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CIVIL SOCIETY AND THE POLITICS OF THE GLOBAL REFUGEE REGIME

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EXECUTIVE SUMMARY

Civil society actors have been central to the provision of protection, assistance and solutions to the displaced throughout human history. For thousands of years, religious organizations, guilds, and community networks have led responses to displacement, either through the direct provision of support or by advocating to higher authorities for the inclusion of displaced populations within political communities (Loescher 2021). The role of civil society accelerated in the 17th Century and the development of the Westphalian state system and as noted by Ferris (2003), civil society continued to play a critical role in refugee responses right through the 20th Century.

Given this long history, it may come as no surprise that civil society actors are a key feature of more recent efforts to enhance and innovate in ensuring more reliable and effective responses to instances of displacement. The Global Compact on Refugees (GCR) notes in Paragraph 3 that it “intends to provide a basis for predictable and equitable burden- and responsibility-sharing among all United Nations Member States, together with other relevant stakeholders as appropriate, including but not limited to: international organizations within and outside the United Nations system, including those forming part of the International Red Cross and Red Crescent Movement; other humanitarian and development actors; international and regional financial institutions; regional organizations; local authorities; civil society,

including faith-based organizations; academics and other experts; the private sector; media; host community members and refugees themselves (hereinafter “relevant stakeholders”)” (UNHCR 2018). In fact, the GCR includes civil society in the range of “relevant stakeholders” to be included in its two key mechanisms: the Global Refugee Forum (GRF) and in national arrangements including Support Platforms, such as those implemented through the Comprehensive Refugee Response Framework (CRRF).

Despite this long history and central role – from the 17th Century to the GCR – there is very limited research on the diverse forms of engagement of civil society in the functioning of the norms and institutions intended to ensure protection and solutions for refugees: the global refugee regime.

There is also limited analysis of the wide diversity of actors within contemporary civil society, the means and mechanisms through which civil society actors are able to influence outcomes within the refugee regime, and the means by which the contribution of civil society can be enhanced.

EXECUTIVE SUMMARY

In response, this paper provides an overview and analysis of the role of civil society actors – including national and international non-governmental organizations (NGOs), refugee-led organizations (RLOs) and academic actors – in the politics of the global refugee regime. Drawing on historical examples, the paper also provides an analysis of the mechanisms and means through which civil society demonstrates influence in the provision of protection, assistance, and solutions for refugees.

Overall, the paper argues that the impact of civil society is best understood in the context of the politics of the global refugee regime. It concludes with recommendations on how the impact of civil society actors can be enhanced.

INTRODUCTION

Civil society actors have been central to the provision of protection, assistance, and solutions to the displaced throughout human history.

For thousands of years, religious organizations, guilds, and community networks have led responses to displacement, either through the direct provision of support or by advocating to higher authorities for the inclusion of displaced populations within political communities (Loescher 2021). The role of civil society accelerated in the 17th Century and the development of the Westphalian state system. The responses to the flight of the Huguenots from France following the revocation of the Edict of Nantes in the late 17th Century, the first ‘modern’ refugees, involved important roles for religious and business leaders in England and the Netherlands.

As noted by Ferris (2003), civil society continued to play a critical role in refugee responses right through the 20th Century. She notes that these early NGOs responded to emergency situations without much assistance or coordination from governments by mobilizing funds, sending personnel, and extending immediate material assistance” (Ferris 2003: 117).

Given this long history, it may come as no surprise that civil society actors are a key feature of more recent efforts to enhance and innovate in ensuring more reliable and

effective responses to instances of displacement. The Global Compact on Refugees (GCR) notes in Paragraph 3 that it intends to provide a basis for predictable and equitable burden- and responsibility-sharing among all United Nations Member States, together with other relevant stakeholders as appropriate, including but not limited to: international organizations within and outside the United Nations system, including those forming part of the International Red Cross and Red Crescent Movement; other humanitarian and development actors; international and regional financial institutions; regional organizations; local authorities; civil society, including faith-based organizations; academics and other experts; the private sector; media; host community members and refugees themselves (hereinafter “relevant stakeholders”) (UNHCR 2018).

While noting that action is ultimately required from UN Member States, and “while recognizing the primary responsibility and sovereignty of States,” the GCR (para 33) states that “a multistakeholder and partnership approach will be pursued, in line with relevant legal frameworks and in close coordination with national institutions” (UNHCR 2018). In fact, the GCR includes civil society in the range of “relevant stakeholders” to be included in its two key mechanisms: the Global Refugee Forum (GRF) and in national arrangements including Support Platforms, such as those implemented through the Comprehensive Refugee Response Framework (CRRF). Despite this long history and central role –

from the 17th Century to the GCR – there is very limited research on the diverse forms of engagement of civil society in the functioning of the norms and institutions intended to ensure protection and solutions for refugees: the global refugee regime. There is also limited analysis of the wide diversity of actors within contemporary civil society, the means and mechanisms through which civil society actors are able to influence outcomes within the refugee regime, and the means by which the contribution of civil society can be enhanced.

In response, this paper provides an overview and analysis of the role of civil society actors – including national and international non-governmental organizations (NGOs), refugee-led organizations (RLOs) and academic actors – in the politics of the global refugee regime.

This paper begins by defining civil society and providing examples of their various forms of engagement within the global refugee regime, specifically in protection, assistance, and solutions for refugees. Next, the paper provides an analysis of the mechanisms and means through which civil society demonstrates influence in the

functioning of the global refugee regime and in the provision of protection, assistance, and solutions for refugees. The paper will then consider the significance of these mechanisms through historical examples of civil society advancing specific forms of engagement within the global refugee regime. While some reference will be made to civil society engagement prior to establishment of the Office of the United Nations High Commissioner for Refugees (UNHCR), the focus will be on moments of notable impact by civil society since 1950. The paper will conclude with recommendations on how the contributions of civil society can be more fully realized, as well as areas for future research and analysis of policy and practice.

Overall, the paper argues that the impact of civil society, historically and today, is best understood in the context of the politics of the global refugee regime. This understanding is premised on a recognition of the role that power plays in the functioning of the regime and its ability to ensure protection and solutions for refugees. This understanding highlights the role that states and other institutional actors, including UNHCR, play as powerbrokers and determinants of outcomes within the regime in both global and local contexts. The contribution of civil society will be most effectively enhanced through mechanisms that enable civil society to address power imbalances between civil society actors and other actors within the refugee regime,

1 While civil society actors have also been central in the response to other forms of displacement, including responses to internally displaced persons (IDPs) and stateless persons, this paper focuses specifically on the role of civil society in response to protection, assistance and solutions for refugees due to limits on the length of the paper and the specific normative, institutional and political dynamics of responding to the needs of refugees. Future research could usefully examine the applicability of our argument to other forms of forced displacement.

including through the development of networks, capacity-building, and changes in the political economy of the refugee regime and in the restrictions on decision-making within the core institutions of the global refugee regime. Moreover, this analysis of power also raises questions about relations between different types of civil society actors, especially between international and national

NGOs, and between researchers in the global North and South. It also highlights the barriers to participation faced by refugee leaders and refugee-led initiatives. Enhancing the role of civil society in the functioning of the global refugee regime will necessitate greater recognition of, and responses to, these power asymmetries.

1. WHAT IS CIVIL SOCIETY

While there is a rich literature on the role of civil society in a number of global regimes – such as climate change, human rights, and trade – the literature on civil society in the global refugee regime is surprisingly limited. This gap is especially stark given the prominent role international and national NGOs and other civil society actors play in the functioning of the regime (Ferris 2009; Ferris, 2003) as well as their capacity to influence other global issues and bring about change (Betsill & Corell 2001; Böhmelt 2013; Dany 2014). While the term “civil society” is widely debated (Brysk 2004; Torrent 2019; van Leeuwen 2009), it generally refers to a “self-organized, self-governing, nonstate, non-profit, nonprivate institutions that employ nonviolent means to achieve a public interest or good through collective action” (Alagappa in Nah 2016).



In the context of refugees, civil society includes a wide range of organizations, institutions and groups that collaborate to advance the public good of protection, assistance, and solutions with and for refugees.

