracking Matrix (DTM) is a key source of information related to displacement and migration crises. Through a variety of survey technologies and analytical techniques, IOM tracks displacement flows in near real-time to provide a better understanding of where people are moving and their evolving needs.[854] As of March 2020, DTM tracked displacement in 65 countries around the world.[855]

Advancements in satellite imagery and mapping technology have further aided humanitarian response to forced migration. Today, it would be unheard of to lack a basic map of a refugee camp, or a map showing displacement patterns within a country. Use of this technology, however, has only become mainstream in the sector within the last decade. In addition, new innovations for gathering and analyzing data continue to improve responses. For example, crowdsourcing, or soliciting data points from a large group, has be-

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[849] Shelly Culbertson et al., *Crossing the Digital Divide: Applying Technology to the Global Refugee Crisis,* Rand Corporation, at xii (2019).

[850] James Darcy et al., *The Use of Evidence in Humanitarian Decision Making: ACAPS Operational Learning Paper,* Feinstein International Center (2013),

[851] U.S. Agency for International Development (USAID), *Humanitarian Coordination and Information Management Sector Update* (Oct. 2015); Press Release, IRC, "The World Humanitarian Summit needs to deliver concrete commitments towards improving aid effectiveness," May 20, 2016.

[852] UN Centre for Humanitarian Data, "What We Do," https://centre.humdata.org/what-we-do/ (last visited Mar. 26, 2020); Press Release, UNOCHA, "OCHA's new Centre for Humanitarian Data a signpost to the future," Dec. 22, 2017.

[853] UN Centre for Humanitarian Data, "What We Do," https://centre.humdata.org/what-we-do/ (last visited Mar. 26, 2020).

[854] International Organization for Migration (IOM), "Displacement Tracking Matrix: About," https://dtm.iom.int/about (last visited Mar. 26, 2020).

[855] European Commission, "IOM Displacement Tracking Matrix (DTM)," Oct. 9, 2019; IOM, "DTM Global" (click "DTM Global"), https://displacement.iom.int/ (last visited Apr. 15, 2020).

come a useful tool in humanitarian response.[856] In 2010, first responders to the earthquake in Haiti were aided by maps supplied by online volunteers using satellite imagery to trace roads and buildings. In other contexts, like Uganda and Bangladesh, rapidly growing refugee camps were mapped in detail within hours through a similar approach, enabling humanitarian agencies on the ground to identify where to establish water points and build health facilities.[857]

Information Dissemination for Forced Migrants

Mobile phones and internet connectivity allow forced migrants to keep in touch with family and friends, seek information about their journeys, and learn about their host countries.[858] For humanitarian actors, information communication technology provides two-way communication about the needs of forced migrants and the availability of services. According to an International Rescue Committee (IRC) study, these information communication technology platforms are particularly well-suited for forced migrants living in urban contexts with diverse populations, geographically dispersed populations, dynamic movement among populations, and a large number of service providers.[859] IRC and its partners have launched a myriad of global and regional platforms to provide information to forced migrants, including Service.Info, Refugee.Info, which was expanded into SignPost, and CuentaNos.org.[860]

While information communication technologies represent an opportunity to optimize information dissemination, existing efforts bring forward the issue of "digital litter." Many refugee and forced migrant-focused technology projects are launched but not maintained, creating a sizable amount of digital litter—broken links, defunct webpages, and outdated and misleading information online.[861] According to one tracking initiative, of 169 technology projects for refugees launched in 2015 and 2016, most were inactive as of July 2018.[862] Therefore, reviews of the use of technology to serve refugees and forced migrant populations have repeatedly underscored the need for long-term plans for maintenance, conspicuously marked update dates for information posted, and the deletion of online presences for projects that are going or have gone defunct.[863]

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[856] Cambridge Dictionary, "crowdsourcing," https://dictionary.cambridge.org/us/dictionary/english/crowdsourcing (last visited Apr. 14, 2020); Amelia Hunt & Dough Specht, "Crowdsourced Mapping in Crisis Zones: Collaboration, Organisation and Impact," *Journal of International Humanitarian Action* (Jan. 7, 2019).

[857] Weiyi Cai & Simon Scarr, "The Rohingya Crisis: Life in the Camps," *Reuters*, Dec. 4, 2017; Nina Strochlic, "A City Rises," *National Geographic,* Apr. 2019.

[858] Shelly Culbertson et al., *Crossing the Digital Divide: Applying Technology to the Global Refugee Crisis,* at 21-22.

[859] IRC, *Using ICT to Facilitate Access to Information and Accountability to Affected Populations in Urban Areas: A Review of the ServiceInfo and Refugee.Info Platforms,* at 5 (June 2017).

[860] *Id.*; Press Release, IRC, Signpost digital initiative reaches 1 million people across three continents, Dec. 12, 2018; Press Release, IRC, The Latest Central American Caravan is a symptom of an even larger crisis, says IRC, Jan. 16, 2020.

[861] Meghan Benton, "Digital Litter: The Downside of Using Technology to Help Refugees," Migration Policy Institute, June 20, 2019; Culbertson et al., *Crossing the Digital Divide: Applying Technology to the Global Refugee Crisis,* at x, xi, 19.

[862] Benton, "Digital Litter: The Downside of Using Technology to Help Refugees."

[863] *Id.*; Culbertson et al., *Crossing the Digital Divide: Applying Technology to the Global Refugee Crisis,* at 34.

