

# Meaningful Refugee Participation: An Emerging Norm in the Global Refugee Regime

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## ABSTRACT

Is meaningful refugee participation a norm within the global refugee regime? Despite growing attention since 2016, we argue that meaningful refugee participation in the governance of the global refugee regime is not yet an established norm. By drawing on the norm lifecycle framework developed by Finnemore and Sikkink and an analysis of recent initiatives, we argue instead that meaningful refugee participation is an emerging norm that has the potential to become the standard of appropriate behaviour in global decision-making fora. Despite this progress, we argue that the pursuit of differentiated approaches to refugee participation by norm entrepreneurs may constrain efforts to advance the norm. By examining efforts by States, United Nations High Commissioner for Refugees and refugee-led initiatives in recent years, we seek to highlight the similarities and differences between these initiatives and the extent to which they meet the threshold for norm emergence. Through this analysis, we consider the current state of the norm of meaningful refugee participation and present some possible scenarios for the future of the norm. While meaningful refugee participation is not yet a norm in the global refugee regime, we argue that a deeper understanding of its steady emergence holds important lessons for future research, policy, and practice.

**KEYWORDS:** refugee participation, norms, global refugee regime, decision-making, UNHCR, Global Compact on Refugees

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## 1. INTRODUCTION

In December 2021, States and other actors in the global refugee regime gathered virtually for the High-Level Officials Meeting (HLOM) to take stock of progress on implementing pledges made at the 2019 Global Refugee Forum (GRF). One feature of the meeting was a small, but potentially significant, change in the composition of State delegations to the meeting. For the first time, Germany and the US included Refugee Advisors in their delegation.<sup>1</sup> Both countries noted that they were following the example of Canada, who had included a Refugee Advisor to their delegations to meetings of the international refugee system since the GRF in 2019. In reflecting on this step, a senior official from the US Government noted that “we value refugees’ active participation and commit ourselves to including their critical voices on refugee issues in future delegations.”<sup>2</sup> As such, three of the largest donors to the United Nations High Commissioner for Refugees (UNHCR) – the US, Germany, and Canada – have now committed to include refugees as members of their delegations to future UNHCR meetings.

The theme of meaningful refugee participation was also the focus of a virtual meeting on the eve of the HLOM. On 13 December, representatives of UNHCR, States, refugee-led organisations (RLOs), and other civil society actors discussed how best to make progress on the principles of refugee participation articulated in the 2018 Global Compact on Refugees (GCR): that “Responses are most effective when they actively and meaningfully engage those they are intended to protect and assist” and that “States and relevant stakeholders will explore how best to include refugees and members of host communities [...] in key forums and processes [...]”.<sup>3</sup> In reflecting on progress made to implement this principle of meaningful refugee participation, several participants at the meeting suggested that it was no longer a question of “if” meaningful refugee participation was an accepted norm within the global refugee regime, but a question of “how” the norm should be implemented and advanced.

Such developments provoke the question: Is there now a norm of meaningful refugee participation in the global refugee regime? By drawing on the norm lifecycle framework developed by Finnemore and Sikkink,<sup>4</sup> we argue that although meaningful refugee participation is not yet an established norm, it is an emerging norm within the global refugee regime. While it has not yet reached the tipping point from which it could cascade through the regime and becomes internalised, we draw on a review of recent practice to illustrate how various norm entrepreneurs are actively engaged

- 1 Federal Republic of Germany, *Statement of the Federal Republic of Germany, High-Level Officials Meeting, 14–15 December 2021*, Geneva, Dec. 2021, available at: <https://www.unhcr.org/events/conferences/61b8c68b4/statement-federal-republic-germany.html> (last visited 21 Dec. 2021); Refugees Seeking Equal Access at the Table (R-SEAT), “About Us”, (nd), available at: <https://refugeesseat.org/> (last visited 27 Dec. 2021).
- 2 R-SEAT, “Press Release”, 14 Dec. 2021, available at: <https://twitter.com/RefugeesSeat/status/1470773544711860230> (last visited 15 Dec. 2021).
- 3 United Nations General Assembly (UNGA), *Report of the United Nations High Commission for Refugees: Part II: Global Compact on Refugees*, Seventy-third Session, Supplement No. 12, 34, UN Doc. A/73/12 (Part II), 13 Sep.
- 4 M. Finnemore & K. Sikkink, “International Norm Dynamics and Political Change”, *International Organization* 52(4), 1998, 239–275.

in the promotion and development of the norm. With the adoption of refugee participation mechanisms by the Resettlement Working Group, a collection of more than 20 States plus UNHCR, in 2020, we argue that the emerging norm of meaningful refugee participation has the potential to be soon seen as “the standard of appropriate behaviour”<sup>5</sup> by States and UNHCR. We also argue that there is emerging consensus that “meaningful refugee participation” is achieved when refugees from diverse backgrounds have substantial and sustained influence in fora where decisions and policies that affect them are developed. However, we further argue that the pursuit of differentiated approaches to refugee participation and the current level of collaboration between norm entrepreneurs seeking to advance refugee participation potentially constrain efforts to bring the norm beyond the tipping point and towards broad acceptance by actors within the global refugee regime. In this way, our analysis of the emerging norm of meaningful refugee participation holds important lessons for research, policy, and practice relating to refugee participation and the study of norms in the refugee regime more generally.

This analysis builds from recent work on the growing visibility of refugee-led responses in local and national contexts<sup>6</sup> and the important analysis by Harley and Hobbs that

although no legal requirement mandating the participation of refugees in decision-making processes currently exists in international law, several non-binding international legal instruments recognize the normative value of refugee participation and articulate associated non-binding principles and commitments.<sup>7</sup>

Through an analysis of efforts by norm entrepreneurs since 2016 to advance the norm of meaningful refugee participation in global decision-making forums, we seek to make two contributions to the growing literature on refugee participation. First, our discussion of processes that have sought to advance refugee participation at the global level in recent years provides a helpful empirical addition to the literature on refugee participation in local and national contexts. While there is an emerging body of literature that examines refugee participation in local and national contexts, as outlined above, our research seeks to address the important gap in our understanding of refugee participation in global decision-making processes. Second, through the

5 *Ibid.*, 891.

6 See, for example: M. Alio et al., “By Refugees, for Refugees: Refugee Leadership during Covid-19, and Beyond”, *International Journal of Refugee Law*, 32(2), 2020; M. Duale, *To Be a Refugee, It's Like to Be without Your Arms, Legs': A Narrative Inquiry into Refugee Participation in Kakuma Refugee Camp and Nairobi, Kenya*, Local Engagement Refugee Research Network Paper No. 7, May, 2020, available at: <https://carleton.ca/lerrn/wp-content/uploads/LERRN-Working-Paper-No.-7-Refugee-Participation-Kenya.pdf> (last visited 16 Dec. 2021); K. Pincock et al., *The Global Governed? Refugees as Providers of Protection and Assistance*, Cambridge, Cambridge University Press, 2020; Z. Sahin Mencutek, “Refugee Community Organisations: Capabilities, Interactions and Limitations”, *Third World Quarterly*, 42(1), 2020; Y. Gidron & F. Carver, “International Organisations and ‘Local’ Networks: Localisation and Refugee Participation in the Ethiopia-South Sudan Borderlands”, *Refugee Survey Quarterly*, 41, 2020.

7 T. Harley & H. Hobbs, “The Meaningful Participation of Refugees in Decision-Making Processes: Questions of Law and Policy”, *International Journal of Refugee Law*, 32(2), 2020, 202.

application of the norm lifecycle framework proposed by Finnemore and Sikkink,<sup>8</sup> which is the most employed framework to understand the emergence and spread of norms in global regimes,<sup>9</sup> we seek to add precision to our understanding of the current state of the norm of meaningful refugee participation, how the actions of norm entrepreneurs affect the emergence of the norm, and how the experience of meaningful refugee participation contributes to a wider understanding of the role of norms within regimes like the global refugee regime.

To support this argument, this article has five sections. First, we present the methodology employed to consider the emergence of the norm of meaningful refugee participation, including our understanding of the role of norms in the global refugee regime, the positionality of the authors as both participants and observers of the processes we discuss, and an overview of the sources of data we employ in our research. Second, we present a framework for understanding the role of norms within global regimes, the process by which norms emerge, and the threshold for considering a norm to have cascaded throughout a regime. This framework provides the basis of analysis for the remainder of the article. Third, we build on recent arguments that refugee participation was a feature of the early functioning of the refugee regime<sup>10</sup> to present a short history of the erosion of the practice of refugee participation, debates since 2015 on the pursuit of meaningful refugee participation, and the conditions that enabled the emergence of meaningful refugee participation as a potential norm in the context of the 2018 GCR. Fourth, we discuss recent examples of where and how norm entrepreneurs have been working to advance refugee participation in global decision-making processes. Finally, we reflect on these examples of practice to consider the current state of the norm of meaningful refugee participation and present some possible scenarios for the future of the norm. While we argue that meaningful refugee participation is not yet an established norm within the global refugee regime, a deeper understanding of its steady emergence holds important lessons for future research, policy, and practice.

## 2. METHODOLOGY

The goal of our research has been to understand the current state of the norm of meaningful refugee participation in the governance of the global refugee regime, who has been involved in its emergence, the mechanisms used by norm entrepreneurs to promote its emergence, and how the norm itself is being defined. To explain the methodology that has guided this research, this section begins with an overview of key concepts and the role of norms within the global refugee regime before turning to a reflection on our positionality and an outline of the methods we employed for this research.

8 Finnemore & Sikkink, "International Norm Dynamics and Political Change".

9 See, for example: A. Acharya, "How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism", *International Organization*, 58(2), 2004; A. Betts & P. Orchard (eds.), *Implementation and World Politics: How International Norms Change Practice*, Oxford, Oxford University Press, 2014; J. True & M. Mintrom, "Transnational Networks and Policy Diffusion: The Case of Gender Mainstreaming", *International Studies Quarterly*, 45(1), 2001.

10 T. Harley, "Refugee Participation Revisited: The Contributions of Refugees to Early International Refugee Law and Policy", *Refugee Survey Quarterly*, 40(1), 2021.