Their actions can include the provision of direct services to refugees; advocacy efforts for refugee protection; assistance or solutions in local, national, regional, or global contexts; fundraising in support of refugee programming; or engagement in the making and implementation of “global refugee policy” (Milner 2014b).

Under the umbrella of “civil society” lies a

wide array of different types of organizations that are engaged with refugee responses. Many have broader mandates that lead them to engage in refugee responses, such as faith-based organizations and faith communities. Likewise, there are many other civil society organizations that have programs benefiting refugees, such as community organizations and sports federations. While these actors are engaged in refugee-supporting activities and are part of civil society more generally, the focus of this paper is on the role of civil society actors that have a refugee-specific mandate. Additional research could usefully interrogate the role of other civil society organizations whose work overlaps with civil society actors that have a specific focus on refugee and humanitarian issues.

An important note is that not all NGOs fit within our definition of civil society. In some instances, national NGOs can have ECOSOC status, but have state interests in mind, as is the case with Government-organized non-governmental organizations (GONGOs), such as the Royal NGOs in Jordan (Götz 2008). Likewise, civil society can include political parties or other actors that do not act in the interest of refugees.

This highlights the importance of civil society being defined as actors that seek to advance “a public interest or good through collective action,” as understood as advancing the objectives of the global refugee regime, namely protection and solutions for refugees.

It also highlights the importance of critically examining questions of which organizations and actors have access in refugee contexts. Similarly, it also forces us to acknowledge that states ultimately determine who is allowed to operate within national contexts, and that the outer limits of the definition of civil society are blurry and are often context dependent.

Noting the problematic nature of simple categorizations, we suggest that there are four broad types of civil society actors/institutions that are specifically created to respond to refugee issues:

National NGOs

National NGOs are those which “operate in only one country” (Ferris 2003: 124), and may be located in either the global North or the global South. NGOs operating in local contexts have long histories, and work in a diverse range of contexts. Those organizations working with refugees can be focused on the delivery of services such as material assistance, protection, legal aid, education, or health services; they may also be engaged with advocacy on behalf of refugees to national governments. Consequently, these local organizations tend to be designated as either operational or advocacy NGOs, but this distinction is often blurred, as is the case with organizations such as the Refugee Consortium Kenya, which provides legal aid, but also engages in advocacy work. Many national NGOs have histories that pre-date the arrival of refugees but may have also been created in response to the arrival of refugees. National NGOs are seen to have more legitimacy when engaging national governments on behalf of refugees

as they are seen to be advocating as citizens and not outsiders, however, this view does not prevent them from often being subject to harassment and abuse by governments (Nah 2016).

National NGOs can have influence in the way that a government responds to refugees, especially in immediately responding to large flows of refugees. National NGOs are able to organize and respond more quickly than international actors.

That was the case in Greece in 2015 where 200 volunteer organizations joined local communities to respond to Syrian refugees and is also evident in countries such as Somalia where local organizations are able to coordinate more effectively than international organizations, who may face barriers related to security (Collinson & Schenkenberg 2019). However, this influence, especially in the global South, can be overshadowed by the disproportionate resources and capacities of international NGOs (Juma & Suhrke 2002). This imbalance is most apparent during high-profile emergencies, where significant donor and public interest, coupled with the complex nature of the global refugee regime, has led to an erosion of local capacity. For example, in Greece in 2015 the “arrival of international organizations was both a relief, but also destabilising,” as international organizations began to “poach local actors with higher salaries” (Currion 2018). Greater attention and a more nuanced understanding of these dynamics will be important for future research, policy and practice relating to the role of national civil society actors within the global refugee regime.

International NGOs

International NGOs (INGOs) are organizations that have programs in multiple countries (Ferris 2003: 124). INGOs have a long history dating back to the 18th century (Davies 2014: 21). Since World War Two, INGOs working on issues relating to humanitarianism and refugees have grown in significant number. Like national NGOs, INGOs can be differentiated based on their operational or advocacy activities, but there is often overlap.



INGOs, especially very large organizations, differ from national NGOs in that they possess a global legitimacy that

gives them a wide-reaching platform to speak out critically on particular issues.

This reach allows for local situations to become known globally but can also cause tensions with local governments. Governments control who operates within their borders. Consequently, many INGOs, especially those providing humanitarian aid and services for refugees, will be cautious about what is said in order to continue being allowed to operate in these contexts. Critically, this potential constraint is not limited to INGO actors as national NGOs and other civil society actors may face similar constraints. While more research could usefully unpack the nuance of these constraints and relationships, it has been noted that the experience of INGOs working across multiple contexts may condition their engagement with more restrictive and challenging domestic contexts (Ferris 2003).

The significant growth of INGOs in recent

years can be linked to a number of factors. First, there has been a significant increase in the number and scale of humanitarian operations responding to refugee movements over the past 30 years (Loescher 2021). In response to these humanitarian needs and increased funding appeals, donor governments have allocated substantial funds for refugee responses. While still not providing the funding required to meet all needs, and while this increased funding of humanitarian responses in recent decades has not been matched with an equal commitment to address the root causes of displacement (Loescher 2021), increased funding for humanitarian activities has contributed to the growth in the number of INGOs and the nature of their activities.

Second, there has been an increase in the number of political opportunities that INGOs have to access policy discussions and decision-makers, such as side events in the context of the UN General Assembly or UNHCR's Executive Committee meetings, along with other forums that include increasing attention to displacement issues, such as the World Economic Forum. As in other areas of global governance, this increased area of activity and opportunity has resulted in new organizations and coalitions being formed (Reimann 2006).

With the increased proliferation of INGOs over the years there has also been a shift in the nature of these organizations. Increasingly INGOs have become professionalized, and in many cases are funded by governments to support specific issue areas, leading to concerns that INGOs increasingly face corporate pressures and compete within a humanitarian marketplace (Weiss 2013; Loescher 2021).

Similarly, INGOs are prominent in the delivery of humanitarian programs as implementing partners of the UNHCR, which can lead to concerns about the independence of INGOs, but may explain the distribution of funds from the UNHCR to operating partners (Ferris 2003). While INGOs are leading actors in refugee advocacy, they also engage in policy discussions, and can be influential in guiding public perception of the UNHCR. During emergency situations, INGOs along with the UNHCR and local NGOs will often provide coordinated responses²

Refugee-led organizations

Refugee-led organizations (RLO) are arguably the oldest but least understood civil society actors in the global refugee regime.

While refugee-led responses have always been present, there has been an increase in acknowledgment and ability of these organizations to act more autonomously since 2015. In the 1990s and 2000s, RLOs were not widely discussed within the UNHCR and there was an emphasis to include “friendly refugee voices” (Jones 2019). That has shifted since 2015 and the process leading to the GCR. There has been an increase in the direct participation of RLOs in global processes. RLOs can be found in refugee hosting states, but also in diaspora organizations which have a long, if uneven, history of supporting political work and

direct assistance in the country of origin (Betts & Jones 2016). One of the key roles that diaspora RLOs play is the provision of remittances to refugees in regions of origin, ensuring financial support and survival. Apart from other actors providing aid to refugees, RLOs are often made up of self-organized committees, and are typically the first providers of assistance in emergency situations. For example, in Uganda and Kenya, refugees have played a critical role as providers of protection and assistance (Pinock, Betts, & Easton-Calabria, 2020).

In June 2018, the Global Refugee Summit was convened by the Australian National Committee on Refugee Women (ANCORW) and the Network for Refugee Voices (NRV). This summit brought together RLOs and refugee change makers from around the world to discuss lived experiences and to propose solutions. This meeting has led to the emergence of the Global Refugee-led Network which was brought into consultations leading up to the first Global Refugee Forum in December 2019. This renewed acknowledgment of RLOs as key civil society actors raises issues of accountability (to whom are refugee leaders accountable?), legitimacy (on what basis can individual refugee leaders claim to speak on behalf of refugee populations?), and representation (on what basis are refugee leaders selected?) (Jones 2019). While RLOs have become increasingly involved in global processes, such as at the Annual Tripartite Consultations on Resettlement (ATCR), it has been argued that

² While work by Weiss (2013) and Barnett (2011) have examined the political economy and history of humanitarian INGOs, there is scope for considerable future research on the history and politics of NGOs, especially the relationship between national and international NGOs, and what Gottwald (2010) termed “the humanitarian marketplace.”

the historical exclusion of direct refugee participation in decision-making can be at least partially explained by UNHCR's own claims to moral and expert authority and its ability to understand and represent the needs and interests of refugees (Barnett 2011). Moreover, in recent months, we are seeing firsthand how refugee leaders and RLOs are mobilizing to respond to the COVID-19 pandemic (Alio et al. 2020). Shifting approaches to humanitarian assistance in the coming years will continue to highlight the importance of RLOs.