Digital Solutions for Identity Documentation

In Chapter 3, we discussed restrictions faced by forced migrants, including limited access to identity documents, which can subsequently hinder access to legal protections, basic services, and much more. For populations on the move, technology can serve as a gateway for accessing identity documents and credentials. Forced migrants use Google Drive and other technologies to acquire, save, and share important documents, including birth certificates and diplomas.[864] Asylum seekers often take smartphone pictures of their flimsy paper registration documents, allowing them to both protect their documents from overuse and disintegration, as well as ensure they have back-up copies in case their original documents are lost or destroyed.[865]

For those forced migrants without access to identity documents, digital identity and registration systems can serve as alternative mechanisms for authentication and access to services. In pursuit of the Sustainable Development Goal of leaving no one behind and achieving legal identity for all by 2030, UNHCR has increasingly turned to digital identity systems to empower identity recognition, digital inclusion, and service delivery for forced migrants.[866] UNHCR's Population Registration and Identity Management Eco-System (PRIMES) uses state-of-the-art biometrics to create a consolidated tool enabling identity management, case management, assistance, and data management for forced migrants.[867] By the end of 2018, more than 7.1 million forced migrants in 60 countries had registered a biometric identity with UNHCR.[868]

Other humanitarian and aid organizations have also turned to technology to overcome the obstacle of missing identity documents. In Kenya's Dadaab refugee camp, blockchain platform BanQu has helped refugees establish a verifiable digital identity, enabling refugees to build credit and access financial institutions.[869] In Jordan, the World Food Programme's Building Blocks program uses biometrics and blockchain technology to deliver assistance to 106,000 Syrian refugees.[870] Early results of the program showed a 98 percent reduction in traditional fees imposed on money transfers.[871] Furthermore, the program reduces processing time, including time spent waiting for local banks to transfer the money and time spent registering with local banks to receive the cash assistance.[872]

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[864] *Id.* at 45.

[865] *Id.* at 24.

[866] Nicholas Oakeshott et al., World Bank Blogs, "Empowering refugees and internally displaced persons through digital identity," June 19, 2018; Culbertson et al., *Crossing the Digital Divide: Applying Technology to the Global Refugee Crisis,* at 32.; UNHCR, *UNHCR Strategy on Digital Identity and Inclusion* (2018).

[867] UNHCR, *UNHCR Strategy on Digital Identity and Inclusion* (2018); UNHCR, "Registration and Identity management," https://www.unhcr.org/en-us/registration.html (last visited June 8, 2020).

[868] UNHCR, "Data of Millions of Refugees Now Securely Hosted in PRIMES," Jan. 28, 2019, https://www.unhcr.org/blogs/data-millions-refugees-securely-hosted-primes/.

[869] Roya Pakzad, *Opportunities and Challenges of Emerging Technology for the Refugee System, CIGI & WRC,* at 3 (May 2019).

[870] WFP, "Building Blocks," https://innovation.wfp.org/project/building-blocks (last visited Apr. 15, 2020); Russ Juskalian, "Inside the Jordan Refugee Camp That Runs on Blockchain," *MIT Technology Review,* Apr. 12, 2018.

[871] Juskalian, "Inside the Jordan Refugee Camp That Runs on Blockchain."

[872] *Id.*

A refugee in Uganda's Oruchinga settlement uses an iris scan to claim food assistance. Claire Nevill, WFP, Mar. 5, 2018.

Critics have lamented that these efforts are often small in scale and lack the ability to bring about real, comprehensive change.[873] The fragmented and short-sighted nature of projects to implement digital systems often means that identity systems are not compatible for connection with registration, case management, and aid distribution systems—hindering, not enhancing, coordination.[874] Additional concerns include a lack of data privacy protections, data security, and informed consent in the mass collection of forced migrants' data.[875] Data security is of special concern in the case of UNHCR's biometric database, which is stored centrally and lacks blockchain protections.[876] These concerns regarding consistency, privacy, security, and consent also extend to other efforts to use technology to address the forced migration crisis.

Increasing Private Sector Participation

As efforts to address protracted refugee crises increasingly emphasize longer-term development for refugee and host communities, private sector actors can play a strategic role in directly contributing to, enhancing, and scaling these efforts. A November 2017 review found more than 170 private sector initiatives to address the refugee crisis. Private sector actors can do their part by providing

[873] Culbertson et al., *Crossing the Digital Divide: Applying Technology to the Global Refugee Crisis,* at 33.
[874] *Id.* at 31.
[875] Pakzad, *Opportunities and Challenges of Emerging Technology for the Refugee System;* Culbertson et al., *Crossing the Digital Divide: Applying Technology to the Global Refugee Crisis,* at xvii.
[876] Pakzad, *Opportunities and Challenges of Emerging Technology for the Refugee System,* at 3.

humanitarian funding, extending services and sharing capabilities and technologies, and enabling employment and education.[877] While investment to deal with the refugee crisis remains insufficient, private partners are now playing an important but modest role.