## 2.1. Norms and the global refugee regime

A prominent theme in the study of global issues in recent decades has been the role of global regimes in advancing international cooperation and avoiding collective action failure.<sup>11</sup> Since the 1980s, we have understood regimes to be defined as the combination of norms, rules, institutions, and decision-making procedures “around which actor expectations converge in a given issue-area”.<sup>12</sup> The argument follows that as issues emerge that are beyond the capacity of any one State to resolve on their own and where cooperation is required, States create regimes and the associated rules, institutions, and decision-making procedures to enhance their ability to mobilise the collective action needed to resolve the issue of shared concern.

It is in this way that we can understand the existence of a global refugee regime.<sup>13</sup> In the aftermath of the Second World War, and in response to the scale of displacement in Europe, the early days of the Cold War and the early dynamics of decolonisation,<sup>14</sup> States created a regime intended to facilitate a collective response to refugee movements. The regime consisted of norms, as detailed in the *1951 Convention relating to the Status of Refugees*, and an institution, as detailed in UNHCR’s 1950 Statute. While the decision-making procedures of the regime remain arguably limited,<sup>15</sup> the annual meetings of UNHCR’s Executive Committee (ExCom) came to serve as a decision-making space within the regime to approve UNHCR’s annual budget, provide guidance to UNHCR on its functioning, and adopt global refugee policy to guide the actions of States or UNHCR.<sup>16</sup>

The existence of a regime does not, however, ensure that States within the regime will cooperate or strive to uphold the principles of the regime. Instead, regimes, especially those with weaker governance arrangements, become sites of contestation where States and other actors pursue their own interests through various forms of power.<sup>17</sup> Such dynamics of contestation do not, in themselves, bring the existence of the regime itself into question but rather heighten the importance of developing nuanced and rigorous understandings of the politics of specific global regimes. This

11 Betts & Orchard (eds.), *Implementation and World Politics*; A. Hassenclaver, P. Mayer, & V. Rittberger, *Theories of International Regimes*, Cambridge, Cambridge University Press, 1997.

12 S.D. Krasner, “Structural Causes and Regime Consequences: Regimes as Intervening Variables”, *International Organization*, 36(2), 1982, 185.

13 A. Betts, G. Loescher, & J. Milner, *UNHCR: The Politics and Practices of Refugee Protection*, Abingdon, Routledge, 2012; A. Betts & J. Milner, *Governance of the Global Refugee Regime*, World Refugee Council Research Paper No. 13, Centre for International Governance Innovation (CIGI), May. 2019, available at: <https://www.cigionline.org/static/documents/documents/WRC%20Research%20Paper%20No.13.pdf> (last visited 15 Dec. 2021); E.G. Ferris & K.M. Donato, *Refugees, Migration and Global Governance: Negotiating the Global Compacts*, Abingdon, Routledge, 2019.

14 U. Krause, “Colonial Roots of the 1951 Refugee Convention and Its Effects on the Global Refugee Regime”, *Journal of International Relations and Development*, 24(3), 2020.

15 Betts & Milner, *Governance of the Global Refugee Regime*.

16 J. Milner, “Introduction: Understanding Global Refugee Policy”, *Journal of Refugee Studies*, 27(4), 2014, 480.

17 M. Barnett & R. Duvall (eds.), *Power in Global Governance*, Cambridge, Cambridge University Press, 2004; J.F. Keeley, “Toward a Foucauldian Analysis of International Regimes”, *International Organization*, 44(1), 1990; J. Milner & K. Wojnarowicz, “Power in the Global Refugee Regime: Understanding Expressions and Experiences of Power in Global and Local Contexts”, *Refuge: Canada’s Journal on Refugees*, 33(1), 2017.

is especially true in the context of the global refugee regime, with its diverging views between groups of States, its deeply entrenched politics, and its history of frequent moments of impasse.

With regimes being intensely political sites of contestation, it becomes important to understand the process by which new standards of behaviour emerge within a regime and come to be accepted by States and other actors.<sup>18</sup> As the “standard of appropriate behaviour for actors with a given identity”,<sup>19</sup> norms provide clarity on how States should behave.<sup>20</sup> Norms may also “define the limits of permissible behaviour for programs administered by international agencies”, such as UNHCR.<sup>21</sup> Finally, norms are understood to bring with them benefits for compliance and costs for non-compliance given the “prescriptive (or evaluative) quality of ‘oughtness’ that sets norms apart from other kinds of rules.”<sup>22</sup>

As with most regimes,<sup>23</sup> norms within the global refugee regime can be manifest in three possible ways. First, they can take the form of “treaty norms” as international legal agreements. The *1951 Convention* is the clearest example of this kind of norm for refugees and is thus recognised as the source of many of the regime’s foundational norms. Second, norms can emerge as “principle norms”, which may be informed by treaty norms and are manifest as “shared understandings that states either have not yet sought to codify or have chosen deliberately not to”.<sup>24</sup> An example here could be the emergence of the norm of *non-refoulement* as an element of customary international law, applying to even those States who are not party to the *1951 Convention*. Third, a much wider form of norms takes the shape of “policy norms”, statements that delineate standards of appropriate behaviour for either States or other actors, such as UNHCR. Given a reluctance of States to develop new international legal agreements over the past 20 years,<sup>25</sup> policy norms, especially in the form of global refugee policy,<sup>26</sup> has been an important means to address emerging issues and gaps within the refugee regime. For example, through the 2000s, norms (re)emerged that emphasised the need for refugee responses to include both humanitarian and development actors.<sup>27</sup> Likewise, norms relating to the need for international cooperation and responsibility-sharing are now central to the logic of the regime, as expressed in Conclusions of UNHCR’s ExCom.<sup>28</sup> Norms also have the potential to change, as illustrated by the evolution in UNHCR policies pertaining to the protection of

18 J. Milner, “Introduction: Understanding Global Refugee Policy”.

19 Finnemore & Sikkink “International Norm Dynamics and Political Change”, 891.

20 A. Betts & J.F. Durieux, “Convention Plus as a Norm-Setting Exercise”, *Journal of Refugee Studies*, 20(3), 2007, 515.

21 M. Soroos, “A Theoretical Framework for Global Policy Studies”, *International Political Science Review*, 11(3), 1990, 318.

22 Finnemore & Sikkink “International Norm Dynamics and Political Change”, 891.

23 Betts & Orchard (eds.), *Implementation and World Politics*, 8–11.

24 *Ibid.*, 9.

25 Betts, Loescher, & Milner, *UNHCR: The Politics and Practices of Refugee Protection*.

26 Milner, “Introduction: Understanding Global Refugee Policy”.

27 Betts & Durieux, “Convention Plus as a Norm-Setting Exercise”.

28 Ferris & Donato, *Refugees, Migration and Global Governance*; Betts, Loescher, & Milner (eds.), *UNHCR: The Politics and Practices of Refugee Protection*.

refugees in urban contexts.<sup>29</sup> Given this understanding of the presence of norms that are intended to guide behaviour in the global refugee regime, our research has focused on how we can understand the emergence of new norms, such as meaningful refugee participation, within the contested politics of the global refugee regime.

## 2.2. Positionality

We are not impartial observers in the process we discuss in this article. Instead, we have been actively engaged in the processes we describe as norm entrepreneurs seeking to advance meaningful refugee participation. In this way, we need to recognise and discuss our own positionality, the benefits it brings to the research, and the potential for bias. Two of us have lived refugee experience and have been active in global policy processes for several years. We met at the 2018 Global Refugee Summit and have been in close contact on how to advance refugee participation ever since. The third author is not from a refugee background. Instead, he has been a researcher on refugee issues for more than 20 years and has been actively engaged in supporting several of the initiatives discussed in this article through research and advocacy work. Together, we are actively collaborating to encourage States to include refugee advisors in their delegations to meetings of the global refugee regime through an initiative called Refugees Seeking Equal Access at the Table (R-SEAT).

This close involvement with the processes we examine raises the potential for bias in our analysis. We have been aware of this potential throughout the research process and have been vigilant to ensure that our argument is based on verifiable information that is available in the public domain. We also note that while our potential bias could have led us to conclude that meaningful refugee participation is already a norm in the global refugee regime, thus strengthening the moral and political basis for our work, our analysis has led us to the conclusion that meaningful refugee participation is not yet a norm. Instead of raising concern, we draw on the concept of “positionality”<sup>30</sup> to reflect on how the identities and priorities of all researchers condition the course of their research and recognise that “researchers are part of the social world they are researching”.<sup>31</sup> We also reflect on the extent to which our identities enhance or constrain our ability to understand and engage with the phenomenon we study in this research. Ultimately, we have found that our differentiated perspectives and forms of engagement with this area of research have enhanced our

- 29 J. Crisp, “Finding Space for Protection: An Inside Account of the Evolution of UNHCR’s Urban Refugee Policy”, *Refuge: Canada’s Journal on Refugees*, 33(1), 2017; N.J.W. Crawford, *The Urbanization of Forced Displacement: UNHCR, Urban Refugees, and the Dynamics of Policy Change*, Montreal, McGill-Queen’s University Press, 2021.
- 30 A.G.D. Holmes, “Researcher Positionality - A Consideration of Its Influence and Place in Qualitative Research”, *International Journal of Education*, 8(4), 2020; K. Kirsletter, “Insider, Outsider or Somewhere in between: The Impact of Researchers’ Identities on the Community-based Research Process”, *Journal of Rural Social Sciences*, 27(2), 2012; R. Mohammad, “Insiders and/or Outsiders: Positionality, Theory and Praxis”, in M. Limb & C. Dwyer (eds.), *Qualitative Methods for Geographers: Issues and Debates*, Oxford, Oxford University Press, 2001; W.E. Rowe, “Positionality”, in D. Cogan & M. Brydon-Miller (eds.), *The Sage Encyclopedia of Action Research*, New York, Sage, 2014.
- 31 A.G.D. Holmes, “Researcher Positionality - A Consideration of Its Influence and Place in Qualitative Research”, *International Journal of Education*, 8(4), 2020, 3.

ability to understand the process and identify potentially significant areas of nuance in the process we describe. While our experience has given us “insider” knowledge of the process, we have sought to ensure that our research is methodologically rigorous by ensuring that our analysis is guided by both individual experience and publicly available data.