Research centres

Since the 1980s, there has been a steady rise in academic research being conducted on refugee issues. The growth of the discipline has been matched by the emergence of refugee studies centres in academic institutions globally, although predominantly in the global North. Academic actors within epistemic communities contribute “expert” advice to policy discussions in global, regional, national, and local contexts. These epistemic communities are made up of experts who share basic understandings of particular issues and leverage knowledge to advance change in policy and practice (Fresia 2014).

The ability of academics to transition between international organizations and academic institutions speaks to questions about legitimate voice and expert authority, suggesting that the influence of academics differs from that of other transnational civil society actors.

Academic experts have offered guidance and advice in processes such as the Global Consultations, and the development of the Global Compact on Refugees. Consequently, the distinction between research, advocacy and practice is blurred. For example, there are research centres everywhere from Kampala to Ottawa that are conducting research and providing legal aid. Despite these diverse areas and forms of engagement, academic research has not yet systematically examined the impact of these research activities and actors on outcomes in the global refugee regime.

As NGOs and INGOs continue to become professionalized, the role of researchers in informing their practices is becoming more critical as well. Yet we must also be mindful that there is a disparity between the volume of research coming out of the global North, which reflects more broadly the power imbalances between researchers in the North and South and the tensions that exist between research centres in the global North and South (McGrath & Young 2019).

It is important to recognize the way that research coming from the global North is often sought for its expert authority, when researchers working in refugee hosting countries should be the ones consulted, especially given their deep understanding of the nuance and context within which refugee responses are designed and implemented.

We must also be mindful not to overstate the importance and influence of academics. Responses to refugees are still largely shaped by host governments and donor governments. Research-informed solutions

will not always lead to the intended results (Landau 2019; McGrath & Young 2019; Milner & Shivakoti 2021).

Moreover, it is important to note that these various types of actors often have their greatest impact when they act collectively. As noted by Asylum Access (2019):

“

Refugees and the local civil society organizations that support their inclusion are among the key actors that can inform and advise host country policy. Refugee voices combined with knowledgeable, connected and locally-led NGOs are uniquely positioned to provide host governments with technical assistance on legislation, argue persuasively for policy reform based on evidence and practices, and bring refugee voices to the table.

”

Along with, or sometimes embedded within these coalitions of national NGOs and refugee-led organizations are often national academic actors, who play an important complementary role in providing a locally recognized, evidence-based, and nuanced understanding of the domestic political opportunity structure in which change can be pursued. While these coalitions and networks have historically played important roles in realizing change in even contested domestic contexts, as detailed below, they remain poorly understood and often underappreciated.

2. THE CURRENT ROLE OF CIVIL SOCIETY IN THE FUNCTIONING OF THE REFUGEE REGIME

Civil society currently plays many prominent roles in the refugee regime.

40%

In operational contexts, some 40% of UNHCR's programming is delivered through NGO Implementing Partners. NGOs deliver key services in areas as diverse and vital as legal aid, health, education, registration, and pathways to solutions.

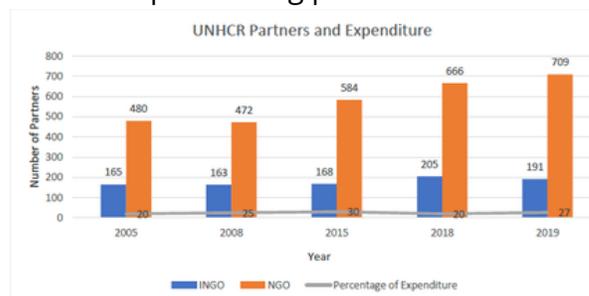
Civil society actors also play an increasingly prominent role in global policy discussions, with NGOs and researchers working to raise issues on the agenda of the refugee regime. This action can lead to new policies, procedures, and normative agreements for action in areas such as Age, Gender and Diversity Mainstreaming (AGDM), statelessness, and new forms of displacement.

In local contexts, civil society actors can be key allies for UNHCR in negotiating restrictive political and policy environments. Given UNHCR's non-political mandate, and given the status of UN agencies on the territory of sovereign states, UNHCR is often constrained in its ability to argue publicly against restrictive state practice. In such instances, UNHCR has often worked in partnership with domestic civil society to advocate for refugee protection principles and a change in state practice. That said, national NGOs can be

equally restrained in their ability to work against government prescriptions than international actors. Because civil society actors, particularly NGOs and INGOs, rely on discretionary funding and are becoming increasingly professionalized, concerns have been raised that they can be constrained by donor interests and become conduits through which these interests are expressed (Weiss 2013).

Operational activities

Arguably the most visible, and most documented, area of activity for civil is in the provision of protection and assistance for refugees and in the facilitation of durable solutions. In this way, civil society is implicated in the manifestation of the global refugee regime through the delivery of services, including civil society actors, especially NGOs, that implement UNHCR programs. In recent years, with the development of the Global Compact on refugees, there has been increased attention to multi-stakeholderism, and a whole of society approach. These approaches have been mirrored by an increase in recent years in the number of INGOs and national NGOs engaged as UNHCR implementing partners.



Data from UNHCR Global Reports 2005, 2008, 2015, 2018, 2019

The chart above outlines the shift in numbers of INGO and NGO operating partners. This engagement has been gradually increasing in proportion to the increasing scale of UNHCR's activities and budget in recent years, but with the percentage of expenditures through NGOs gradually increasing.

It is worth noting that despite INGO partners representing a smaller portion of implementing partners than national NGOs, INGOs receive a larger percentage of this funding, arguably due to the capacity of INGOs to deliver quickly in the context of emergencies and to meet donors' onerous financial reporting and management requirements. While some of this support to INGOs is intended to build the capacity of national NGOs to support a gradual transfer of responsibility to national actors, important questions remain about this process of "localization" (Erdilmen and Sosthenes 2020).

Yet, civil society actors are not just service providers and should not be reduced to their programmatic functions. There are also four other types of action that civil society undertakes, demonstrating that they are also key actors in engaging with policy and politics.

Protection in host states

National civil society actors often undertake this kind of action to respond to specific protection needs in local contexts. Most often this is done through lobbying governments, protests, advocacy, and legal proceedings. Examples of this type of action

include the mobilization of civil society in Thailand alongside the UNHCR to challenge the Royal Thai Government's treatment of and position towards refugees, the response of civil society in Kenya to protest and lobby the decision to close the Dadaab refugee camp, and the response of civil society leaders in Canada to challenge the Safe Third Country Agreement in light of policy changes in the United States. While civil society actors may undertake protection activities in the context of a partnership agreement with UNHCR – for example by providing legal services, running safe houses or providing other legal services for refugees – it is important to note that civil society can and do also engage in independent policy and advocacy activities to advance protection for refugees in host state contexts.

Solutions for refugees

International and transnational civil society actors are often those who participate in this kind of action alongside national or local actors. This action usually occurs when responding to recent or emerging refugee situations.



In many cases, the media plays a large role in highlighting the situation and bringing it to the attention of international actors.

Typically, this type of action results in organizations mobilizing to provide international aid, resettlement programs for the group in need, and post-resettlement assistance. Some examples include the international response to the Hungarian displacement, the resettlement program for displaced Indochinese refugees, and the United States' resettlement and support of the Sudanese Lost Boys.

Global refugee policy

A number of civil society actors are also involved in the making and implementation of global refugee policy, including the process of agenda setting, policy formulation, advocating for decisions, implementation, and evaluation, potentially leading to a re-examination of the policy (Milner 2014b). This has been another prominent area of activity for civil society, and especially notable for actors closely involved with the mechanics and nuances of the refugee regime.

Typically, action that affects global refugee policy begins more informally with local organizations raising awareness of particular issues and lobbying international actors who have access to policy making arenas.