Increasing Private Sector Donorship

Recent influxes of forced migrants and growing anti-migration sentiment among industrialized countries, humanitarian organizations, and non-profits have increasingly looked to diversify their funding sources—and the private sector has stepped up to help.[878] From 2007 to 2017, private sector financial support for UNHCR increased from 34 million to 400 million dollars—from 2 percent to 10 percent of total contributions.[879] In December 2019, more than 100 companies and foundations attended the most recent Global Refugee Forum in December 2019, pledging more than 250 million dollars in funding for UNHCR in addition to many other commitments to service provisions and actions.[880]

In Canada, an innovative model has allowed for private companies, individuals, and organizations to directly fund the resettlement of additional refugees since 1979.[881] Under Canada's Private Sponsorship of Refugees Program, private sponsors cover refugees' living costs for their first 12 months of resettlement or until the refugee becomes self-sufficient, whichever comes first.[882] Sponsorship groups range from private companies to churches to family members of the refugee being resettled. Since the program's inception, private sponsors have resettled more than 288,000 refugees to Canada, over and above those resettled with government resources.[883] From January 2015 to August 2017 alone, 40,130 privately sponsored refugees were admitted to Canada, or 47 percent of total refugees admitted.[884] Following Canada's lead, Argentina, Australia, France, Ireland, Italy, Germany, New Zealand, Spain, and the United Kingdom have all launched or pledged to launch refugee sponsorship programs.[885]

Aside from dollars, private sector companies have also addressed the global forced migration crisis by donating goods and services. IKEA's partnership with UNHCR has resulted in thousands of donated mattresses, bed linens, and shelter units.[886] At the 2019

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[877] Danielle Berfond et al., *Private Sector & Refugees: Pathways to Scale,* The Bridgespan Group & The World Bank's International Finance Corporation (May 12, 2019).

[878] *See* Ammar A. Malik et al., *Private-Sector Humanitarians?: New Approaches in the Global Refugee Response,* Urban Institute (Sept. 2018),.

[879] United Nations Executive Committee of the High Commissioner's Programme, *Private Sector Fundraising and Partnerships,* 73rd meeting, at 3 (Aug. 31, 2018).

[880] Press Release, UNHCR, *Private Sector Steps Pp for Refugees as Global Refugee Forum Opens in Geneva,* Dec. 16, 2019.

[881] Canada Council for Refugees, "Private Sponsorship for Refugees," https://ccrweb.ca/en/private-sponsorship-refugees (last visited June 8, 2020).

[882] Shahana Bhaduri, *Exploring Private Refugee Sponsorship Option(s) for the United States,* Harvard University, at 2-3, 87 (Mar. 2018).

[883] Press Release, UNHCR, *Global Refugee Sponsorship Initiative Promotes Canada's Private Refugee Sponsorship Model,* Dec. 16, 2016.

[884] Bhaduri et al., *Exploring Private Refugee Sponsorship Option(s) for the United States,* at 79.

[885] Susan Fratzke et al., *Refugee Sponsorship Programmes: A Global State of Play and Opportunities for Investment, Migration Policy Institute Europe*, at 3 (Dec. 2019).

[886] IKEA, "Brighter Lives for Refugees," https://www.ikea.com/ms/en—JO/good-cause-campaign/brighter-lives-for-refugees/index.html (last visited Apr. 15, 2020).

Global Refugee Forum, 20 law firms committed 125,000 hours per year to pro-bono legal support for refugees and stateless people.[887] Equity Bank, a financial services company serving East Africa, began extending its services to refugees in 2012, helping refugees with personal banking, microcredit, and group savings and lending products.[888] By dedicating significant resources to refugee communities, Equity Bank extended access to financial institutions to a populations often denied inclusion and overlooked.

As the needs of forced migrants around the globe continue to grow, we need must think about ways to expand private sector assistance—in pure dollars and methods—in our efforts to keep up.

Private Sector Support for Education & Employment

With increasingly protracted conflicts and increasing focus on integration as the most accessible solution, private sector responses need to focus not only on humanitarian aid but also longer-term development. Investing in education and employment is a paramount way to meet pressing forced migrant needs and serve longer-term goals—and many private sector companies are well-positioned to provide support.

UNHCR's efforts to achieve education parity for refugees in pre-primary, primary, and secondary schooling have been bolstered by private sector support.[899] The Vodafone Foundation has served as UNHCR's partner in creating 36 Instant Network Schools providing digital education across Africa.[890] The education platform Coursera has provided free access to courses for refugees, reaching 18,000 refugees in 110 countries, who have taken more than 80,000 courses combined.[891] Clothing retailer H&M's global holiday campaigns have resulted in 3.3 million dollars' worth of school supplies reaching 500,000 children through UNHCR.[892]

As employers, private companies are also well-suited to support refugees with workforce training, skills, and employment opportunities. Private sector initiatives range from those providing business training to supporting refugee entrepreneurs with loans to providing remote work opportunities to pledging job opportunities for resettled refugees.[893] These initiatives support the economic development and self-sufficiency of forced migrant populations, counter economic burden myths, and foster community integration.

Education and employment represent two sectors where the private sector is enormously well-suited to provide support. And while companies have brainstormed innovative initiatives and provided generous funding, more support is needed. As we look to expand our understanding of vulnerable forced migrant populations around the world to not only include refugees, but also internally displaced persons, victims of generalized violence, war, and climate-related events, this need balloons. Private sector partnerships will be an

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[887] Press Release, UNHCR, UNHCR, Private Sector Steps Up for Refugees as Global Refugee Forum Opens in Geneva, Dec. 16, 2019.

[888] Berfond et al., *Private Sector & Refugees: Pathways to Scale,* at 29.

[889] *See* UNHCR, *Stepping Up: Refugee Education in Crisis* (Aug. 2019).

[890] Press Release, Vodafone, "Vodafone Foundation and UNHCR Expand Instant Network Schools to Benefit Bore than 500,000 Young Refugees," Dec. 16, 2019.