Our collaboration guided every stage of the research process, from framing our research questions, data collection and analysis, and the production of knowledge in the form of this article. We will also be equally involved in the mobilisation of this knowledge. This level of collaboration is both practically useful, as it brings diverse perspectives and experiences into the research process, and ethically desirable. As noted by the ethical guidelines of the International Association for the Study of Forced Migration, “Forced migration scholarship often disproportionately benefits those who are least affected by displacement. To mitigate this problem and to promote maximum benefit from participation in research, we will include relevant partners throughout the research process [ . . . ].”<sup>32</sup>

### 2.3. Methods

Given our positionality, we began our research not by considering the initiatives with which we are involved, but by mapping current areas of practice in relation to refugee participation and by understanding the current position of States in relation to the commitment to refugee participation, as articulated in Paragraph 34 of the GCR, as outlined above. To do this, we reviewed statements delivered at meetings of UNHCR ExCom or in other meetings of the international refugee system between 2016 and 2020 to identify instances of support for refugee participation.<sup>33</sup> We found that 34 States have spoken in support of refugee “participation”, “inclusion” or “leadership” at least once during the period reviewed. Given the importance of the North–South divide in the refugee regime, as outlined below, we noted that 11 of these states were donor and/or resettlement countries conventionally understood to be in the global North,<sup>34</sup> while 23 of these countries were classified as being host countries, transit countries, or countries of origin in the global South.<sup>35</sup> The majority of countries (23) mentioned the issue in only one statement, while six countries (Afghanistan, Djibouti, Ireland, Mexico, Moldova, and Mozambique) mentioned the issue in two statements, Rwanda mentioned it in three statements, Ghana in four statements, and Canada in five statements.

We then analysed these statements to identify the form and context of refugee participation being considered by states as a means of identifying which examples of State practice required further consideration. Here, we found that most statements

32 International Association for the Study of Forced Migration (IASFM), *Code of Ethics: Critical Reflections on Research Ethics in Situations of Forced Migration*, 2018, available at: <http://iasfm.org/wp-content/uploads/2018/11/IASFM-Research-Code-of-Ethics-2018.pdf> (last visited 27 December 2021).

33 Sincere thanks to Tasnim Rashid for her research support for this process.

34 Canada, Denmark, Finland, Ireland, Korea, Malta, the Netherlands, Portugal, Spain, Sweden, and Switzerland.

35 Afghanistan, Algeria, Chile, Djibouti, El Salvador, Georgia, Ghana, Moldova, Mexico, Mozambique, Mauritania, Morocco, Peru, the Philippines, Rwanda, Somalia, Togo, Tunisia, Uganda, Uruguay and Zimbabwe.



relating to refugee participation were in relation to the participation of refugees in local and national arrangements and their inclusion in the local economy. For example, Ghana's statement to the 2016 meeting of UNHCR ExCom highlighted the need to "encourage participation of the refugees in host community and local governance arrangements to deepen trust and ensure prolonged amicable relations and co-existence". It was only States in the global North, especially Canada, Ireland, and the Netherlands, that reflected on the importance of refugee participation in decision-making processes at various levels. At the 2020 meeting of UNHCR's ExCom, for example, Ireland noted that "the strong message from the High Commissioner [for Refugees] about the inclusion of refugees and displaced persons in every aspect of our response is both commendable and pragmatic".

We sought to verify this distinction between the economic inclusion of refugees at the domestic level and the inclusion of refugees in global decision-making procedures by examining forms of practice by all States that spoke in favour of refugee participation in meetings of the global refugee regime since 2016.<sup>36</sup> Again, we found that most forms of State practice in the area of refugee participation related to domestic issues. For example, the Refugee Act in Uganda calls for the inclusion of refugees in the governance of service delivery, Brazil has incorporated migrant advisory boards at municipal and regional levels in response to the arrival of individuals from Venezuela seeking protection, and Ireland has created opportunities for refugees and asylum seekers to provide input to the development of a new reception system while also permitting refugees to run in local elections. As detailed below, a more limited number of States have made commitments to advance refugee participation in the decision-making of the global refugee regime. Given the focus of our research, we included in our study those States that had exhibited support for the meaningful participation of refugees in decision-making at the global level.

Next, we reviewed statements and events on the margins of meetings of the global refugee regime to identify other actors that have been engaged in the promotion of a norm of refugee participation. Through this process, we identified a number of events organised by refugee-led initiatives, especially the event on the margins of the GRF in December 2019 where the Global Refugee-led Network (GRN) launched their guidelines for meaningful refugee participation. Through this review, we also identified initiatives and activities undertaken by UNHCR in relation to the principle of meaningful refugee participation. Our analysis ultimately concentrated on four sites of norm emergence, as detailed below: the work of the GRN; UNHCR-led initiatives; the inclusion of refugees in State delegations to meetings of the global refugee regime; and refugee participation in the governance of resettlement.

### 3. THE NORM LIFECYCLE

To better understand the emergence of norms within these four sites, we draw on the framework developed by Finnemore and Sikkink<sup>37</sup> to understand the lifecycle of

36 Sincere thanks to a team of student researchers led by Veronica Overlid and including Noah Harrison, Luiz Leomil, Miranda Lowe, Alexandra Lund-Murray, Lilly Neang, Tasnim Rashid, Ava Scott-Moncrieff and Danett VanTassel for their exceptional work in undertaking the data collection and preliminary analysis for this research.

37 Finnemore & Sikkink, "International Norm Dynamics and Political Change".

norms. Norms are central to the functioning of regimes, but it is not inevitable that new norms will emerge in response to new demands, challenges, or needs identified by actors within a regime. Instead, Finnemore and Sikkink argue that the emergence of new norms is itself a political process of contestation, with various actors advocating in favour of a particular norm and to convince a critical mass of actors within a regime to adopt a new norm. To explain this process, Finnemore and Sikkink develop the framework of the norm lifecycle to explain how new norms emerge, cascade through a regime, and eventually become internalised and an accepted part of the regime. To begin, Finnemore and Sikkink argue that new norms emerge on the international agenda through the work of norm entrepreneurs, arguing that “norms do not appear out of thin air; they are actively built by agents having strong notions about appropriate or desirable behaviour”.<sup>38</sup> Similar to the agenda-setting stage in global refugee policy,<sup>39</sup> norm entrepreneurs are able to raise the profile of particular issues or gaps within regimes, use language and other forms of productive power to frame issues in particular ways,<sup>40</sup> and mobilise political strategies to build support for a new norm. In this way, Finnemore and Sikkink note that “new norms never enter a normative vacuum but instead emerge in a highly contested normative space where they must compete with other norms and perceptions of interest”.<sup>41</sup> It is thus through a process of competition and contestation that norm entrepreneurs vie for the attention and support of those actors capable of advancing new norms.

Rosert develops our understanding of the various ways that norms may emerge on the global agenda.<sup>42</sup> Drawing on the work of Kratochwil, Clapp and Swantston, and Kelley, Rosert illustrates how candidate global norms can arrive on the global agenda as a result of habits, national legislation, practice on the part of governments or international organisations. Drawing on the public policy cycle,<sup>43</sup> Rosert argues that norms emerge through four stages: first, norm entrepreneurs define an issue as a “problem”; second, the problem is given visibility through various public means; third, the candidate norm is brought to the agenda of a decision-making forum capable of advancing the norm; and, fourth, “the candidate norm appears on the institutional decision-making agenda, where norm negotiations take place”.<sup>44</sup> As detailed below, we argue that the norm of meaningful refugee participation is currently at this final stage of this norm emergence process.

38 *Ibid.*, 896.

39 Milner, “Introduction: Understanding Global Refugee Policy”. See also Barnett & Duvall (eds.), *Power in Global Governance*.

40 See also Barnett & Duvall, *Power in Global Governance*.

41 Finnemore & Sikkink, “International Norm Dynamics and Political Change”, 897.

42 E. Rosert, “Norm Emergence as Agenda Diffusion: Failure and Success in the Regulation of Cluster Munitions”, *European Journal of International Relations*, 25(4), 2019.

43 See Milner, “Introduction: Understanding Global Refugee Policy”.

44 See F.V. Kratochwil, *Rules, Norms, and Decisions. On the Conditions of Practical and Legal Reasoning in International Relations and Domestic Affairs*, Cambridge, Cambridge University Press, 1991; J. Clapp & L. Swantston, “Doing Away with Plastic Shopping Bags: International Patterns of Norm Emergence and Policy Implementation”, *Environmental Politics* 18(3), 2009; J. Kelley, “Assessing the Complex Evolution of Norms: The Rise of International Election Monitoring”, *International Organization*, 62(2), 2008; Rosert, “Norm Emergence as Agenda Diffusion: Failure and Success in the Regulation of Cluster Munitions”, 1103.

Once a norm has “emerged”, Finnemore and Sikkink argue that it enters the second stage in the norm lifecycle: norm cascade.<sup>45</sup> They argue that “after norm entrepreneurs have persuaded a critical mass of states to become norm leaders and adopt new norms [...] we can say the norm reaches a threshold or tipping point” and the norm cascades through the regime towards the stage of being internalised within the regime. Working through institutional platforms such as international organisations, norm entrepreneurs seek to convince a critical mass of states to accept a new norm. But what constitutes a “critical mass”? To this point, Finnemore and Sikkink note that “although it is not possible to predict exactly how many states must accept a norm to ‘tip’ the process, because states are not equal when it comes to normative weight, empirical studies suggest that norm tipping rarely occurs before one-third of the total states in the system adopt the norm”.<sup>46</sup>

Critically, however, Finnemore and Sikkink further note that

it also matters which states adopt the norm. Some states are critical to a norm’s adoption; others are less so. What constitutes a “critical state” will vary from issue to issue, but one criterion is that critical states are those without which the achievement of the substantive norm goal is compromised.<sup>47</sup>

This is equally the case in the context of the global refugee regime. While the *Rules of Procedure* for UNHCR’s ExCom gives equal decision-making authority to all Member States,<sup>48</sup> the politics of the global refugee regime gives particular influence to UNHCR’s largest donor states and the largest refugee-hosting states. As argued by Betts and Milner:

In practice, a relatively small number of states determine outcomes for refugees. Just 10 host countries host 60 percent of the world’s refugees. Meanwhile, just 10 donor states provide around 80 percent of the UNHCR’s funding and over 80 percent of resettlement places. It is these 20 countries that currently have the greatest impact on outcomes for refugees.<sup>49</sup>

It is for this reason that candidate norms within the global refugee regime arguably need to be adopted by key states in the global North, primarily donor and resettlement states, and major refugee-hosting states in the global South. As evidenced in the experience of efforts to develop new policy norms to address the issue of protracted refugee situations in the late 2000s, efforts to bring new norms past the tipping point without support from states in both the global North and global South are unlikely to succeed.<sup>50</sup>

45 Finnemore & Sikkink, “International Norm Dynamics and Political Change”, 901.

46 *Ibid.*

47 *Ibid.*

48 UNGA, *Rules of Procedure*, UN Doc. A/AC.96/187/Rev.8, Oct. 21.

49 Betts & Milner, *Governance of the Global Refugee Regime*, 10.

50 J. Milner & G. Loescher, *Responding to Protracted Refugee Situations: Lessons from a Decade of Discussion*, Forced Migration Policy Briefing 6, Refugee Studies Centre, University of Oxford, Jan. 2011, available at: <https://www.rsc.ox.ac.uk/files/files-1/pb6-responding-protracted-refugee-situations-2011.pdf> (last visited 16 Dec. 2021).