Civil society actors were central in the development of new policies and approaches to the needs of refugee women (Edwards 2010) and children (Fresia 2014), along with policy changes on responses to protracted refugee situations (Loescher & Milner 2011), UNHCR's urban refugee policy (Crisp 2017), and more recent efforts relating to refugee education and access to employment.

Changing the structures of the regime

Changing the structure of the refugee regime is somewhat more complicated than the other types of action. Where other types of action begin in more informal ways, action that changes the structure of the regime often happens in more formal ways, with the participation and buy-in of the most powerful actors being necessary for success. UNHCR may reach out to civil society during consultations, or they may invite civil society actors to participate in high-level forums. As noted below, this type of action was apparent during the expansion of the UNHCR's mandate when the Ford Foundation grant enabled the UNHCR to begin supporting local programs in host states, during the Global Consultations on International Protection (2000 to 2002) where civil society was widely consulted, and during the consultation and development process of the Global Compact on Refugees.

3. POLITICAL CONTEXT OF CIVIL SOCIETY ACTION

Through these activities, civil society organizations are engaged with the politics of the global refugee regime (Betts, Loescher, & Milner 2012) and are implicated in the expressions and experiences of power in the global refugee regime (Milner & Wojnarowicz 2017). Power in the global refugee regime is expressed and experienced in very particular ways by different actors. While this section does not explicitly discuss refugee-led organizations, they have always had to contend with the politics of the refugee regime both as actors within civil society, and the subjects or “beneficiaries” of proposed solutions and responses (Bradley, Peruniak, & Milner 2019).

UNHCR itself faces structural conditions of power that stem from their organizational mandate. As an organization, it was created to be reliant on states and to operate according to a non-political mandate. This presents challenges as states control access to their territory, the quality and quantity of asylum they offer through policy and durable solutions, and the resources that the UNHCR needs to fulfill their mandate (Betts, Loescher & Milner 2012).

Within this context, the UNHCR is able to express productive power through the making and implementation of global refugee policy, while states retain their decision-making power (Milner & Wojnarowicz 2017). Consequently, despite its non-political mandate, UNHCR supports foreign policy objectives by accepting money from governments and by implementing specific

programs when these funds are earmarked. Civil society actors also conduct their work in these political structures, while in some cases civil society can influence government decisions.

For local civil society actors that receive international funding, they can also face backlash from their national government if their work does not align with government interests, placing constraints on how far local organizations can go in critiquing or challenging policy.

Despite these constraints, civil society actors can demonstrate influence in their ability to affect the choices of states and UNHCR. They achieve this influence by leveraging forms of power and by engaging in the politics of the refugee regime. This engagement takes a number of different forms: advocating to national governments on the treatment of refugees, conditions of entry, rights during exile, and conditions for solutions; advocating with donor and resettlement countries for increased levels of engagement and access to durable solutions; advocating with the UNHCR for changes in policy and practice; and advocating within the formal and informal decision-making mechanisms of the global refugee regime, including through decision-making processes such as the annual meeting of UNHCR’s Executive Committee.

While often limited based on funding, civil society actors can use a diverse set of tools to influence the political opportunity structure.



Seizing and making opportunities

The first is by seizing and making opportunities: political opportunities are seized and transformed by a variety of challenges under many different conditions (Tarrow 1998: 73).

While political opportunities will not be apparent to all, they can be seized during moments where access to structures of change is increased, when political ties begin to shift, or when groups have influential allies (p. 88). Many of the biggest changes that have happened in the global refugee regime have been a result of a window of opportunity that opened in response to a particular conflict or situation, and civil society has been able to use this window to their advantage, such as in the cases detailed below when civil society actors have mobilized to respond to specific refugee situations.



Mobilization of political will

The second tool that civil society actors use is the mobilization of political will, defined as the determination of an individual actor to do and say things that will produce a desired outcome” (Crisp 2018). Political will can be mobilized through a variety of mechanisms. An important one is the use of incentives: a state that is taking a positive approach to refugees will be seen by the international community in a positive way and gain a degree of soft power. However, civil society has the most impact through social movements and mobilization. Because they are often seen to operate outside of the

traditional structures of the refugee regime, civil society actors can campaign, raise issues through the media and influence public opinion, especially in relation to solutions for particular refugee situations, as detailed below (Crisp 2018).



Moral and expert authority

Third, civil society actors influence political opportunity structures by providing moral and expert authority alongside their advocacy work.

As professionals in their field, civil society actors – NGOs in particular – are able to provide expertise, to present various policy alternatives, and to lobby governments around specific pieces of legislation.

In the global North, for example, NGO perspectives are valued given their first-hand knowledge, and they are able to effectively promote campaigns to raise awareness of issues and conditions of refugee situations (Ferris 2003). A prominent example of this form of influence is found in civil society responses to UNHCR’s policy on urban refugees, as detailed below. The moral authority of civil society actors is traditionally derived from the understanding that they are motivated by the pursuit of the public good of refugee protection and solutions, rather than institutional interests and gain, although this authority is arguably undermined given the political economy of humanitarian action, as outlined above. The expert authority of civil society actors is derived from their diverse operational experience and their close

proximity to refugee communities and populations. That is also increasingly the basis upon which the significance of refugee-led organizations has been highlighted in recent years. In this way, the authority of civil society actors is nested within understandings of their legitimacy and the trust invested in them by refugees and refugee communities.

It is for this reason that critical reflections are so necessary on power asymmetries between civil society actors and on the political economy of humanitarian action.



Building networks

To support this work in advocacy and the policy process, a growing number of civil society organizations build networks. These include regional networks such as the Asia-Pacific Refugee Rights Network (APRRN), global networks such as the International Council of Voluntary Agencies (ICVA) and sector-specific networks, such as the Global Refugee-led Network (GRN) and the International Association for the Study of Forced Migration (IASFM). Nah (2016) highlights how important the innovation of networks has been in the impact and influence of civil society actors (p. 231).

However, it is important to keep in mind that there are imbalances between civil society actors in the global North and South. International NGOs can more easily budget for international meetings, which is more difficult for local organizations. Moreover, the political economy of networks and the differentiated access to opportunities to participate in network activities, including

resources and the ability to secure visas necessary to travel to international meetings, further condition, and often constrain, the impact of networks (Nah 2016). While the realities of the COVID-19 pandemic have moved many global meetings to online platforms, thus increasing access to civil society actors from diverse regions, it remains to be seen if this increased access will continue following the pandemic.

What we have presented to this point in the paper is a framework for understanding the action and influence of civil society actors in the refugee regime, including the processes, mechanisms, and objectives of influence. This framework consists of an outline of the four types of civil society actors (national NGOs, INGOs, RLOs and researchers), the various roles of civil society actors (engaging in operational activities and advocacy work, advancing protection in host states, promoting solutions for refugees, seeking to influence global refugee policy, and advocating for changes in the structure of the global refugee regime) and the tools used by civil society actors in their efforts to realize change (seizing and making political opportunities, mobilizing political will, exerting moral and expert authority, and building and sustaining networks).

The next section of the paper will examine examples of civil society influence in the history of the modern refugee regime to identify moments and mechanisms of civil society influence. The goal of this section is to identify factors that might help explain the influence of civil society actors across time and cases, to identify barriers to influence that can be addressed, and to serve as the basis for recommendations on how civil

society actors can more fully play their historically complementary role in leveraging protection and solutions for refugees.

This history must, however, be premised with three cautions. First, moments of civil society success are often outnumbered by moments of failure. The history of the global refugee regime since the late 1980s has been a history of efforts by states to contain refugees in their region of origin, the erosion of refugee rights, limitations on the quality and quantity of asylum afforded to refugees, and the inability to predictably find solutions for refugees, leading to the rise of protracted refugee situations (Betts, Loescher & Milner 2012). This has been a pervasive trend despite the sustained efforts of civil society actors to resist it. In fact, the potential of civil society is arguably best evident in the ability of such actors to leverage protection and solutions with and for refugees, along with progressive changes in the structure and functioning of the refugee regime, despite this pervasively restrictive structure.