[891] Berfond et al., *Private Sector & Refugees: Pathways to Scale,* at 45.

[892] *Id.* at 47.

[893] *See id.* at 123.

important partner in innovating, funding, and serving the needs of these large and growing populations.

SIDEBAR: *AHLAN SIMSIM: SESAME STREET FOR SYRIAN REFUGEES*

In partnership with the IRC and local educators, Sesame Workshop, the nonprofit educational organizations behind Sesame Street, launched a new show called Ahlan Simsim, or "Welcome Sesame," in February 2020.[894] Aired in Arabic and Kurdish, the show is geared towards displaced children in Jordan, Lebanon, Iraq, and Syria.[895] The show has two main characters, Basma and Jad, and focuses on managing emotions.[896] The project is estimated to reach up to nine million children, making it the largest early-childhood intervention in the history of humanitarian response, and will be coupled with studies by child development specialists.[897]

SIDEBAR: *VODAFONE FOUNDATION & UNHCR INSTANT NETWORK SCHOOLS*

Started in 2014 with funding from the Vodafone Foundation and UNHCR, the Instant Network Schools (INS) program provides a digital 'school in a box,' including internet and electricity sources, tablets, curriculums, and teacher training, to increase educational resources in refugee camps. For under-resourced regions with insufficient schools, teachers, and materials, the INS program provides an innovative solution.[898] As of December 2019, there were 36 Instant Network Schools across eight refugee camps in Kenya, Tanzania, the Democratic Republic of Congo, and South Sudan.[899]

As of December 2019, INS program evaluations showed higher levels of school attendance, a 61 percent increase in informational communications technology literacy for students, and a 125 percent increase in improved confidence, motivation, and academic performance among trained teachers.[900] The program does, however, need to work towards equal access across genders—in the first half of 2019, 70 percent of users were male.[901] At the Global Refugee Forum in December 2019, Vodafone and UNHCR an-

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[894] Alex Carp, "'Sesame Street' Is Opening Up to Syrian Refugees," *The New York Times,* Jan. 31, 2020; Press Release, IRC, Sesame Street and the IRC Are Helping Refugee Children Overcome Trauma, Feb. 2, 2020.

[895] Alex Carp, "'Sesame Street' Is Opening Up to Syrian Refugees," *The New York Times,* Jan. 31, 2020.

[896] *Id.*

[897] *Id.*

[898] Duke Mwancha, "Innovation: UNHCR and Vodafone Bring Tablet-based Learning to 18,000 Somali Refugees," *UNHCR News,* Oct. 9, 2014; UNHCR, Stepping Up, at 16 (2019).

[899] Press Release, Vodafone, "Vodafone Foundation and UNHCR Expand Instant Network Schools to Benefit More than 500,000 Young Refugees," Dec. 16, 2019.

[900] *Id.*

[901] Caroline Opile, "Vodafone Foundation Sponsored Instant Network Schools are Transforming Refugee Lives in Kenya," *UNHCR News,* Sept. 18, 2019.

nounced an expansion of the INS program to benefit more than 500,000 refugees.[902]

CONCLUSION

While the costs of addressing this global crisis are significant, the consequences of inadequate responses and inaction will be even greater. Existing initiatives have shown the potential for international cooperation and innovation to create modern solutions to address the realities of the current forced migration crisis. Given the magnitude of today's crisis, however, new initiatives need to be scaled across nations and across public, private, and non-profit sectors, in order to have a meaningful impact.

In a renewed global effort to address and mitigate the global forced migration crisis, international, national, private, and civil society organizations need to collaborate to ensure responsibilities are shared and best practices are implemented. We cannot and should not stand idly by as large swaths of the world's population are fleeing harm, seeking safety, and spending decades in displacement.

[902] Press Release, Vodafone, "Vodafone Foundation and UNHCR Expand Instant Network Schools to Benefit More than 500,000 Young Refugees," Dec. 16, 2019.

FINDINGS & RECOMMENDATIONS

Findings

- *The scale of today's forced migration crisis is unprecedented.* A confluence of factors, including persistent climate-related shocks and increasingly frequent, highly violent, and protracted conflicts impacting civilians have resulted in a record number of people forced to flee their homes around the globe. By the end of 2018, there were over 70.8 million refugees, asylum seekers, and IDPs worldwide. In addition, many more have been forced to flee their homes due to severe climate-related events. Without dramatic efforts to address the forced migration crisis, it will continue to grow in scale and complexity.
- *Climate change will exacerbate the core drivers of forced migration by increasing the risk of conflict over natural resources and dramatically impacting the availability of food and water.* The impacts of climate change are innumerable, and include depleted natural resources, rising sea levels, extreme weather events, and conflict—all of which can force people to leave their homes.
- *Armed actors have increasingly failed to uphold international law, attacking civilians and civilian infrastructure with impunity.* The brutal nature of armed conflict and its destruction of civilian infrastructure is a major driver of large-scale displacement, and reflects a growing lack of respect for the traditional laws of war. Without deterrence of and accountability for these violations, armed actors will continue to brutalize civilians and cause massed displacement.
- *The UN Security Council, largely due to vetoes by its permanent members, has struggled to uphold its core mandate of maintaining peace and security, and to help resolve prolonged conflicts or ensure that violators of international law are held accountable.* Without international bodies enforcing accountability and imposing consequences, government and independent armed actors will continue to violate international laws and norms, spur forced migration, and shirk responsibility in addressing this global crisis.
- *The nature of forced migration has dramatically changed since the end of World War II, and the scale of global need has far outpaced available assistance.* Many forced migrants are unable to return home for decades and often live in urban environments in developing countries. These changes to the nature of displacement often render traditional solutions based on short-term displacement in camp settings ineffective, and ne-

cessitate new and innovative responses. As global need continues to grow, major donors such as the United States and the United Kingdom have reduced humanitarian financing, while China and other countries have not stepped up to address the need. As a result, many humanitarian agencies and response plans are drastically underfunded.