Once “enough states and enough critical states endorse the new norm to redefine appropriate behavior”, Finnemore and Sikkink argue that norms enter the final state of the process and become internalised.<sup>51</sup> At this stage, “norms become so widely accepted that they are internalized by actors and achieve a ‘taken-for-granted’ quality that makes conformance with the norm almost automatic”.<sup>52</sup> It is at this point that Betts and Orchard argue that norms enter the distinct and parallel process of implementation, as norms leave the global level where they are created and encounter diverse local contexts where they must be implemented.<sup>53</sup> Critically, however, the level of implementation of a norm, or the limited implementation of a norm, does not bring the existence of the norm into question; instead, it highlights the importance of seeing norm creation and norm implementation as distinct processes. For example, as the uneven implementation of norms relating to the rights of women in diverse contexts does not bring the norm of women’s rights themselves into question.<sup>54</sup>

#### 4. THE EMERGENCE OF REFUGEE PARTICIPATION

In light of this framework and the thresholds it suggests, are we witnessing the emergence of a norm of meaningful refugee participation? In answering this question, it is important to begin with Harley’s call to challenge “the assumption that until relatively recently refugees or persons with lived refugee experience have not been involved in the development of international refugee law and policy”.<sup>55</sup> Instead, he argues in detail how “persons with lived refugee experience exercised significant influence and thought-leadership in the development of international refugee law and policymaking during the foundational years between 1921 and 1955”, including through the drafting of international legal instruments and the functioning of international organisations, including UNHCR.<sup>56</sup> In fact, Harley notes that “it is one of the lesser reported facts of the international refugee regime and the history of UNHCR that the first high commissioner of UNHCR, Gerrit Jan van Heuven Goedhart, had lived experience of being forcibly displaced”.<sup>57</sup> In this way, Harley’s analysis clearly illustrates that refugees did once play a central role in the highest level of decision-making within the global refugee regime.

Although there is no indication that this level of refugee participation was a norm in the early stages of the regime’s existence, as opposed to an intentional or unintentional form of practice, it is useful to consider how the early levels of participation highlighted by Harley ceased to be common practice within the global refugee regime. Here, the work of Barnett helps explain the shifting power relations between UNHCR and refugees and the associated marginalisation of refugees within the

51 Finnemore & Sikkink, “International Norm Dynamics and Political Change”, 902.

52 *Ibid.*, 904.

53 Betts & Orchard, *Implementation and World Politics*.

54 L. Engberg-Pederson, A. Fejerskov, & S.M. Cold-Ravnkilde (eds.), *Rethinking Gender Equality in Global Governance: The Delusion of Norm Diffusion*, Cham, Springer, 2019.

55 Harley, “Refugee Participation Revisited: The Contributions of Refugees to Early International Refugee Law and Policy”, 60.

56 *Ibid.*

57 *Ibid.*, 72.

decision-making of the global refugee regime. In his reflection on power and paternalism, Barnett outlines how UNHCR increasingly relied on its claims of moral and expert authority to navigate the politics of humanitarian responses through the 1990s.<sup>58</sup> In response to increased competition and UNHCR's weak mandate and reliance on voluntary contributions explains how "UNHCR used humanitarianism's moral authority and its growing expert authority to expand assistance and programmes for a broader understanding of refugees and other populations in need."<sup>59</sup> Barnett continues that "at those times when [UNHCR] simply acted without asking the refugees what were their preferences, it might have had good reasons, either because there were no good choices or because it would have been logistically and practically impossible to assess what the refugees wanted".<sup>60</sup> Coupled with the changing nature and professionalisation of humanitarian responses in the 1990s<sup>61</sup> and more restrictive policy approaches by refugee-hosting states,<sup>62</sup> this pattern of paternalism further distanced refugees from the decision-making process.

This dynamic established in the early 1990s continued largely unchallenged through the 2000s. As global refugee numbers increased, and as States in the global North sought to contain refugees within their regions of origin,<sup>63</sup> it became regular practice that refugees were consulted in limited or performative ways.<sup>64</sup> While refugees played differentiated roles in decision-making in local and camp contexts through the 1990s and early 2000s,<sup>65</sup> and while refugees employed tactics such as protest to seek access to decision-making processes that affected them,<sup>66</sup> where refugees were present in global decision-making spaces, their interventions were tightly scripted and focused on sharing their experience of displacement, not as substantive contributors to the governance process.<sup>67</sup>

#### 4.1. 2015 and challenges to the status quo

These dynamics began to change in significant ways in 2015, largely in response to the actions of Syrian and other refugees.<sup>68</sup> Between 2011 and 2014, some 3 million Syrian refugees fled to Lebanon, Jordan, and Turkey. While conditions in Turkey were initially favourable to refugees, conditions in all three countries became restrictive as international assistance to hosting countries remained limited and as the

58 M. Barnett, "Humanitarianism, Paternalism, and the UNHCR", in A. Betts & G. Loescher (eds.), *Refugees in International Relations*, Oxford, Oxford University Press, 2011.

59 See also: G. Loescher, *The UNHCR and World Politics: A Perilous Path*, Oxford, Oxford University Press, 2001; Barnett, "Humanitarianism, Paternalism, and the UNHCR", 118.

60 Barnett, "Humanitarianism, Paternalism, and the UNHCR", 121.

61 Weiss, *Humanitarian Business*, Cambridge, Polity Press, 2013.

62 J. Milner, *Refugees, the State and the Politics of Asylum in Africa*, London, Palgrave-Macmillan, 2009.

63 See, *inter alia*, Betts, Loescher, & Milner, *UNHCR: The Politics and Practice of Refugee Protection*.

64 W. Jones, *Refugee Voices*, World Refugee Council Research Paper, no. 8, CIGI, Feb. 2019, available at: <https://www.cigionline.org/publications/refugee-voices/> (last visited 17 Dec. 2021).

65 See E. Olivius, "(Un)governable Subjects: The Limits of Refugee Participation in the Promotion of Gender Equality in Humanitarian Aid", *Journal of Refugee Studies*, 27(1), 2014.

66 K. Jacobsen, "Durable Solutions and the Political Action of Refugees", in M. Bradley, J. Milner, & B. Peruniak (eds.), *Refugees' Roles in Resolving Displacement and Building Peace*, Washington DC, Georgetown University Press, 2019.

67 Jones, *Refugee Voices*.

68 Ferris & Donato, *Refugees, Migration and Global Governance*, 87–96.

situation became protracted.<sup>69</sup> By April 2015, Syrian refugees began to move in significant numbers through Turkey to seek access to the European Union. It was a demonstration of collective agency and a rejection of the policy paradigms being implemented to contain refugees within the region. As noted by Ferris and Donato,

As Syrians began to leave in large numbers – literally walking across Europe – they were joined by asylum seekers from other countries – Afghans, Iraqis, Iranians, Eritreans – and by migrants who saw this as an opportunity to enter Europe. The number of arrivals – and asylum-seekers – in Europe soared.<sup>70</sup>

By December 2015, it was estimated that some 911,000 individuals had sought asylum in Europe that year, often despite significant personal risk. While refugees from diverse nationalities had been seeking access to Europe through various means for many years, the arrival of such a significant number of individuals seeking asylum in such a short period of time created a significant challenge to which European States seemed unwilling or unable to respond.

It was quickly noted that the flaws in the international refugee response system made so visible by events in Europe were indicative of structural limitations that had been present in the global refugee regime for years. In addition to the situation in Europe, Ferris and Donato point to the punitive responses from the US and Australia to individuals seeking asylum there.<sup>71</sup> Following growing demands for change from refugees, civil society, and the wider public, and the continued demonstration of agency by refugees themselves in moving away from increased funding to major refugee-hosting countries in the region, the United Nations System initiated a process to respond through the development of new agreements focused not only on the situation in Europe but in response to deeper, structural flaws within the global response system.<sup>72</sup>

What followed was a remarkably quick process. On 20 November 2015, the United Nations General Assembly convened a plenary session to discuss new approaches. Speaking at the session, UN Secretary-General Ban Ki-moon called for a “new approach to manage the challenges of global mobility, built on equitable responsibility sharing”.<sup>73</sup> While States called for greater funding and reliable responsibility sharing in response to large movements of refugees and migrants, not a single

69 *Ibid.*, 88.

70 *Ibid.*, 89.

71 *Ibid.*, 81–86.

72 H. Bahram, *Between Tokenism and Self-Representation: Refugee-Led Advocacy and Inclusion in International Refugee Policy*, RESPOND Working Paper Series, Global Migration: Consequences and Responses, Paper 2020/58, Jul. 2020, available at: <https://respondmigration.com/wp-blog/between-tokenism-and-self-representation-refugee-led-advocacy-and-inclusion-in-international-refugee-policy> (last visited 27 Dec. 2021); Ferris & Donato, *Refugees, Migration and Global Governance*; J. Milner, “Canada and the Global Compact on Refugees: A Case Study of Influence in the Global Refugees Regime”, in Y. Samy & H. Duncan (eds.), *International Affairs and Canadian Migration Policy: Canada among Nations*, Cham, Springer, 2021.