Second, these examples of success by civil society presented in the next section of the paper are not intended to efface the complex expressions and experiences of power that often affect relations between civil society actors. Power imbalances condition relations between national and international NGOs, just as they result in inequalities of opportunity for researchers in the global South relative to researchers in the global North. Likewise, refugee-led organizations face considerable barriers to their participation in both policy and practice. Understanding and addressing these inequalities, both between civil society

actors, and between civil society and institutional actors such as states and UNHCR, remains a critical challenge for the future of the global refugee regime.

Third, this presentation of four types of civil society actors is not intended to suggest that the categories are mutually exclusive. In fact, the lines between the various types of civil society actors can often be blurred. For example, the leadership of many national and international NGOs include refugees, while a number of refugee-led initiatives register as national NGOs not refugee-led organizations, in response to national regulations around the registration of charitable organizations. Instead of reading these categories as exclusive, the framework presented above should instead be viewed as indicative of the various types of civil society actors engaged with the politics of the refugee regime.

4. HISTORICAL EXAMPLES OF CIVIL SOCIETY IN THE GLOBAL REFUGEE REGIME

Historically, civil society has played a prominent role in developing innovative responses to refugee situations (Loescher 2001: 270). Ferris (2003: 118) traces the central role NGOs played in refugee responses prior to the creation of UNHCR, including the influence of NGOs over the response to Russian refugees, pressures to establish the League of Nations High Commissioner for Refugees in 1921, the creation of UNHCR's two predecessors in the 1940s (UNRAA and IRO), and the establishment of UNHCR. Ferris also notes (2003: 119) that the initial relationship between UNHCR and NGOs was clear:

“
NGOs needed a strong UNHCR to provide protection for refugees and UNHCR was dependent on NGOs for provision of assistance.
”

Within this historical context, this section identifies particular examples of some or all of the four types of civil society actors (identified above) contributing to efforts to advance protection in host states, promoting solutions for refugees, seeking to influence global refugee policy, and advocating for changes in the structure of the global refugee regime. These examples do not claim to be representative or provide a comprehensive review, but rather illustrate cases from diverse contexts where civil society actors have employed their various mechanisms to realize change, by seizing and making political opportunities, mobilizing political will,

exerting moral and expert authority, and building and sustaining networks.

Protection in host states

As noted above, civil society actors have demonstrated their capacity to respond to specific protection needs in local and national contexts. Either in response to efforts by host states to place restrictions on the quality or quantity of asylum offered to refugees or in making or seizing political opportunities to advocate for enhanced rights and protections, civil society actors have demonstrated their ability to effect change through a range of activities, including lobbying with governments, protests, advocacy, and legal proceedings.

Sometimes, these efforts can be very public and work through national institutions, such as the court system, and be led by national NGOs, academics, and other domestic civil society actors. For example, it was a challenge heard by the High Court in Kenya that prevented the Government of Kenya's effort to close the **Dadaab refugee camps** in 2017, a move that prevented the forced return of some 260,000 refugees to Somalia. While international human rights actors such as Amnesty International and Human Rights Watch issued public statements condemning the plan from the Government of Kenya, the successful legal challenge was initiated by domestic actors, including the Kenya National Commission on Human Rights and the Kituo Cha Sheria Legal Advice Centre. Given the

political opportunity structure in Kenya and the government's heightened sensitivity to external criticism following the disputed elections in 2007, it has also been suggested that domestic actors were better placed to oppose the government's plans to close the Dadaab camps, especially given the limited leverage that international actors, including UNHCR, were seen to have relative to the Government of Kenya.

Similar dynamics have recently been observed in Canada with the 2020 ruling of the Federal Court of Canada against the 2004 **Safe Third Country Agreement (STCA)** between Canada and the United States. Under the STCA, Canada and the US declared each other to be "safe" countries in which individuals in need of international refugee protection could reasonably claim asylum. As such, individuals arriving from one country and seeking to enter the other through official border crossings could be denied entry. Following the implementation of increasingly restrictive policies in the US since 2016, the Canadian Council for Refugees (CCR), Amnesty International Canada, and the Canadian Council of Churches joined an individual litigant in 2017 to challenge the constitutionality of the STCA. In July 2020, the Federal Court ruled that the STCA violated the right to liberty and security protected by the Canadian Charter of Rights and Freedoms, and thus struck down the STCA as unconstitutional.

There are, however, other contexts where civil society actors can partner with UNHCR to promote enhanced refugee protection in restrictive or contested domestic contexts. A useful example of this approach is the case of **Thailand** in the mid-2000s when the

Royal Thai Government took tentative steps towards a new approach to hosting refugees from Myanmar (Loescher & Milner 2008: 318- 19). These steps were the result of a concerted effort by UNHCR, national NGOs such as the TBBC, and refugee-led organizations, including the Karen Women's Organization.

In 2005, UNHCR and the Committee for the Coordination of Services to Displaced Persons in Thailand (CCSDPT) issued a joint letter to the Thai government, which noted that Karen and Karenni refugees had been living in Thailand for 20 years with very few rights and opportunities, leading to challenges for refugees and Thailand. The coalition argued that "if refugees were given more skills training, further education and income generation opportunities, this would prepare them well for whatever solution awaited them in the future, whether that was in a third country, back in Myanmar or during their stay in Thailand" (Loescher and Milner 2008: 319). In response, the Thai government subsequently approved extended skills training projects designed to produce household income and improve livelihoods and employment opportunities. Thai authorities also agreed to support education in the camps by setting up learning centres with a focus on teaching the Thai language. While some of this progress was derailed by the overthrow of the Thaksin government in 2007, it did result in a new openness to issuing identity cards and allowing skills training and education in the camps.

More generally, a range of domestic civil society actors play important roles in navigating the "**everyday politics**" of the refugee regime by engaging with

“street-level bureaucrats” to help ensure protection for refugees. Through the provision of legal aid and interventions, national NGO actors like the Refugee Consortium of Kenya, Dignity Kwanza in Tanzania, and Asylum Access Malaysia, to name but three, play ongoing and important roles in advancing refugee protection in national contexts. Such organizations often play important roles in supporting the process of drafting new national legislation, while NGO representatives and academics typically appear before parliamentary and congressional committees reviewing legislation and its implementation. Moreover, recent research (Betts et al. 2018; 2020) has documented a reality that has been appreciated anecdotally for many years: that refugee leaders and refugee-led organizations play critical roles as providers of social protection and as intermediaries between institutions and refugees across a range of contexts.

Solutions for refugees

Civil society actors have also played prominent roles in advancing solutions for particular refugee situations through their ability to seize and make political opportunities, mobilize political will, exert their moral and expert authority, and build and sustain networks and coalitions. These responses have historically seen international and transnational civil society actors leading alongside national or local actors.

In many cases, civil society plays the critical role of mobilizing the media to raise public awareness of the need for collective action to resolve specific situations, leading to citizens

demanding action from their governments, especially for the resettlement of groups of refugees from their regions of origin to states in the global North.

This type of action has also historically involved organizations mobilizing to provide international aid, establish resettlement programs for the group in need, and offer post-resettlement assistance to support integration.

Such responses have been found throughout the history of the modern refugee regime, beginning with the response to the 1956 Hungarian crisis. As noted by Loescher (2001), this was the first refugee crisis to be televised, which provided a basis for public demands for action. Civil society mobilized in the West to express sympathy for those fleeing communism. In Canada, for example, religious organizations played a key role in shifting policy to allow the resettlement of Hungarian refugees (Cameron 2019; Niessen 2016). The Canadian Council of Churches provided material assistance to Hungarian refugees in Canada while the World Council of Churches (WCC) acted at the international level lobbying governments to participate in the collective response. As noted by Thompson and Bangarth (2008), these actions proved instrumental in mobilizing public support and subsequent government responses (Thompson & Bangrath 2008).