- *Forced migrants often face severe restrictions to and violations of their human rights.* These include restrictions on the right to work, freedom of movement, documentation, access to healthcare, and the right to education. These affronts to forced migrants' rights and dignity have resulted in the repression of large swaths of the world's population.
- *The COVID-19 pandemic has magnified the extreme vulnerabilities of forced migrant populations,* highlighted by dangerously overcrowded settings, inadequate access to healthcare, increased incidences of gender-based violence, exclusion from host country preparedness and response plans, the scapegoating of forced migrants as vectors of the virus, and restrictions placed on their access to international legal protections and asylum systems.
- *Women and girls face particular vulnerabilities as forced migrants, including barriers to accessing life-saving healthcare and education, gender-based violence, and human trafficking, yet international funding and support remains minimal.* Women and girls are more likely to face restrictions on their ability to work, be refused an education, denied life-saving healthcare, subjected to gender-based violence (GBV), and trafficked as forced migrants. Despite severe vulnerabilities faced by women and girls, less than 0.2 percent of humanitarian response funding was spent on GBV prevention programs between 2016 and 2018.
- *The unprecedented number of children who are forced migrants presents an urgent call to action for their protection and education.* The number of refugee children has doubled in the past 10 years, and the number of unaccompanied and separated children asylum seekers hit record highs in 2015. By the end of 2017, more than 31 million children were refugees, asylum seekers, and internally displaced persons (IDPs). Without proper access to education, health care, and other services and protections, displacement has the potential to derail the future outlook for an entire generation of children.
- *Despite specific international legal conventions affording refugees protections, some countries have denied refugees basic rights and services.* Even those who meet the strictest definition of refugee status are often denied documentation, shelter, human rights, and basic services. Without consistent implementation and enforcement of international legal protections, countries are able to violate refugees' rights with impunity.
- *Forced migration today is driven not only by conflict and persecution, but also generalized violence and severe climate-related events, and many forced migrants lack pathways for national and international protections.* Today, many of those forced from

their homes and seeking refuge do not meet the definition of "refugee" in the 1951 Convention and 1967 Protocol. Without the same international protections as refugees, these populations are more likely to be ignored, denied life-saving assistance and services, and refused support in finding solutions to end their displacement.

- *As the population of forced migrants continues to grow, the traditional solutions of voluntary return and resettlement are increasingly inaccessible.* As conflicts are increasingly prolonged and unending, forced migrants, many of whom want to return home, are unable to do so safely. Even prior to the Trump administration, the opportunity for resettlement in a third country was only available to a small percentage of the world's refugees. As a result, greater focus must be paid to the third durable solution—local integration.
- *Humanitarian aid is not reaching those in need due to restrictions by countries and interference by non-state armed actors.* These restrictions and interference violate international humanitarian law (IHL) and disrupt life-saving services, forcing more civilians to flee their homes.
- *Inefficiencies in humanitarian response by donor countries, host countries, the United Nations, and NGOs have contributed to shortcomings in responding effectively to forced migration and humanitarian need.* While the UN and many of its donors recognize areas for reform and realignment, there has been a lack of clear progress on reform across the entire humanitarian system. During the 2016 World Humanitarian Summit, a number of sensible reforms were agreed to in order to improve the effectiveness of humanitarian programs, not all of which have been fully implemented. These included increasing cash-based assistance, multi-year funding, and streamlining redundant programming.
- *The Trump administration has used every mechanism at its disposal to block legal pathways for refugees, undermining longstanding U.S. policies towards forced migrants, and inspiring—or sometimes bullying—other governments to adopt regressive responses to today's forced migration crisis.* These methods include the externalization of the U.S. border, the decimation of refugee resettlement programs, cuts to humanitarian assistance, the shirking of U.S. responsibility in international coordination and partnerships, and the propagation of false narratives sowing hatred against foreigners and forced migrants. The Trump administration has, in fact, gone beyond simply blocking forced migrants from accessing the United States to actively harming those who seek refuge through deliberate policies of family separation, the Remain in Mexico policy, and "safe third country" agreements that force asylum seekers into dangerous and sometimes fatal settings.
- *The Trump administration's retreat from U.S. humanitarian obligations and the multilateral system has dealt a harmful blow to an already-weakened system of international cooperation for responding to global crises like forced migration.* The United States' regressive leadership on the international stage,

as evident by its actions relating to the Global Compact for Safe, Orderly, and Regular Migration and the Global Compact on Refugees, has emboldened other nations to neglect their responsibilities to protect refugees and other forced migrants.

- *Recent efforts in humanitarian financing, humanitarian aid, diplomacy, and the private sector highlight opportunities to reinvigorate forced migration responses from the top-down, although greater support is needed around the world to drive these innovations.* These initiatives include new international and national compacts on refugees, the World Bank's concessional financing, increase usage of cash transfers for humanitarian assistance, and a myriad of private partnerships aimed at providing services and opportunities to forced migrants. Given the scale of today's forced migration crisis, these efforts also underscore a need for collaborative action and widespread rethinking across all sectors—government, finance, and private companies—in order to comprehensively address the crisis.