73 United Nations Secretary-General, *Statement: At General Assembly Meeting on Tragedies of Irregular Migration, Secretary-General Calls for New Approach to Managing Global Mobility Challenges*, SG/SM/17344-GA/11730-REF/1221, 20 Nov. 2015, available at: <https://www.un.org/press/en/2015/sgsm17344.doc.htm> (last visited 10 Mar. 2022).

statement addresses questions of refugee participation.<sup>74</sup> Likewise, when the UN Secretary-General issued his report in April 2016 calling for greater international cooperation and measures to support refugee-hosting countries, the only mention of participation for refugees was in the context of repatriation and the need for “promoting equity among returnees, displaced persons and local residents in access to essential services and participation in public life”.<sup>75</sup>

It may, then, come as little surprise that the 2016 New York Declaration, adopted by States on 19 September 2016, also contained limited reference to any principle of refugee participation. While Members of the UN General Assembly invited “the private sector and civil society, including refugee and migrant organizations, to participate in multi-stakeholder alliances to support efforts to implement” commitments contained in the New York Declaration,<sup>76</sup> there was no commitment to including refugees in the development and framing of such commitments. Likewise, while States recognised “the significant contribution and leadership of women in refugee and migrant communities”, and committed to “work to ensure their full, equal and meaningful participation in the development of local solutions and opportunities”,<sup>77</sup> there was no parallel commitment to their meaningful participation in the development of global policy responses.

Despite these limited references to participation in the text of the Declaration, the opening of the UN General Assembly Session intended to adopt the text included statements from a refugee, Mohammed Badran, and a migrant, Eni Lestari Andayani Adi. In his statement, Badran noted that refugees had been “waiting for the day that the world would hear our voice”, noting that “I hope that day is today.”<sup>78</sup> This hope was arguably unfulfilled as the text of the New York Declaration had been negotiated by States in the summer of 2016 and finalised in time for it to be sent for translation in early August 2016, meaning that Badran’s intervention had no impact on the text of the New York Declaration.

#### 4.2. The Global Compact on Refugees and demands for refugee participation

While the experience of September 2016 reflected what Jones identifies as the performative nature of refugee participation,<sup>79</sup> it can still be identified as a moment of change for claims for meaningful participation by refugees. First, the adoption of the New York Declaration started a 2-year process to develop a GCR.<sup>80</sup> This process became a particular site of contestation in which claims for participation in the decision-making process of the global refugee regime could be advanced. Second, the experience of Badran in 2016 contributed to the creation of the Network for

74 International Institute for Sustainable Development (IISD), “UNGA Meets Informally on Refugee Crisis”, 23 Nov. 2015, available at: <http://sdg.iisd.org/news/unga-meets-informally-on-refugee-crisis/> (last visited 22 Dec. 2021).

75 UNGA, *In Safety and Dignity: Addressing Large Movements of Refugees and Migrants Report of the Secretary-General*, UN Doc. A/70/59, 21 Apr. 2016.

76 *Ibid.*, 16.

77 *Ibid.*, 31.

78 M. Badran, “Opening Statement on Behalf of Refugees: UN Summit for Refugees and Migrants”, 19 Sep. 2016, available at: <https://youtu.be/t8KwTW-r5Os> (last visited 22 Dec. 2021)

79 W. Jones, *Refugee Voices*.

80 Ferris & Donato, *Refugees, Migration and Global Governance*, 100–114.

Refugee Voices (NRV), which can be seen to have played an important role in advancing arguments for meaningful refugee participation both in the process leading to the GCR and in the GCR itself. Officially founded in 2017,<sup>81</sup> the NRV “chose to operate at a global level to address the lack of refugee inclusion in ongoing international discussions leading up to the process of the GCR”.<sup>82</sup> Moreover, the NRV’s approach was to emphasise “refugees as active agents and experts in international policy making”.<sup>83</sup>

These objectives were also central to the work of the Global Refugee Youth Consultations (GRYC). With the support of UNHCR and the Women’s Refugee Commission, some 1,450 young refugees from 34 countries participated in GRYC process during 2015 and 2016. This participatory process created a platform for refugee youth to share their perspectives and make recommendations on new areas of policy and practice that respond to 10 core challenges identified through the consultations. These recommendations were presented at the UNHCR–non-governmental organisations (NGO) Consultations in June 2016, which included the participation of 36 refugee representatives. The work of GRYC led to the appointment of a Global Youth Advisory Council (GYAC) by UNHCR in 2017.<sup>84</sup> GYAC then played an active role in the process leading to the GCR, participating in a number of thematic consultations in 2017, facilitating consultations with refugee youth in 10 countries in 2018, and producing a series of recommendations that were shared with UNHCR and states in Geneva.<sup>85</sup>

While it would be problematic to ascribe independent causal significance to the work of the NRV or GYAC on the emergence of commitments to meaningful refugee participation through the GCR process, and while additional research could usefully provide more details on the dynamics and strategies of these networks, the work of the NRV and GYAC can be seen as illustrative of a broader trend that became evident through the GCR process. Bahram notes that the process from 2017 to 2018 that resulted in the GCR “witnessed an active and persistent participation by civil society actors, INGOs, youth representatives and self-organized refugee groups [ . . . ]”.<sup>86</sup> This mobilisation of refugee engagement in this global policy process was a marked departure from the marginal role refugees played in the development of the New York Declaration.

The scope of refugee engagement was arguably illustrated by the Global Summit of Refugees, held on 25–26 June in advance of the 2018 UNHCR–NGO Consultations in Geneva and ahead of the last round of formal consultations on the text of the GCR. Organised by the Australian National Committee on Refugee

81 For details on the establishment and composition of the Network for Refugee Voice (NRV), see Bahram (2020).

82 Bahram, *Between Tokenism and Self-Representation: Refugee-Led Advocacy and Inclusion in International Refugee Policy*, 5–6.

83 *Ibid.*, 6.

84 For details on the establishment and composition of Global Youth Advisory Council (GYAC), see GYAC (2018).

85 GYAC, “Global Youth Advisory Council: Annual Report 2018”, Dec. 2018, available at: <https://www.unhcr.org/5c90f4d84.pdf> (last visited 2 Feb. 2022).

86 Bahram, “Between Tokenism and Self-Representation: Refugee-Led Advocacy and Inclusion in International Refugee Policy”, 5.



Women and NRV, in partnership with Refugee Council of Australia and Independent Diplomat, the summit convened a group of “72 refugee representatives from 27 host countries in Latin America, North America, Europe, Africa, the Middle East, Asia, Australia and New Zealand”.<sup>87</sup> Guided by the preparatory work of a Steering Committee, the Summit produced recommendations on five key themes, the first of which was participation and agency, defined as “the way in which refugees and others forcibly displaced can participate meaningfully and exert influence in decision-making processes that affect their lives”.<sup>88</sup> In discussing the opportunities and challenges for refugee participation, the Summit produced recommendations on the need for an “inclusive international platform for refugee participation”, for RLOs and networks to be “guaranteed a seat at the table at all levels [...] to represent the concerns of affected populations in policy and decision-making for a relating to forced displacement”, including meetings of UNHCR’s ExCom, and that “all actors involved in international protection must consider and actively work towards the meaningful inclusion and enablement of refugee-led organizations and initiatives as equal partners [...]”.<sup>89</sup> These statements arguably constitute a clear indication of what a norm of refugee participation *should* be, but does not, on their own, constitute a global norm on refugee participation. It does, however, constitute a discernible moment when refugee-led initiatives began to consciously organise as norm entrepreneurs and engage with the activities identified by Rosert to advocate for the inclusion of the candidate norm on the agenda of the global refugee regime’s decision-making agenda.<sup>90</sup>

In fact, the recommendations of the June 2018 Summit represented an articulation of one of the central goals of refugee leaders and other advocates through the development of the GCR since the start of 2017. The multi-stakeholder approach to the thematic consultations organised by UNHCR throughout 2017 enabled the participation of several refugee-led initiatives in the early development of the GCR.<sup>91</sup> Through these consultations, refugee-led initiatives argued for the importance of refugee participation, not only as a morally desirable action but also to enhance the effectiveness and legitimacy of decisions taken in the decision-making bodies of the global refugee regime. It was here that norm entrepreneurs advocated for a clear norm of meaningful refugee participation: that refugees from diverse background should have substantive and sustained influence in processes where decisions are made that affect their lives.

This advocacy, combined with the support of States such as Canada, arguably contributed to the inclusion of arguably strong language on the benefits of refugee participation in the “zero draft” of the GCR in January 2018 and the fact that the

87 NRV, “Policy Discussion and Outcomes Paper”, Aug. 2018, available at: [https://www.networkforrefugeevoices.org/uploads/1/0/9/9/109923753/gsor\\_outcomes\\_and\\_policy\\_paper\\_final.pdf](https://www.networkforrefugeevoices.org/uploads/1/0/9/9/109923753/gsor_outcomes_and_policy_paper_final.pdf) (last visited 22 Dec. 2021), 1.

88 *Ibid.*, 4.

89 *Ibid.*, 15.

90 Rosert, “Norm Emergence as Agenda Diffusion: Failure and Success in the Regulation of Cluster Munitions”, 2019.

91 Ferris & Donato, *Refugees, Migration and Global Governance*.

text remained remarkably unchanged through the formal consultation process.<sup>92</sup> The fact that this text remained largely unchanged is in contrast to the political struggles over other elements of the GCR and significant revisions to the text through four versions of the text between January and July 2018.<sup>93</sup> It is helpful here to note the similarities between the four versions:

- “Zero Draft” (31 January 2018), Paragraph 26: “Responses are most effective when they actively engage those they are intended to protect and assist. National authorities, UNHCR, and other relevant stakeholders will continue to develop and support consultative processes that enable refugees and host communities to assess their own needs and help to design appropriate responses”;
- “Draft One” (9 March 2018), Paragraph 31: “In recognition of the fact that responses are most effective when they actively engage those they are intended to protect and assist, national authorities, UNHCR, and other relevant stakeholders will continue to develop and support consultative processes that enable refugees and host communities to assess their needs and help to design appropriate responses”;
- “Draft Two” (30 April 2018), Paragraph 35. “In recognition of the fact that responses are most effective when they actively engage those they are intended to protect and assist, relevant actors will, wherever possible, continue to develop and support consultative processes that enable refugees and host communities to help design appropriate responses”; and
- “Final Draft” (26 June 2018), Paragraph 34: “Responses are most effective when they actively and meaningfully engage those they are intended to protect and assist. Relevant actors will, wherever possible, continue to develop and support consultative processes that enable refugees and host community members to assist in designing appropriate, accessible and inclusive responses”.