The response to the Hungarian uprising laid the foundation for World Refugee Year in 1959-60. As noted by Loescher (2001), “World Refugee Year was inspired by the rapid international response to the 1956 Hungarian refugee crisis, particularly the role played by the voluntary agencies, religious

organizations, private foundations and individual members of transnational society in quickly resettling some 170,000 Hungarian refugees in countries all over the world.” Following the Hungarian crisis, two British journalists initiated a campaign to find solutions for thousands of refugees and displaced persons who remained in camps across Europe and elsewhere some 15 years after the end of World War Two following post-war efforts to find solutions. Civil society organizations around the world mobilized around this effort, resulting in solutions for the majority of refugees and displaced persons remaining in camps. As noted by the UN General Assembly resolution A/RES/1502 of 5 December 1960 expressed its thanks to “all Governments, national committees, non-governmental organizations and private individuals” that contributed to the success of World Refugee Year, and requested that NGOs, along with governments and specialized agencies, remain engaged in the pursuit of solutions for refugees (UNGA 1960).

Such engagement was evident again in the 1970s in response to the resettlement of Ugandan Asians following their expulsion by Idi Amin in 1972 and in response to the needs of refugees in Chile in 1973. Following the order to expel some 80,000 persons of Indian descent from Uganda, civil society organizations, especially the Aga Khan, mobilized political will in the UK to accept citizenship claims of many who were subject to expulsion, while convincing other countries, such as Canada, to accept thousands of others for resettlement. Likewise, following civil society actors were catalysts for a response to the needs of hundreds of refugees who had sought

protection in Chile following persecution for their opposition of military regimes in Argentina and Uruguay. Following the overthrow of the Allende government by Pinochet in 1973, these refugees were no longer safe in Chile. Many refugees took shelter in various foreign consular offices in Santiago. Civil society actors in several Western countries were able to successfully navigate the opportunity structure presented by the Cold War, which saw many Western governments support the pro-West Pinochet regime (Diab 2015). While the response took longer to mobilize, it did ultimately result in the resettlement of hundreds of refugees. This response is especially notable given that it was realized at the height of the Cold War.

Following the end of the Cold War, civil society was again critical in mobilizing a Western response to the needs of refugees. Most notable was the support that sustained the resettlement of refugees from Vietnam, Laos and Cambodia between 1975 and 1993 through the Comprehensive Plan of Action (1975 to 1993). As with the Hungarian response, civil society actors leveraged media coverage of the plight of tens of thousands of people fleeing Vietnam following the fall of Saigon in 1975. Civil society actors were able to mobilize political will by stressing a sense of Western responsibility to support those who had been allied to Western actors during the Vietnam war. Civil society support was again critical to support the adoption of the CPA in 1989 at the end of the Cold War. The mobilization of civil society in the US was especially critical to sustain public demands for action from their government. In the end, of the 3 million persons who fled Vietnam, Laos and Cambodia between 1975 and 1993, some 1.95 million were resettled, with 1.25

million resettled to the US alone. Civil society actors played a critical role not only in advocating for their resettlement but in supporting their reception and successful integration (Loescher 2001).

Despite the changing political utility of refugees in the aftermath of the Cold War and the securitization of refugees following 9/11 (Betts, Loescher & Milner 2012), civil society actors have been able to mobilize the political will necessary to mobilize large-scale resettlement responses to specific refugee situations in recent years. The campaign to resettle the Sudanese “Lost Boys” following 2001 is one example.

Led by faith-based organizations in the US, the focus of these efforts was initially to generate additional assistance for a group of Sudanese unaccompanied minors in neighboring states, especially Kenya. Within the dynamics of post-9/11 resettlement programming in the US (Boas 2007), however, these efforts ultimately resulted in the identification of the Lost Boys as being eligible for expedited group resettlement to the US. Of particular note was the ideological diversity of the groups that formed the coalition to pressure the US government to resettle these refugees, with sustained collaboration between Left/Liberal and Right/Conservative organizations.

The response to the arrival of some 1 million persons seeking protection in Europe in 2015 resulted in a similar large-scale response from a broad range of civil society actors, both to respond to the needs of individuals in Europe and to call for the resettlement of refugees, especially Syrian

refugees, to other states. While it is important to note the limited ability of civil society to mobilize significant collective action to the needs of more than 3 million Syrian refugees in Turkey, Lebanon and Jordan between 2011 and 2014, it is equally important to highlight the role of a diffuse and diverse range of civil society actors in 2015 onwards. As individuals began arriving in Europe in significant numbers in early 2015, a patchwork of local actors, volunteer groups and national and international NGOs mobilized to respond. While several actors sought to leverage media engagement on the plight of individuals arriving in Europe by boat, many others mobilized to provide material assistance and legal aid to asylum seekers in Southern Europe.

As thousands of asylum seekers began moving further North and West in Europe, and as governments began to mobilize to block their arrival, civil society actors mobilized to protest in favor of welcoming refugees and providing assistance (EESC 2017). The role of civil society was seen to be especially important in mobilizing the necessary political will in Germany for it to accept some 1 million refugees. As noted by Duchrow (2017), “in Germany, Chancellor Merkel took the decision to welcome approximately one million refugees, many of whom from war-torn Syria, in the summer 2015, when civil society showed impressive engagement, commitment and support for asylum seekers arriving in the country. The Chancellor’s motivation was driven by this positive civil society response, as well as by the business community’s openness to receive skilled migrant workers.” While it has been recognized that a range of factors

influenced Germany's response, it is important here to note the role that civil society played in advocating for the response for which Germany subsequently won international praise.

In a similar way, the actions of civil society in Canada made the resettlement of Syrian refugees a prominent issue in the 2015 federal election campaign with all major political parties making commitments to resettle thousands of Syrian refugees. Civil society action helped ensure that the Trudeau government delivered on its resettlement commitments and played an instrumental role in ensuring the resettlement of some 40,000 Syrian refugees by early 2016, including through the private sponsorship of refugees (Hamilton, Veronis, & Walton-Roberts 2020).

Against this accomplishment, however, it is important to contrast the inability of civil society in the US to prevent the significant reduction in US resettlement activities following the 2016 elections.

This contrast between the experience in Canada and the US further highlights the importance of understanding the potential role of civil society in the context of the wider political opportunity structure within which they function.

The brief examples presented in this section also suggest that civil society has been more successful in mobilizing political will in support of large-scale resettlement efforts. In contrast, transnational or international civil society actors have been less successful in mobilizing the necessary political will to seize and make the

political opportunities necessary to promote solutions in regions of refugee origin, such as through the local integration of refugees.

Global refugee policy

A wide range of civil society actors have been actively involved in the process of making, implementing and critiquing "global refugee policy" (Milner 2014b). This type of action by civil society is most often observed through the work of transnational advocacy networks, and through the effort of grassroots organizations to place an issue on the global policy agenda, influence the range of policy responses brought to the decision-making structures of the global refugee regime, support or resist the implementation of global policy in local contexts, and document the benefits or costs associated with the implementation of a given policy, thus contributing to its continuation, replication in other contexts, or its revision.

Typically, action that affects global refugee policy begins more informally with local organizations raising awareness of particular issues and lobbying international actors who have access to policy making arenas. Many times, the resulting policy changes are a result of this work, but also a result of an available political opportunity structure.

While the study of global refugee policy as a process is relatively new (Milner 2014b), there are many examples of civil society actors engaged in this area of work. An early example relates to efforts to promote UNHCR's 1990 Policy on Refugee Women. This process is said to have begun in the

1970s when the UN General Assembly established 1976-1985 as the UN Decade for Women, Equality and Peace (Edwards 2010). The emergence of this policy has been linked to the strategic organization of individuals connected through transnational advocacy networks. These individuals were tied to both grassroots and international organizations who launched campaigns to raise awareness of the particular needs of refugee women. These efforts resulted in the conclusions of the 1980 Copenhagen Conference and the 1985 Nairobi Conference, where the particular needs of refugee women were acknowledged by UNHCR. At a parallel NGO forum, hundreds of civil society groups, advocates and refugee women organized to mobilize political will on the part of states to recognize and address the needs of refugee women. Later, in 1985, UNHCR's Executive Committee adopted a Conclusion on Refugee Women and International Protection, stressing the need for more attention to the protection needs of refugee women. Then, in 1988, the World Council of Churches and UNHCR co-hosted a conference on the particular needs of refugee women, resulting in a handbook to inform operational practices. These global policy discussions ultimately resulted in the development of global policy and changes in domestic practice, including the adoption of Guidelines on Gender-Based Persecution by Canada's Immigration and Refugee Board in 1993. As highlighted by Baines (2002), these developments were the result of sustained, coordinated, and effective international advocacy by NGOs and other civil society actors between 1986 and 1990, specifically to hold UNHCR and member states accountable for pledges that had been made (Baines 2002).