Recommendations

For Congress

- *Congress should continue to recognize the enormous needs and adequately fund humanitarian assistance for vulnerable populations around the world.* Congress has provided leadership by appropriating humanitarian aid funding far above the Trump administration's proposed budgets, and should continue to do so. Restoration of effective U.S. leadership on the international stage will result in increased responsibility sharing in responding to the global forced migration crisis.
- *Congress should mandate regular reports from the State Department and the U.S. Agency for International Development (USAID) on the human rights and humanitarian situations of forced migrant populations, including refugees and IDPs.* Regular assessments on forced migrant populations will help inform government responses across agencies, including humanitarian aid and resettlement, and increase the effectiveness of those responses.
- *Congress should permit Economic Support Funds to be used to support multilateral efforts to advance the inclusion of forced migrants in host country development efforts,* such as the World Bank's Global Concessional Financing Facility.
- *Congress should address rampant gender-based violence in humanitarian emergencies around the world, and pass the Keeping Women and Girls Safe from the Start Act of 2020.* Women and girls, including women and girl forced migrants, face extreme violence and threats of violence during humanitarian crises. Passage of the Act will advance efforts to prevent, mitigate, and respond to gender-based violence in humanitarian crises around the world.
- *Congress must increase humanitarian assistance for comprehensive health services, including reproductive health and*

gender-based violence-related services, and remove restrictions that impede access to health care, including the Mexico City Policy and restrictions on funding for the United Nations Population Fund (UNFPA). These services are critical in addressing the acute vulnerability of women and girl forced migrants, where adequate and equitable access to healthcare can transform long-term outlooks and save lives. The COVID-19 pandemic has only reinforced the essential nature of these services, especially in times of crisis.

- *Congress should authorize the expanded use of sanctions and other tools against perpetrators of international humanitarian law violations and those who deny aid access for life-saving assistance.* Without the presence of accountability, violent actors will continue to attack civilians, civilian infrastructure, humanitarian organizations, and humanitarian workers with impunity, further stoking mass displacement.
- *Congress should ensure that asylum seekers and refugees are afforded the protections stipulated under U.S. law and increase the U.S. refugee ceiling to align with global need.* Such Congressional action would serve as a first step in reversing the Trump administration's actions decimating the asylum and refugee system and the U.S.'s historical leadership on refugee issues.
- *In addition to bolstering existing refugee resettlement programs, Congress should create complementary pathways to protect forced migrants who do not meet the refugee definition under U.S. law, but for whom return is not possible or advisable.* Congress must reform and update the existing statutory framework for Temporary Protected Status (TPS) and should provide complementary pathways to meet the protection needs of individuals displaced by generalized violence and gender-based violence, among other forces. It is critical that complementary pathways be additive to refugee resettlement and avoid discrimination. These complementary pathways must guarantee the minimum protections of non-refoulement, access to identity and travel documents, family unity, resolving statelessness, addressing vulnerability to exploitation and abuse, and ensuring access to a permanent solution.

For the Trump administration and future administrations

- *The Executive Branch must reverse policies and practices undermining U.S. refugee law.* The U.S. sets a model for regressive action in response to the global forced migration crisis. Accordingly, the Executive Branch must terminate harmful programs, including the Remain in Mexico policy (also known as the Migrant Protection Protocols) and "safe third country" agreements (also known as the Asylum Cooperative Agreements).
- *The Executive Branch should adopt a robust and inclusive interpretation of U.S. refugee law that takes into account the changed nature of conflict and persecution.* Addressing the global forced migration crisis requires dealing with mixed migration flows and acknowledging the protection needs of many

forced migrants who may not fit the strictest definition of "refugee," including victims of generalized violence, gender-based violence, IDPs, and those displaced by severe climate-related events.

- *The Executive Branch should increase support for efforts to educate refugee children and initiate campaigns to educate IDP children.* The United States should continue to provide funding to refugee education initiatives such as Education Cannot Wait, work to increase enrollment in early education and secondary education, and increase educational opportunities for IDP children, who are often overlooked. Furthermore, funding should be coupled with robust diplomatic efforts that prioritizes access to education by forced migrant children.
- *The Executive Branch, including the Departments of State and Defense, should ensure U.S. military assistance, such as arms sales, military training, and other defense services, is contingent on the implementation of civilian harm mitigation policies and adherence to international humanitarian law.* The United States should identify conditions that would prompt limits on or suspension of partnership with actors, including a failure to protect civilians and civilian infrastructure and a failure to provide unfettered humanitarian access.
- *USAID should ensure inclusion of forced migrant populations in its five-year Country Development Cooperation Strategies.* This would help ensure that forced migrant populations are not overlooked in country development plans. U.S. agencies must help host countries facilitate plans that are mutually beneficial for host communities and displaced populations.
- *The Executive Branch must re-engage and re-establish constructive leadership in the multilateral system and at the United Nations on issues related to forced migration.* Proposed actions include the nomination and appointment of qualified and internationally-respected individuals to posts at multilateral institutions and the restoration of funding for UNFPA, the United Nations Relief and Works Agency (UNRWA), and the World Health Organization (WHO).
- *The Executive Branch must lead the race to the top in urging all countries to uphold international law, including international humanitarian law and international human rights law.* In today's age of impunity, we risk serious regional and global instability without effective justice. The failure to ensure accountability for violations of international humanitarian and human rights laws is helping to drive forced migration. The United States must recommit to championing respect for international law by activating a whole-of-government approach, including strong efforts by the White House, U.S. Mission to the UN, and State Department in calling for accountability.
- *The Executive Branch must redouble efforts to resolve ongoing and prolonged conflicts, as well as efforts to prevent the outbreak of future conflicts, including by strengthening atrocity prevention programs.* The United States must address conflict, a primary driver of forced migration, by strengthening diplo-

macy at the United Nations, other multilateral institutions, and in our bilateral relationships, as well as reinforcing our ability to detect early warnings of and coordinate responses to potential mass atrocities as directed by the Elie Wiesel Genocide and Atrocities Prevention Act of 2018.