This final version was included as Paragraph 34 in the GCR as affirmed by the UN General Assembly in December 2018.

Paragraph 34 of the GCR does not, on its own, constitute a norm of meaningful refugee participation. While it articulates the potential benefits of refugee participation, especially in terms of enhancing the efficacy of refugee responses, it arguably does not articulate the level of “oughtness” required of a norm, as outlined by Finnemore and Sikkink.<sup>94</sup> Instead of saying that relevant actors, including States and UNHCR, *shall* ensure that refugees play a meaningful role in designing responses, it notes that such actors will try to develop and support such processes. This level of articulation does not meet the threshold of a norm. But Paragraph 34 of the GCR is not the endpoint in efforts by norm entrepreneurs to bring the issue of meaningful refugee participation onto the decision-making agenda of the global refugee regime and to advocate for it to be adopted as a new standard of appropriate behaviour for States and UNHCR. In fact, the period from December 2018 to 2021 has seen several potentially significant developments as

92 Milner, “Canada and the Global Compact on Refugees”.

93 Ferris & Donato, *Refugees, Migration and Global Governance*.

94 Finnemore & Sikkink, “International Norm Dynamics and Political Change”, 891.

various actors have sought to promote the norm. How can we understand the current state of the norm of meaningful refugee participation? Is it an emerging norm?

## 5. SITES OF NORM EMERGENCE

To answer these questions, we examine four sites of norm emergence: Refugee-led initiatives, the actions and statements of States, and initiatives involving UNHCR, both in relation to its own policy process and its involvement in joint efforts, especially the Resettlement Working Group and the Annual Tripartite Consultations on Resettlement (ATCR). This section describes and analyses these initiatives in light of the framework on norm emergence, outlined above.

### 5.1. The GRN

Following the Global Refugee Summit in 2018, the GRN emerged as a potentially significant norm entrepreneur in relation to refugee participation. From late 2018 through 2019, the GRN hosted regional consultations in Asia, Africa, the Middle East and North Africa and Europe.<sup>95</sup> The objective of these meetings was to engage with a wider range of perspectives than those present at the Global Summit in 2018 and to develop stronger guidelines and recommendations for advancing participation. Addressing participation at local, national, and international levels, the results of consultation process contributed to the GRN Guidelines, launched at an event in Geneva on the margins of the first GRF in 2019.<sup>96</sup>

Based on the recommendations of the Guidelines, the GRN used the pledging model of the GRF to try to build a coalition of actors required to advance the norm of meaningful refugee participation. Specifically, GRN issued the “refugee participation pledge”, asking States and other actors to

pledge to support the meaningful participation of refugees and host communities in decisions that affect their lives. Participation should take into account the diversity within communities, including age, gender, and disability. This pledge will support the agency of those we seek to assist while improving the relevance, quality, transparency and accountability of that assistance.<sup>97</sup>

Ultimately, four States signed the pledge: Australia, Canada, Denmark, and the Netherlands, indicating a potentially growing level of State support. As with Paragraph 34 of the GCR, however, the pledge does not itself constitute the articulation of a norm as it does not ask States and others to uphold the norm in their own actions.

The GRN’s more recent activities, however, have brought greater clarity into the form that a norm of refugee participation in the global refugee regime might take. In advance of the December 2021 HLOM, the GRN convened a virtual meeting to identify

95 Global Refugee-Led Network (GRN), “Meaningful Refugee Participation as Transformative Leadership: Guidelines for Concrete Action”, Dec. 2021, available at: [https://www.globalrefugeenetwork.org/images/downloads/meaningful-refugee-participation-guidelines\\_web.pdf](https://www.globalrefugeenetwork.org/images/downloads/meaningful-refugee-participation-guidelines_web.pdf) (last visited 21 Dec. 2021)

96 *Ibid.*

97 GRN, “Press Release: Refugees Call on World Leaders to Pass the Mic at the Two-Year Review of the Global Compact on Refugees.” Geneva, 15 Dec. 2021, available at: <https://www.globalrefugeenetwork.org/index.php/en/publications-and-news/press-statements> (last visited 21 Dec. 2021).

what form meaningful refugee participation should take in the functioning of the global refugee regime. While some of their calls focused on refugee participation in local and national responses, such as funding to RLOs and enhanced access for refugees to national health systems, two of the recommendations relate specifically to refugee participation in global settings: a minimum of 25 per cent of delegates attending the 2023 GRF being refugees (up from some 3 per cent in 2019) and a refugee delegation to UNHCR's ExCom by 2023.<sup>98</sup>

The inclusion of a refugee delegation at the primary global decision-making forum of the refugee regime would constitute a potentially significant innovation in the functioning of the refugee, but would it contribute to the advancement of a norm of meaningful refugee participation? As detailed in ExCom's *Rules of Procedure*,<sup>99</sup> only UN Member States can apply to participate in the formal business of ExCom. UN Member States must apply to the UN Secretary-General to be considered for admission to ExCom. The final decision to admit new members resides with the UN General Assembly through its delegated responsibility to the United Nations Economic and Social Council. All other stakeholders at ExCom participate as observers, and only at public meetings of ExCom. There are specific rules (37 and 38) that govern the participation of specialised UN agencies and intergovernmental organisations. Likewise, there are clear rules (39, 40, and 41) of which NGOs can participate as observers. Each of these rules could be employed to allow for the inclusion of a refugee delegation at ExCom, but it would structurally limit the role of refugees as observers in decision-making, not active participants.

That said, there may be significant value in a refugee delegation at global meetings such as ExCom. A refugee delegation that is representative of the significant diversity of refugee experiences and perspectives would bring considerable moral authority to its activities. Likewise, a unified refugee delegation would potentially be able to develop and advance compelling advocacy points during global meetings and seek to influence the position of States and UNHCR through conversations on the margins of global meetings. Finally, it would arguably not be safe for all refugees to participate in delegations of ExCom Member States, as discussed below. As such, a refugee delegation may provide a safer space for refugee advocacy at global meetings. These considerations could usefully factor in future discussions on this area of innovation in refugee participation at the global level and contribute to the further emergence of a norm of meaningful refugee participation.

## 5.2. UNHCR

A second site of norm emergence on refugee participation has been within UNHCR. In particular, UNHCR has been engaged in a process that is intended to result in a framework for partnering with RLO.<sup>100</sup> While this work is focused primarily on refugee participation in local and national operational contexts, it could lay the foundation for the emergence of a policy norm within UNHCR when considered along with other

98 *Ibid.*

99 UNGA, *Rules of Procedure*.

100 United Nations High Commissioner for Refugees (UNHCR), "UNHCR's Task Team on Engagement and Partnership with Persons of Concern-Led Organizations: Briefing Note", Aug. 2021, available at: <https://www.unhcr.org/publications/brochures/61b28b094/unhcrs-task-team-engagement-partnership-persons-concern-led-organizations.html> (last visited 21 Dec. 2021).

commitments made by the organisation. While this would not constitute a norm that defines the “standards of appropriate behaviour” for actors other than UNHCR, given UNHCR’s productive power,<sup>101</sup> and given the influence of global refugee policy advanced by UNHCR,<sup>102</sup> future research could consider if and how this area of activity within UNHCR could potentially have implications on the behaviour of States.

As noted above, UNHCR’s own history of engaging with the meaningful participation of refugees has been contested. While 2015 presented a moment of change in relation to refugee participation in global settings, UNHCR’s own guidelines on refugee participation began to change much earlier. For example, Chapter 3 of UNHCR’s 2008 handbook, *A Community-based Approach in UNHCR Operations*, provides detailed discussions on the principle and practice of participation in field settings. However, it was not until nearly 10 years later that UNHCR brought these principles to a global level through UNHCR’s Five Strategic Directions, first adopted by UNHCR at ExCom in 2017 and renewed for an additional 5 years at ExCom 2021. Direction 4 of the document is entitled “Empower”, in which UNHCR notes that

we will hold ourselves accountable to the people we serve in all aspects of our work by involving them, including women and youth, in identifying and analysing their needs and the risks they face, and in designing, implementing and evaluating our operations, to actively pursue innovative ways to amplify the voices of the people we work for, and take advantage of new technologies to enhance our ongoing dialogue with them and their connectivity with the global community.<sup>103</sup>

This commitment could serve as the basis for extending UNHCR’s commitment to refugee participation in local and national contexts to the meaningful participation of refugees in global decision-making processes.

While the substantive impact of the forms of refugee participation that have flowed from this commitment requires further consideration, especially in light of UNHCR’s history of allowing refugee participation only in tightly scripted ways,<sup>104</sup> UNHCR has demonstrated its willingness and capacity to facilitate greater refugee participation, especially as meetings of the global refugee regime have been virtual since October 2020 due to the COVID-19 pandemic. Just as the pandemic has hastened more inclusive approaches to international diplomacy through the development of virtual negotiation techniques,<sup>105</sup> the development of hybrid arrangements for decision-making in the global refugee regime could provide a significant opportunity to enhance refugee participation, especially given perennial challenges associated with refugee travel to sites such as Geneva.<sup>106</sup>

101 Barnett & Duvall (eds.), *Power in Global Governance*.

102 Milner, “Introduction: Understanding Global Refugee Policy”.

103 UNHCR, “UNHCR’s Strategic Directions: 2017-2021”, Jan. 2017, available at: <https://www.unhcr.org/5894558d4.pdf> (last visited 22 Dec. 2021).

104 Jones, *Refugee Voices*.

105 *The Economist*, “Diplomacy Disrupted: The Zoom Where It Happens”, 1 May 2021.

106 GRN, “Meaningful Refugee Participation as Transformative Leadership”.

Now, UNHCR also has an inter-divisional Task Team to consider ways of expanding and enhancing refugee participation.<sup>107</sup> It has also committed to the establishment of an Advisory Group of “persons of concern”, including refugees, to guide UNHCR’s work in this area. In the meantime, UNHCR has formed an Interim Advisory Group to support UNHCR’s engagement, including in “defining the guiding principles for equal and meaningful participation at policy and strategic levels”.<sup>108</sup> This work represents a potentially significant site for the emergence of a global policy norm on meaningful refugee participation. While this norm would likely define the “limits of permissible behaviour” for UNHCR, as noted above, it could ultimately contribute to the emergence of a wider global norm if States hold UNHCR accountable to this standard of behaviour and if the norm comes to influence standards of appropriate behaviour that States adopt for themselves.