These commitments have laid the foundation for future work by civil society organizations, such as the work of the Women's Refugee Commission since its establishment in 1989.

Building from the platform created by the 1990 policy, civil society actors have advanced specific issues of policy and programming, such as the links between access to energy and firewood as a means of reducing levels of gender-based violence, responses to challenges faced by refugee women with disabilities, and the specific conditions faced by refugee girls in relation to access to education, employment and identity documents.

To this end, it is helpful to note the many areas of progress civil society actors have been able to advance in relation to global policy relating to refugee women and girls, notwithstanding the many challenges that refugee women and girls continue to face.

In a similar way, the case of the 2009 Executive Committee Conclusion on Protracted Refugee Situations provides an example of how civil society actors, including international and national NGOs working in collaboration with researchers, can raise issues on the agenda of the decisionmaking bodies of the refugee regime and mobilize the political will necessary to encourage the development of new areas of global refugee policy. As detailed by Milner and Loescher (2011: 1), the process leading to the 2009 ExCom Conclusion was the result of a "decade of discussion between actors within the refugee policy, research and advocacy communities." This included a series of studies conducted by UNHCR, a paper on the

issue for a meeting of Standing Committee in 2004, and efforts in individual refugee-hosting states in the global South to respond to the prolonged presence of refugees. As noted by Milner and Loescher (2011: 10), these initiatives were “mirrored by new initiatives in the advocacy and research communities,” which “created an evidence-base” from which civil society actors could “engage with policy discussions.” These efforts contributed to the mobilization of political will on the part of ExCom Member States, including Canada, who ultimately guided contentious negotiations to a successful conclusion at a special session of ExCom in December 2009. While the adoption of a new global policy on protracted refugee situations has not individually contributed to the resolution of specific refugee situations (Milner 2014a), it remains an important example of how civil society can leverage its moral and expert authority to help raise an issue on the agenda of the decision-making bodies of the global refugee regime and mobilize the political will necessary to see a new policy adopted.

Civil society actors have also demonstrated the ability to leverage their moral and expert authority and mobilize the political will necessary to create the opportunity to change global refugee policy found to contradict core protection principles.

A prominent example of is the change in UNHCR’s urban refugee policy, from the more restrictive 1997 policy to the more progressive 2009 policy. Crisp (2017) describes how a combination of NGO, academic and refugee-led efforts documented the range of negative

consequences of UNHCR’s 1997 policy. This policy presented a series of “negative generalizations about the world’s urban refugees” as the basis for justifying a policy that was seen to appeal to the interests of host states by denying refugees the right to freedom of movement and legitimizing the containment of refugees in refugee camps (Crisp 2017: 89). Crisp notes how NGO opposition to the policy resulted in a 1999 commitment from UNHCR to revisit the policy. Despite that commitment and “constant pressure from the NGO community” to revisit the policy (Crisp 2017: 93), growing academic literature on the adverse consequences of the policy (Jacobsen 2006), and diverse examples of innovation by national NGOs and refugee-led initiatives to navigate protection in a diverse range of urban spaces, it was not until 2009 that UNHCR issued its new urban refugee policy, which “in both tone and content” disassociated itself from the 1997 policy (Crisp 2017: 93). Ultimately, the case of UNHCR’s urban refugee policy illustrates that while changes in global refugee policy may take considerable time, sustained, collaborative and collective engagement by civil society actors can bring about change.

Changing the structures of the regime

More difficult to discern is the role of civil society actors in effecting changes to the structure of the refugee regime itself. Early work of civil society contributed to the expansion of the scope of the refugee regime, especially through the role of private foundations in supporting UNHCR’s expansion into the provision of material assistance to refugees, as seen in the case of

a 1952 grant from the Ford Foundation (Loescher 2001), or in mobilizing support for expanding the geographic scope of UNHCR's work, as seen in the work of civil society in calling for UNHCR's engagement with non-Communist Chinese refugees in Hong Kong in the mid-1950s (Madokoro 2015). These efforts resulted in lasting changes in the substantive and geographic scope of the regime, and provide examples of the essential role civil society played in the early evolution of UNHCR.

More recently, civil society actors have worked to change the scope of the regime through participation in consultations convened by UNHCR.

Through these efforts, civil society actors seek to mobilize political will and leverage their moral and expert authority to influence the position of states and UNHCR, which remain the core decision-makers within the regime. From 1999 to 2003, for example, UNHCR convened the Global Consultations process, which led to the Agenda for Protection being adopted by the UN General Assembly. Civil society actors participated in a series of meetings, roundtables and consultations to address a broad range of themes identified as priorities by UNHCR (Feller, Türk, & Nicholson 2003).

Since 2007, civil society has played a more prominent role in the deliberative functions of the refugee regime through the annual High Commissioners' Dialogue on Protection Challenges. Unlike meetings of UNHCR's Executive Committee, the annual dialogues give civil society actors the ability to participate on equal terms with states.

Although the results of the High Commissioner's Dialogues do not have the significance of ExCom Conclusions, they do constitute an important venue for civil society to demonstrate their moral and expert authority on specific issues.

Most recently, civil society actors played an active role in the process leading to the affirmation of the Global Compact on Refugees by the UN General Assembly in December 2018 (Ferris & Donato 2019). While

states alone were involved in the final consultations on the text of the GCR, civil society was actively engaged in the process from its origins in 2016, in the development of the New York Declaration, in the roll-out of the Comprehensive Refugee Response Framework in several countries, and in the thematic consultations held in Geneva in 2017. Civil society was also active in seeking to mobilize political will among several ExCom Member States to seek particular outcomes in the text itself. Of particular note was the rise of refugee-led organizations, such as the Network for Refugee Voices, as actors in global policy discussions on the future direction of the refugee regime. While these activities illustrate the significant engagement of civil society in such processes over the past 20 years, the impact of this area of activity remains poorly understood and requires considerable future research.

5. UNDERSTANDING THE ROLE OF CIVIL SOCIETY IN THE FUNCTIONING OF THE REFUGEE REGIME

While these historical examples of where and how civil society actors have demonstrated influence over outcomes within the global refugee regime – in areas as diverse as protection, solutions, policy, and the contours of the regime itself – they do not present a comprehensive review of such moments of influence. More research is required to present a comprehensive history of the role of diverse civil society actors in this history of the refugee regime. This historical overview also does not claim to be able to provide the basis for a generalizable theory on where, when, and how civil society actors can influence future efforts within the refugee regime. Indeed, it is arguably problematic to assign independent causal agency to the role of civil society actors.

In the pursuit of protection and solutions, this historical overview suggests that civil society works most effectively when it is able to successfully influence states and UNCHR, who remain the key powerbrokers within the regime.

But given this preliminary overview of the ways in which civil society has had influence, what factors emerge that might explain where civil society actors are able to influence outcomes? What recommendations follow from these conclusions?

First, across cases, civil society has been effective when it has been able to mobilize political will, especially to leverage its moral and expert authority to encourage action on the part of states (Crisp 2019). While this capacity can result from the trust-based relationships that civil society actors can develop with institutional actors, and the often unique ability of domestic civil society actors to interpret and navigate contested domestic political opportunity structures, this ability is especially effective when civil society are able to make or seize the political opportunity that can be created as a result of media attention in response to a particular refugee situation. From the response to the Hungarian uprising in 1956 to the 2015 situation in Europe, civil society actors have been successful when they have been able to mobilize in response to public attention to refugee situations resulting from media coverage. This conclusion highlights the need for more comparative attention to the role of media coverage of refugees, its impact on public opinion, and the ability of civil society to guide, leverage or respond to the resulting public sentiment (Smets & Bozdağ 2011).

RECOMMENDATIONS



Recommendation 1: Building from Crisp’s 2019 paper, additional research and political analysis is required to better understand the conditions under which civil society are able to mobilize political will and create permissive domestic political opportunity structures to advance protection and solutions for refugees



Recommendation 2: Based on the outcomes of this analysis, investments should be made in the development of a policy engagement training program to enhance the impact of civil society in advancing protection and solutions in national contexts.