- *The United States should support the proposal to suspend veto power at the UN Security Council in cases of mass atrocities.* Supporting the veto suspension would send a bold message of support for the sanctity of international law and zero tolerance for widespread and systematic violence against civilian populations.
- *The Executive Branch should restore U.S. leadership on refugee resettlement back to historic norms and in line with tremendous global need.* Changes should reverse harmful Trump administration policies—increasing the refugee ceiling to be in line with global need, re-designating allocations for refugee resettlement to account for global need, and accepting UNHCR referrals for resettlement—as well as create new policies to strengthen refugee resettlement efforts.
- *In addition to refugee resettlement, the Executive Branch should increase alternative legal pathways for refuge in the United States, including through private sponsorship programs, to allow for the resettlement of refugees above and beyond government commitments.* Private sponsorship would support refugee resettlement above and beyond existing ceilings or caps. Refugees resettled through private sponsorship would have the same rights and opportunities afforded to them as those resettled through the U.S. government.
- *The Executive Branch should join the Global Compact for Refugees, the Global Compact for Safe, Orderly, and Regular Migration, and the Paris Climate Agreement* to signal its solidarity with international community efforts and pursue coordination on global efforts to respond to the global forced migration crisis.
- *Reinvigorating the momentum behind the 2016 New York Declaration, the United States should lead efforts convening host governments, donors, the private sector, civil society, and forced migrant representatives to form a new compact supporting the inclusion of forced migrant populations in host countries.* In line with the World Bank's Global Concessional Financing Facility (GCCF) and International Development Association (IDA) mechanisms and the Jordan Compact and U.S. Millennium Challenge Corporation, the approach would incentivize countries to include forced migrant populations in host communities, through access to work, legal status, education, and freedom of movement, in return for aid and other benefits. The United States should establish a fund to provide financial support to these compacts and forced migrant-hosting nations.
- *The White House should initiate an expansion and update to the U.S. government's policy on IDPs,* which now consists solely of the 2004 USAID Assistance to Internally Displaced Persons Policy. The creation of a new, comprehensive policy will enable

the U.S. government to play a more strategic and effective role in responding to the more than 41 million IDPs in the world today.

For the United Nations, other multilateral institutions, and the international community

- *Members of the UN Security Council—elected and permanent—must, through voluntary agreement or amendment of the UN Charter, refrain from voting against any credible draft resolution intended to prevent or halt mass atrocities, a critical driver of forced migration.* The failure of the UN Security Council to protect civilians from mass atrocity crimes like genocide, ethnic cleansing, and crimes against humanity has severely impaired its effectiveness and credibility in the eyes of the general public and governments. Repeated vetoes and obstruction by China and Russia, two UN Security Council permanent members, have undermined the UN Security Council, shielded perpetrators from accountability, and cost lives in Syria, Burma, and elsewhere.
- *The UN Secretary-General should elevate the role of the Special Rapporteur on the Human Rights of Internally Displaced Persons to the Secretary-General Special Representative on Internally Displaced Persons.* The delegation of a more senior role responsible for IDPs will highlight a need for greater global awareness of IDP populations and renewed responses on IDP issues. We applaud the Secretary-General's appointment of the High-Level Panel on Internal Displacement and encourage that all mechanisms for finding solutions for the world's 41 million IDPs be pursued. To that end, the UN should energetically reinforce the implementation of the UN's Guiding Principles on Internal Displacement and encourage national governments to ratify it into binding law.
- *The UN Special Rapporteur on the Human Rights of Migrants should regularly publish reports documenting and assessing UN member states' performance in upholding international protections and human rights for refugees, IDPs, and other forced migrants.* The international community must recognize that the vast majority of forced migrants are displaced for the long-term and host countries must make it possible for forced migrants to rebuild their lives, sustain themselves, and contribute to their new communities. This requires allowing forced migrants freedom of movement, the right to work, and access to education and other basic services. These measures would increase accountability and provide additional enforcement mechanisms to ensure these rights are afforded to forced migrant populations.
- *The World Bank and other international and national organizations should make financial assistance contingent on assessments of countries' records upholding international protections and human rights for refugees, IDPs, and other forced migrants.* The pursuit of clear, measurable outcomes for forced migrants and host communities—such as inclusion in national plans and improvements in income, health, and education—

will ensure financing delivers its intended effect. The World Bank has made tremendous efforts to respond to the needs of forced migrant populations and host countries—they have supported the prototypes for new responses that should be continued and improved upon.