### 5.3. State-led initiatives: inclusion in delegations

While these sites can contribute to the emergence of a wider norm, the centrality of States in the international system and their significant power within global regimes suggest that global norms involving States have the greatest impact on the course of global regimes. As such, it is important to consider two sites of norm emergence involving States and their contribution to the emerging norm of meaningful refugee participation.

Arguably, the most prominent example of a State-led initiative to advance meaningful refugee participation is the case of Canada. As noted above, Canada has been the most consistent in raising the issue of refugee participation in meetings of the global refugee regime. At the 2018 meeting of UNHCR’s ExCom, for example, Canada argued “for strengthened support to refugee participation in global policy discussions” and noted that Canada “firmly believe[s] that the UNHCR’s Executive Committee should systematise opportunities for refugee policy and responses to be informed by refugees themselves”. To this end, Canada contributed funding for refugee leaders to participate in the GCR preparatory process and in the 2018 Global Refugee Summit.

In light of this commitment, a group of researchers, civil society actors, representatives of the GRN in Canada, and other refugee leaders met in Ottawa, Canada, in September 2019 to discuss what forms of leadership Canada could be encouraged to take in the lead-up to the first GRF in December 2019.<sup>109</sup> In addition to discussing barriers to participation and the importance of enhancing meaningful refugee participation in a range of activities including research, participants agreed that the distribution of power within the refugee regime indicated that refugee participation within national delegations could provide a powerful means to advance the practice of refugee participation itself. To this end,

107 UNHCR, “UNHCR’s Task Team on Engagement and Partnership with Persons of Concern-Led Organizations: Briefing Note”.

108 *Ibid.*, 3.

109 Refugee Hub & The Local Engagement Refugee Research Network (LERRN), “Outcomes Document: The Role of Refugees in Responses to Displacement: How Can Canada Support and Facilitate Refugee Participation in Local, National and Global Settings?”, Sep. 2019, available at: <https://carleton.ca/lerrn/wp-content/uploads/Outcomes-Refugee-Participation-Dialogue.pdf> (last visited 22 Dec. 2021).

it was suggested that countries such as Canada should include refugee representatives on national delegations to the Global Refugee Forum, and UNHCR should ensure refugee participation in GCR-related meetings, including ExCom. The 2019 Global Refugee Forum was viewed as an important test of the willingness of states and institutions to meaningfully include refugees.<sup>110</sup>

This recommendation led to discussions in October 2019 with the Government of Canada on the possibility of advancing this form of inclusion. Canada was in the midst of a federal election campaign at the time, so the final decision to include a Refugee Advisor in the Delegation of Canada to the GRF in December 2019 came only shortly before the meeting when Canada's new Minister of Immigration, Marco Mendicino, agreed to the idea. As a result, during the 2019 GRF, a Refugee Advisor was an active member of Canada's delegation, not only accompanying the Minister to deliver Canada's plenary address but also participating in strategy meetings of the delegation and bilateral meetings with other actors.

In reflecting on the experience of having a Refugee Advisor within the delegation, it was subsequently argued that the inclusion of a Refugee Advisor enhanced Canada's moral and expert authority during the meeting, brought new perspectives to the delegation's work, and facilitated new connections for the delegations that were not otherwise possible. This led to the conclusion that refugee participation within the delegation has greater impact on formal agenda items and on discussions on the margins of global refugee meetings, and that this mechanism of participation ensured that the level of participation was substantive, not only symbolic. In response, researchers and refugee leaders in Canada advocated for Canada to make the inclusion of refugees in its delegations a standing commitment.

These efforts led to the announcement by the Government of Canada in June 2020 that it was committing to include a refugee advisor in future delegations to meetings of the global refugee regime. In making the announcement during the opening of the Annual Tripartite Consultations on Resettlement (ATCR), Minister Mendicino noted that substantive and sustained refugee participation enhanced the effectiveness and legitimacy of decisions taken within the global refugee regime. He also encouraged other States to follow Canada's example. It was in this context that Canada began to act as a norm entrepreneur by articulating the norm of refugee participation, committing itself to upholding the norm, and articulating to other States the benefits of also adopting the norm. This behaviour was consistent with the way that other States have acted as norm entrepreneurs in the area of human rights and development through the promotion of new norms and in the encouragement of other States to support the norm, thus bringing them past the "tipping point" of norm emergence.<sup>111</sup>

The Refugee Advisory Network of Canada (RAN Canada) was then launched in September 2020 to support Canada's commitment and to help ensure that refugee

110 *Ibid.*, 4.

111 C. Fuentes-Julio, "Norm Entrepreneurs in Foreign Policy: How Chile became an International Human Rights Promoter", *Journal of Human Rights*, 19(2), 2020; C. Ingebritsen, "Norm Entrepreneurs: Scandinavia's Role in World Politics", *Cooperation and Conflict: Journal of the Nordic International Studies Association*, 37(1), 2002.

participation in Canada's delegations to meetings of the global refugee regime were meaningful, substantive, sustained, and supported. Twelve Advisors were selected from a diverse pool of candidates to form the first cohort of RAN Canada. In early 2021, these Advisors developed RAN Canada's mandate, namely

to promote the meaningful participation of refugees in Canada's engagement with the international refugee system. RAN Canada advocates for, and strives to achieve, the meaningful inclusion of the perspectives, skills and knowledge of refugees in global policy and decision-making processes that affect the lives of refugees. RAN Canada works to bring the perspectives, skills and knowledge of refugees into public discourse, policy discussions, and wider discussions on refugees.<sup>112</sup>

In 2021, RAN Canada submitted recommendations to the Government of Canada on priorities Canada should advance at both the October 2021 meeting of UNHCR's ExCom and the December 2021 HLOM. RAN Canada also identified and supported refugee advisors to the Canadian delegations to both meetings and actively supported the refugee advisors through preparatory meetings ahead of these meetings of the global refugee regime and during the events themselves. The value of including refugees was highlighted by Canada in statements to both meetings. At HLOM in December 2021, for example, Canada noted that it

believes that the meaningful participation of refugees in the work of the international refugee protection system remains a priority and improves the effectiveness and legitimacy of global responses to the needs of refugees. We are proud to have benefited from the experience of a refugee advisor along with civil society representatives in our delegations since the 2019 Global Refugee Forum.<sup>113</sup>

The Canadian example provides a potentially useful example for other States to follow and could thus make a significant contribution to the emergence of a norm of meaningful refugee participation if a critical number of States within the global refugee regime adopt this model. In response to this potential contribution, R-SEAT was launched in early 2021. R-SEAT is an international initiative to enhance meaningful refugee participation. Its vision is "for refugees to play a major role within the central decision-making bodies of the global refugee regime, such as the Executive Committee of the UNHCR (ExCom), to contribute to more effective and legitimate processes to the policies that affect their lives", with a target of having "20 ExCom Member States [...] formalise refugee participation in their respective national delegations by 2023".<sup>114</sup>

112 Refugee Advisory Network of Canada, "As per Our Mandate", (nd), available at: <https://www.ranada.ca/home> (last visited 27 Dec. 2021).

113 Government of Canada, "Government of Canada Statement – Delivered by Ambassador Leslie E. Norton", UNHCR High-Level Officials Meeting General Debate, 14–15 Dec. 2021, available at: <https://www.unhcr.org/events/conferences/61bb3a574/statement-canada-english-french.html> (last visited 27 Dec. 2021).

114 R-SEAT, "About Us", available at: <https://refugeesseat.org/> (last visited 27 Dec. 2021).



Germany and the US were among the first countries where R-SEAT worked, leading to the inclusion of refugee advisors by both countries in their delegations to HLOM.<sup>115</sup> As a result, three of the largest donors to UNHCR have now adopted the norm of meaningful refugee participation. This has the potential to generate considerable momentum among other States, especially other donor States, especially given the influence of the US within the global refugee regime.<sup>116</sup> It also suggests that the norm of meaningful refugee participation is emerging through the “bottom-up” good practice model proposed by Betts and Durieux as it is being received as “a ‘success story’ [that] will arouse interest in replication, or at least a willingness to discuss learning the lessons of the pilot or extrapolating from it”.<sup>117</sup> This may be encouraging, so long as it is supported by a consensus on what constitutes “best practice” and is supported by “inclusive dialogue in order to arrive at agreed ‘good practice’”.<sup>118</sup>

It does, however, fall well short of the threshold for norm emergence outlined above. First, while it suggests norm adoption by three key states, it illustrates that a significant number of additional States must also adopt this behaviour for a critical mass of States to be achieved. Second, while States in the global North hold considerable power and influence within the regime, the norm must also be advanced by major refugee-hosting States in the global South if it is to pass the tipping point and cascade as a norm throughout the regime. As such, the emergence of the norm of meaningful refugee continues to face a challenge of both quantity and quality of support.

#### 5.4. State-led initiatives: refugee participation in the governance of resettlement

In light of the number of States required to support a norm for it to emerge within the global refugee regime, it is important to consider how the norm of meaningful refugee participation has been adopted and implemented by the Working Group on Resettlement (WGR). The WGR is composed of the group of States that cooperate with UNHCR to support annual refugee resettlement programs. These states meet annually for the Annual Tripartite Consultations on Resettlement (ATCR).<sup>119</sup> In 2020, this included some 24 States who had maintained annual resettlement programs over at least the past 3 years.<sup>120</sup> While the majority of these States are in the global North, it is potentially significant that two, Brazil and Uruguay, are in the

115 R-SEAT, “Press Release”, 14 Dec. 2021, available at: <https://twitter.com/RefugeesSeat/status/1470773544711860230> (last visited 15 Dec. 2021).

116 S.F. Martin & E. Ferris, “US Leadership and the International Refugee Regime”, *Refuge: Canada’s Journal on Refugees*, 33(1), 2017.

117 Betts & Durieux, “Convention Plus as a Norm-Setting Exercise”, 529.

118 *Ibid.*, 530.

119 UNHCR, “The History of Resettlement: Celebrating 25 Years of the ATCR”, Jun. 2019, available at: <https://www.unhcr.org/5d1633657.pdf> (last visited 27 Dec. 2021).