Second, the impact of civil society has been amplified when it has been able to build and sustain networks focused on a common cause (Nah 2016). The importance of networks has been especially evident in the context of efforts to make or challenge global refugee policy, as in the cases of policy relating to refugee women, urban refugees, and protracted refugee situations. These efforts require an investment of time and resources that can often prove challenging, yet all three examples of policy change required engagement over a period of a decade or more. While new technologies provide enhanced opportunities for connecting localized responses across diverse contexts, building multi-sectoral coalitions, and including civil society actors that have been historically excluded (especially refugee-led organizations), greater attention must be paid to the impact of inequalities and the challenge of power asymmetries within networks (McGrath & Young 2019).



Recommendation 3: Additional funding streams should be identified to support active, inclusive, and independent civil society networks in national and regional contexts.



Recommendation 4: Additional funding is also required to support the activities of groups such as the International Council of Voluntary Agencies (ICVA) that act as a focal-point for exchange for dialogue between global refugee policy discussions in Geneva and the perspectives of civil society actors operating in diverse national and local contexts.



Recommendation 5: In light of the pivot to online platforms for regional and global meetings of the refugee regime during the COVID-19 pandemic, UNHCR should commission an evaluation of how the use of such online platforms has affected the level and substance of participation, with a particular emphasis on its impact on equity, diversity, and inclusion, including the perspective of refugees. The results of this evaluation should guide future discussions on the hosting of such meetings following the COVID-19 pandemic.

Third, these historical examples illustrate how civil society actors seek to employ their moral and expert authority in diverse ways, but with uneven success. In many cases, civil society actors, especially refugee-led organizations, have considerable moral authority to highlight the needs of refugees. Moreover, national NGOs and others have considerable expert authority in navigating specific contexts and political opportunity structures, while epistemic communities and academic actors are able to leverage knowledge and evidence. However, these forms of authority may be insufficient to independently mobilize the necessary political will, especially when confronted with other forms of power within the refugee regime, such as material power, institutional power or competing expressions of productive power (Barnett & Duvall 2004; Milner & Wojnarowicz 2017). This tension is amplified by the institutional structures of the global refugee regime, which are premised on the decision-making power of states. This issue points to the need for much more research and analysis on the ways in which civil society actors have been able to navigate a range of seemingly restrictive opportunity structures to mobilize support for the goals of the refugee regime, namely protection and solutions for refugees.



Recommendation 6: Given the success of inclusive and shared governance structures, such as the Annual Tripartite Consultations on Resettlement (ATCR) and the future inclusion of refugees in this governance structure, UNHCR and its partners should actively explore other issue areas that would benefit from similarly shared governance structures that include states, UNHCR, civil society and refugees.



Recommendation 7: To bring civil society perspectives more fully into the governance of the global refugee regime, Member States of UNHCR's Executive Committee should identify where elements of the annual ExCom agenda could be co-convened with civil society. That may include returning to a model where the Annual NGO-UNHCR Consultations are convened at a time more proximate to UNHCR's Executive Committee meeting. It may also include additional civil society input on the Executive Committee's agenda and the co-moderation of agenda items.



Recommendation 8: The size of Executive Committee Member States' Delegations should be increased to allow for the wider participation of civil society actors within national delegations, thus ensuring greater civil society engagement in both the formal elements of the Executive Committee agenda and the bilateral meetings that are convened on the margins of ExCom.



Recommendation 9: While increasing civil society representation in national delegations, Executive Committee Member States should be encouraged to follow the example of the Government of Canada and include a refugee on their delegation to future meetings of the global refugee regime.



Recommendation 10: To support the meaningful engagement of civil society in the governance of the refugee regime, UNHCR should cooperate with partners to develop a civil society policy engagement training program. Fourth, these historical examples illustrate the value of equal partnership and collaboration between civil society and UNHCR. Taking a long view of the history of the relationship between UNHCR and civil society suggests that the relationship has shifted from one of mutual reliance in the 1950s to one that has been described as more unequal in recent years (Barnett 2011; Ferris 2009; Loescher 2021). As a larger portion of UNHCR's expenses are directed through NGO partners, and given the political economy of humanitarian responses (Weiss 2013), international and national NGOs may increasingly view their relationship with UNHCR as shifting from partner to donor. This relationship may complicate the role that civil society can play in critiquing policies and responses for fear of compromising its relationship with UNHCR. That said, civil society actors that have been able to build and maintain relationships and entry points with UNHCR as well as governments are more likely to have influence over particular outcomes.



Recommendation 11: Similar to the PARinAC process in the 1990s, UNHCR should undertake consultations with civil society partners on a new UNHCR policy on its working relationship with NGOs. While PARinAC resulted in some 130 recommendations to guide the working relationship between UNHCR and NGOs, the changing nature of civil society and the challenges facing the refugee regime today calls for a new, action-oriented dialogue on the diverse ways that civil society actors can work as partners with UNHCR to fulfil its mandate in a changing world.

Finally, it is important to highlight the many valuable ways that civil society partners contribute to the functioning of the refugee regime, not only in their critical role in the delivery of programs and services, but in a range of other ways as well. Examples of civil society actors leveraging protection space and promoting solutions in restrictive domestic environments demonstrate the roles that civil society can play in promoting protection and solutions, roles that are distinct and complementary to the roles UNHCR has historically been able to play. Given UNHCR's nonpolitical mandate, along with its institutional history and organizational culture, it has historically been limited in its ability to reliably engage with political opportunity structures that define the space within which protection and solutions for refugees can be pursued (Betts, Loescher & Milner 2012). In contrast, civil society actors are positioned to navigate contested domestic contexts and critique governments in global, regional, national, and local contexts. Given the politics of the refugee regime, this is a distinct role that civil society has historically been able to play. Recognizing this unique ability, especially given the increasingly restrictive politics of the global refugee regime, would be a useful point of departure in reimagining the relationship between UNHCR and the diverse range of civil society actors.

CONCLUSION

This paper has highlighted the role that civil society engagement can play in advancing the mandate of the refugee regime to ensure protection and solutions for refugees. In local contexts, civil society ecosystems that include national NGOs, academics, and refugee-led networks and initiatives can play a significant role in advocating for changes in national legislation, policy and practice regarding refugees and other displaced persons.

In global contexts, the experience from the climate change literature shows how the moral and expert authority of civil society can contribute to the building of shared political will in favor of progressive collective action (Betsill & Corell 2001). In the refugee regime, there is ample episodic evidence of the role that civil society has played in raising issues on the agenda of the global refugee regime, proposing policy responses, and building the political support for decisions in the form of ExCom Conclusions and other forms of global refugee policy (Milner 2014b). This paper provides a very general start in more fully understanding where, when and how civil society can exert influence over the governance and performance of the global refugee regime, but ultimately it is a call for more sustained, comparative, and analytical research on the role of civil society.

The paper also calls for a more historicized appreciation for the moments when civil society actors have been able to leverage

protection and unlock solutions for refugees, often acting in ways that were complementary to UNHCR's efforts but through mechanisms not available to UNHCR. Likewise, civil society actors have been able to usefully critique policies, raise issues on the policy agenda, and help bring to bear evidence on possible solutions. These contributions speak to the importance of the relationship between UNHCR and civil society as a relationship of counterparts who may not always agree, but are most effective where there is trust-based collaboration and cooperation. This collaboration is arguably the most pressing issue at a time when the COVID-19 pandemic has constrained the mobility and access of international actors, with the result that local actors – including refugee-led organizations – are playing a more prominent role (Alio et al. 2020). It is also a time that processes and programming are being revisited in light of new realities.



Ultimately, the contribution of civil society will be most effectively enhanced through mechanisms that address

power imbalances between civil society actors and between civil society actors and other actors within the refugee regime, including through the development of networks, capacity building, and changes in the political economy of the refugee regime and in restrictions on decision-making within the core institutions of the global refugee regime.

CONCLUSION



Moreover, it is important to critically understand the relationship between different types of civil society actors, especially between international and national NGOs, and between researchers in the global North and South. It is also important to recognize the barriers to participation faced by refugee leaders and refugee-led initiatives. Enhancing the role of civil society in the functioning of the global refugee regime will necessitate greater recognition of, and responses to, these power asymmetries.

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