- *The United Nations must use its tools, including Boards of Inquiry, Commissions of Inquiry, and the International Court of Justice, to enforce international law and end rampant impunity by publishing findings and identifying perpetrators of violations of international law.* At its crux, the international community is suffering from a political crisis that has resulted in a global forced migration crisis. Forced migration is the result of the failure of national and international community to address the root causes of displacement, which include war, endemic violence, corruption, weak governance, abusive leaders, and poor accountability.
- *The UN Secretary-General should call on host countries and all other countries to incorporate forced migrant populations into their Sustainable Development Goals national action plans.* Host countries must also recognize that forced migrants are displaced for the long-term, that it is their responsibility to promote better futures for all people within their territories, including forced migrant populations, and that supporting better futures for forced migrant populations is mutually beneficial.
- *The UN should reduce redundancies and improve aid effectiveness by prioritizing and accelerating the implementation of reforms.* Reform efforts and agreements such as the Grand Bargain, first proposed by the UN Secretary General's High-Level Panel on Humanitarian Financing, should continue to remain a priority in order to modernize humanitarian assistance and ensure programs are effectively helping people in need. Moreover, the UN should prioritize operational efficiency by streamlining how disparate UN agencies approach similar sectors within a humanitarian response, for example, adopting a simplified treatment process for children with severe malnutrition across UN agencies.
- *Regional financial institutions must engage proactively to address the forced migration crisis in their regions.* Regional financial institutions, such as the African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development, and Inter-American Development Bank, should develop regional financial support responses to the forced migration crisis following the model of the World Bank.
- *Governments in host countries should respect the human rights of forced migrant populations and should include forced migrant populations in their national plans.* Best practice policy changes include ensuring refugees have freedom of movement, the right to work, access to healthcare and other services, and recognizing IDPs, climate-related forced migrants, and other forced migrant populations as requiring urgent protection and aid. For countries where climate change is expected to cause mass movements in coming years, incorporating climate migra-

tion into national plans could help prepare governments to weather these changes and prevent situations of prolonged displacement and humanitarian emergencies.

- *The UN Secretary-General should create a High-Level Panel regarding information security and privacy for forced migrants.* By convening experts on forced migration, data consent, privacy, and data security, this High-Level Panel will result in resources to inform the United Nation's privacy and data policies. The implementation of such policies will ensure that forced migrant populations are not left more vulnerable by the information they provide to UNHCR, UN Children's Fund (UNICEF), International Organization for Migration (IOM), and other humanitarian agencies as they seek protection.

For other stakeholders

- *Non-governmental organizations should continue to improve how they measure program outcomes and effectiveness, and strive to make information publicly available to increase transparency.* Using data, analysis, and other evidence-based approaches to assess programs, strategies, and tactics will allow for the humanitarian sector to continue to improve the effectiveness and efficiency of programs, ideally producing improved outcomes for more people with each iteration.
- *Non-governmental and private sector organizations should create comprehensive plans to incorporate technology into their responses, meeting twenty-first century issues with twenty-first century solutions.* Organizations should be especially cognizant of privacy concerns and "digital litter," or outdated online resources. While technology can enable more efficient and effective strategies in a world where forced migrants are reliant on digital resources, technology plans must focus on long-term sustainability, and create exit plans to ensure that the plan's demise does not lead to misleading and outdated information.
- *Private sector companies should increase engagement in addressing the problem of and finding solutions for forced migration, supporting the integration and resettlement of forced migrant populations.* Efforts to increase private sector involvement should not only occur at the multinational level, but also at the regional, national, and local levels. It is critical that private sector involvement focuses on localized contexts and needs in order to have real impact.
- *U.S. educational institutions, especially U.S. higher educational institutions with established international student bodies and significant endowments, should develop and continue to develop pathways to educate forced migrant students.* Incorporating refugee and IDP populations in student bodies will help increase access to education, create an especially diverse student body, and showcase that U.S. institutions are leading the way in responding to global challenges.

ACRONYMS & INITIALISMS

CAM	Central American Minors
CBP	United States Customs and Border Protection
RS	Congressional Research Service
CVA	Cash and voucher assistance
DHS	United States Department of Homeland Security
DNI	United States Director of National Intelligence
DOJ	United States Department of Justice
DRC	Democratic Republic of Congo
EU	European Union
FY	Fiscal Year
GBV	Gender-based violence
GCFF	Global Concessional Financing Facility
GCM	Global Compact for Safe, Orderly, and Regular Migration
GCR	Global Compact on Refugees
GDP	Gross domestic product
HARP	Humanitarian Asylum Review Process
HHS	United States Department of Health and Human Services
IASC	Inter-Agency Standing Committee
ICE	United States Immigrations and Customs Enforcement
IDA	World Bank International Development Association
IDMC	Internal Displacement Monitoring Centre
IDP	Internally displaced person
IFR	Interim Final Rule
IHL	International humanitarian law
INA	United States Immigration and Nationality Act
IOM	International Organization for Migration
MPP	Migrant Protection Protocols (''Remain in Mexico'' policy)
NGO	Non-governmental organization
PACR	Prompt Asylum Claim Review
PRM	United States Department of State Bureau of Population, Refugees, and Migration

SAO	Security Advisory Opinion
SFRC	United States Senate Foreign Relations Committee
TPS	Temporary Protected Status
UN	United Nations
UNESCO	United Nations Education, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
UNOHCHR	United Nations Office of the High Commissioner for Human Rights
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
USAID	United States Agency for International Development
USCIS	United States Citizenship and Immigration Service
USRAP	United State Refugee Admissions Program
WFP	United Nations World Food Programme
WHO	World Health Organization

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