120 These States were: Australia, Belgium, Brazil, Canada, Croatia, Estonia, Finland, France, Germany, Iceland, Ireland, Italy, Japan, the Netherlands, New Zealand, Norway, Portugal, Republic of Korea, Spain, Sweden, Switzerland, Uruguay, the UK, and the United States. See: UNHCR, “UNHCR Projected Resettlement Needs: 2021”, Jun. 2020, available at: <https://www.unhcr.org/protection/resettlement/5ef34bf7/projected-global-resettlement-needs-2021-pdf.html> (last visited 27 Dec. 2021), 127–128.

global South. While Brazil and Uruguay may not resettle a large number of refugees on an annual basis, their involvement is significant because they are States that traditionally participate in multilateral processes as members of the global South and because of the importance of participation of states from both the global North and global South for new norms to emerge within the global refugee regime.

It is for this reason that recent developments within the WGR relating to meaningful refugee participation have potential significance for the emergence of the norm within the global refugee regime. First, the work of the WGR and the agenda of the ATCR have come to constitute a decision-making forum within the global refugee regime, albeit one limited to a particular form of practice within the regime. Second, the number of States participating in the WGR and the inclusion of States from the global South within this group suggest that the adoption of meaningful refugee participation by the WGR could serve as a significant basis for the momentum needed to bring the norm of meaningful refugee participation past the tipping point and from emergence to cascading through the regime.

The norm of refugee participation within the ATCR can be traced to 2019 when the UK, as Chair of that year's meeting, agreed to include the delivery of a "refugee statement" on the agenda for the first time. The statement was delivered by the Refugee Advisory Group of the United Kingdom (UK), a group formed in partnership with the British Refugee Council and Migration Yorkshire who identified resettled refugees across a variety of genders, age groups, and nationalities living across Yorkshire and Scotland. The statement was developed in the context of work within the UK to benefit from the experience of refugees through the resettlement process and to increase the number of refugees participating in local and national policy discussions and contribute to the development of the agenda for the 2019 ATCR. As part of this work, members of the Refugee Advisory Group participated in both the WGR meeting in Sheffield in March 2019 and the ATCR in Geneva 2019.

The 2019 refugee statement emphasised the importance of amplifying refugee perspectives at both the national and global levels to improve the resettlement process and promote the contributions resettled refugees can make to their new communities. The statement noted that "it is wonderful to be here at the ATCR, but we do not want to be a simply topic of conversation. We want to be recognized as full and equal participants".<sup>121</sup>

The statement provided a strong basis for the work of the WGR in 2019–2020 and the process leading to the 2020 meeting of the ATCR. During the February 2020 RWG meeting in Ottawa, Canada, a group of refugee advocates from around the globe and UNHCR co-presented a *Concept Note on Refugee Meaningful Participation*.<sup>122</sup> The concept note provided an overview of opportunities for refugee participation during the ATCR yearlong cycle of activities leading up to the annual ATCR meeting itself through the establishment of a global Refugee Steering Group to the ATCR that could collaborate with the ATCR co-chairs (a state, NGO focal

121 Refugee Advisory Group of the United Kingdom, "Refugee Statement", 2019, available at: [http://icmc.net/wp-content/uploads/2019/07/atcr\\_2019\\_-\\_refugee\\_statement.pdf](http://icmc.net/wp-content/uploads/2019/07/atcr_2019_-_refugee_statement.pdf) (last visited 27 Dec. 2021).

122 UNHCR, "Concept Note on Meaningful Refugee Participation at the Annual Tripartite Consultations on Resettlement (ATCR)", on file with authors, 2020.

point, and UNHCR) to develop the ATCR's agenda and priorities. This approach was supported by States participating at the ATCR in 2020.

In late 2020, the Refugee Steering Group and the ATCR Co-Chairs brought together already existing global, regional, and national refugee-led networks to develop a strategy to advance refugee participation. A transition period of 3 years was envisioned for the ATCR community to develop its structure and resources to gradually include more meaningful refugee participation in the ATCR process. The Refugee Steering Group has since worked closely with other members of the ATCR community and has created opportunities for dialogue with other refugee leaders and has raised priorities and recommendations within the ATCR process. Within this arrangement, the Refugee Steering Group is mandated to liaise between the ATCR Co-Chairs and GRNs to support participation and statements at the annual and working group consultations and contributing to agenda setting. The Refugee Steering Group sees their ultimate goal as the establishment of a refugee co-chair for the ATCR and to move the ATCR from a tripartite model (states, NGOs, and UNHCR) to a quadripartite model, with refugees participating on an equal basis as States, NGOs, and UNHCR.

The 2021–2022 ATCR cycle is being co-chaired by the US Government, Refugee Council USA, and UNHCR. Given that the US Government committed to the norm of refugee participation at HLOM 2021, and given the active support of Refugee Council USA and Refugee Congress in this process, it will be important to follow how the norm of refugee participation is articulated within the work of the WGR, if States continue to support the norm in the context of the ATCR, and if States follow the example of Canada, Germany, and the US to extend the norm of refugee participation from their engagement with ATCR to their engagement with the global refugee regime more generally. If they do, we could be witnessing a significant step forward in the emergence of the norm of meaningful refugee participation with the potential for the norm to pass the tipping point and to cascade through the regime.

## 6. CONCLUSION: UNDERSTANDING NORM EMERGENCE

Although meaningful refugee participation has not yet passed the tipping point to be accepted as a norm within the global refugee regime, it is clearly an emerging norm. It is increasingly viewed by States, UNHCR, and refugees themselves as being both a morally desirable and practically useful innovation in the governance of the global refugee regime. If refugee participation can be meaningful, substantive, and sustained, a range of actors have argued that it can improve the effectiveness and legitimacy of the global refugee regime itself. As outlined in the above examples, norm entrepreneurs are employing a range of techniques to promote the norm and to build momentum for the norm to become more widely accepted within the regime. These efforts build on the emergence of refugee participation as a priority issue since 2016 and its inclusion in the 2018 Global Compact on Refugees. As outlined above, recent years have witnessed efforts by States, UNHCR, and refugee-led initiatives to promote the value of refugee participation in global decision-making processes, to articulate it as a norm, and to identify specific contexts in which the norm can be implemented.

There are, however, important differences between efforts by norm entrepreneurs to promote refugee participation. Arguably, the most significant difference relates to the site of participation. There are currently different visions of where refugee participation in global decision-making forums should be situated: either within national delegations or as a single refugee delegation. This differentiation could contribute to delays in the emergence of the norm unless the potential complementarity of the two approaches is articulated. Otherwise, we may begin to witness the emergence of competing norms, each seeking to gain the level of support necessary to reach the tipping point of support.

There are also three potentially significant concerns with how the norm is being encouraged that may limit its ultimate progress. The first is transparency. As noted above, the process of norm emergence transpires within a “highly contested normative space where they must compete with other norms and perceptions of interest”.<sup>123</sup> Within this context, norms that are seen to be emerging through a transparent process that speak to the collective interest of the majority of actors within a regime will have a greater chance of being adopted. Very little is known about the specifics and motivations of the initiatives outlined above. While we hope that this article will contribute to a wider understanding of these individual initiatives, norm entrepreneurs should be encouraged to be more transparent with the process by which the various initiatives are being undertaken, who is participating in these initiatives, and the interests that motivate participation.

The second concern is clarity. Advancing meaningful refugee participation is not a simple prospect. Instead, it raises difficult questions of representation, modes of participation, legitimacy and accountability, not to mention practical questions such as safety and access.<sup>124</sup> These questions need to be addressed to provide the clarity needed to advance the process of norm emergence and for more States to consider supporting the norm. Additional research is urgently required to provide the clarity needed to support the emergence of the norm. Valuable lessons could be learned from other areas of global governance that have equally grappled with questions of participation in recent decades, such as the global governance of indigenous rights, women’s rights, and the rights of persons with disabilities.

The third concern is diversity. As outlined above, the norm of meaningful refugee participation is currently being advanced mostly by UNHCR and States in the global North. Given the politics of the global refugee regime, however, States in the global South will also need to express their support if the norm is to continue to emerge and pass the tipping point. There are several signs that this support may be forthcoming. Uruguay, for example, is both a member of the WGR and has spoken in support of refugee participation. Colombia has recently regularised the status of some 1 million Venezuelans on its territory and has included Venezuelan-led organisations in the delivery of services at local levels. Uganda has positioned itself as a global leader in refugee inclusion in the national economy and policy process and has promoted the value of this inclusion in global statements. The active inclusion of States such as

123 Finnemore & Sikkink, “International Norm Dynamics and Political Change”, 897.

124 See: GRN, “Meaningful Refugee Participation as Transformative Leadership”; Harley & Hobbs, “The Meaningful Participation of Refugees”; Jones, *Refugee Voices*.

these in discussions on the meaningful participation of refugees in the governance of the global refugee regime will be essential if the norm of participation is to pass the tipping point and become internalised in the global refugee regime.

These questions and the analysis we have presented raise important questions for our broader understanding of the emergence of norms within the global refugee regime. While norms are recognised as being important in the functioning of regimes, there has been little analysis of how norms emerge in the context of the global refugee regime, with the exception of Betts and Durieux.<sup>125</sup> As States demonstrate a reluctance to adopt more binding legal obligations<sup>126</sup> and while global refugee policy has emerged as a significant area of practice to address issues of shared concern within the regime,<sup>127</sup> a deeper understanding of the emergence and impact of norms on the behaviour of States will continue to resonate as an important area of further research to understand the politics of the global refugee regime. In this way, we hope that the framework we presented in this article may be useful in the study of other norms that function within the regime.

Meaningful refugee participation is not yet an accepted norm within the global refugee regime. It is, however, an emerging norm promoted by various norm entrepreneurs since 2016. Understanding the impact of these efforts and the progress made to advance meaningful refugee participation in global processes provide a helpful empirical addition to the literature on refugee participation in local and national contexts while adding precision to our understanding of the current state of the norm of meaningful refugee participation, how the actions of norm entrepreneurs affect the emergence of the norm, and how the experience of meaningful refugee participation contributes to a wider understanding of the role of norms within regimes like the global refugee regime.

125 Betts & Durieux, “Convention Plus as a Norm-Setting Exercise”.

126 Ferris & Donato, *Refugees, Migration and Global Governance: Negotiating the Global Compacts*.

127 Milner, “Introduction: Understanding Global Refugee Policy”.