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The Responsibility to Protect and the Refugee Crisis

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The world is witnessing unprecedented forced displacement due to conflict, persecution, and human rights violations. The conflict in Syria has been a major source of this displacement, producing over 7.6 million internally displaced persons and over 4.8 million refugees. The escalation of armed conflict in Iraq since 2014 has also contributed to a dire humanitarian and displacement crisis, and recent data indicate that Iraq is one of the three main origin countries—along with Syria and Afghanistan—for asylum seekers and migrants arriving in Europe. The conflicts in Syria and Iraq have been characterized by mass atrocity crimes including war crimes, crimes against humanity, and possible acts of genocide. As the death tolls and casualties associated with attempts to flee these conflicts continue to rise, the failure of the international community to adequately protect civilian populations targeted by violence underscores concerns regarding the international norm of Responsibility to Protect (R2P). Over ten years after its acceptance by all member states at the United Nations World Summit, the framework for collectively responding to mass atrocities when states have manifestly failed to protect their populations remains weakened by critiques of selective use and by its conflation with coercive humanitarian intervention in the aftermath of its application in Libya. R2P's association with controversial coercive measures threatens to undermine its legitimacy and overlooks important non-coercive opportunities for implementing the human protection principles that are at its core. In particular, in the wake of mass atrocity situations, facilitating access to asylum and other forms of protection for refugees and displaced persons represents an essential step towards fulfilling R2P.

Linking the Responsibility to Protect and Refugee Protection

There are strong foundations for emphasizing R2P as refugee protection. First, the international norm is intended to apply to mass atrocity situations where there is evidence of war crimes, crimes against humanity, ethnic cleansing, or genocide. The refugee crises associated with World War II, the Vietnam War, the Rwandan genocide, and the Balkans conflicts of the 1990s underscore the connection between mass displacement and mass atrocity crimes. International indifference or opposition to collective refugee burden-sharing in these cases frequently resulted in further victimization. In his study of mass killings, Benjamin Valentino argues that greater international response to refugees could have helped reduce the death toll of many of the 20th century's worst genocides.

An emphasis on R2P as refugee protection also bolsters the non-coercive and non-violent aspects of the human protection norm at a time when significant criticism surrounding the third pillar of the framework regarding forceful intervention threatens to erode its legitimacy and global consensus. Humanitarian interventions raise concerns about selectivity and often pose significant risks with regard to civilian harm. These risks are compounded by the power asymmetries and *realpolitik* dynamics that typically characterize coercive interventions. Further associations of R2P with forceful interventions will understandably trigger greater contestations of the norm and undermine the potential for its evolution into meaningful legal obligations. As an alternative to the use of force, states can respond to mass atrocity situations with mechanisms of refugee protection like facilitating access to asylum, granting temporary protection, and upholding the principle of *non-refoulement,* thus addressing R2P's call for collective international response in a timely and decisive manner to protect civilian populations and prevent further victimization.

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Allocating Responsibility for Refugees

While there are robust foundations for connecting the human protection norm to mass displacement and refugee response, the implementation of R2P as refugee protection faces significant impediments both in Europe and the United States. One major obstacle is refugee burden-sharing. The 1951 Refugee Convention and its 1967 Protocol do not specify how, in the face of major refugee crises, states should equitably allocate legal, financial, or physical responsibilities for protection. While states are obligated by the principle of *non-refoulement* not to contribute to refugees' harm by returning them to their place of persecution, international law grants states the right to retain control over their sovereign borders. As such, states are not compelled to grant asylum. A related problem is that the existing refugee protection regime relies on post-World War II assumptions that forced displacement is a temporary phenomenon and refugees will be able to return to their country of origin following the resolution of the conflict. Despite data indicating that displacement has become increasingly prolonged, the repatriation of refugees to their home countries remains more heavily promoted than their resettlement or local integration in host countries.

To date, neighboring states in the Middle East have absorbed the vast majority of refugees fleeing atrocities in Syria and Iraq. This disproportionate burden on states in the region is in line with global trends in the distribution of refugees. Because proximity to place of origin has been a key determinant of distribution, developing countries that can least afford to host refugees have assumed the overwhelming responsibility for them. This inequality in refugee burden-sharing emerges not only due to geographical proximity, but also reflects the increased ability of developed countries to prevent refugees from

arriving on their territories. In the ongoing crisis, inequitable burden-sharing is also apparent on a regional level within the European Union (EU), as southern European states have continued to bear the primary responsibility for screening and processing asylum claims. While other EU members have partially shared the burden by committing financial resources to assist Greece and Italy and by hosting some refugees through relocation frameworks, as of November 2015 only three states—Germany, Austria, and Sweden—fulfilled their committed quotas for relocating refugees.   Debates over refugee burden-sharing in Europe have underscored tensions between EU principles and individual member states' willingness to implement norms of equity in refugee protection.

While discussions of refugee burden-sharing have largely focused on capability —that is, states' relative capacities to assist refugees based on factors like economic development, population, and territorial size—the criteria that ought to govern the allocation of refugee responsibility remain ambiguous. The EU plan for distributing asylum seekers approved in September of 2015 utilized economic strength, population, unemployment, and the number of asylum applications approved in the last five years as criteria; however, this resettlement plan has faced opposition from central and eastern European states, and Poland announced that it would not participate. Complicating the task of determining how refugee protection responsibilities should be allocated is the notion that a country's culpability in the creation of the displacement might also shape its obligations to respond.

The Securitization of Refugees

Even if consensus can be reached at the international level regarding principles of equitable refugee burden-sharing, policymakers can increasingly

expect resistance from their domestic publics rooted in logics that link refugees to fears of terrorism and perceptions of foreigners as threatening. The implementation of R2P as refugee protection thus faces significant hurdles related to the securitization of asylum seekers—particularly those from Muslim-majority countries—as threats to both national security and cultural values in the United States and Europe. Increased fears of terrorist infiltration via refugee flows have produced calls to round up Syrian refugees and resulted in the U.S. House of Representatives passing H.R. 4038, the *American Security Against Foreign Enemies* (SAFE) *Act.* Opposition to refugees at the domestic level has also manifested in arson attacks against refugee shelters in Germany and violence against refugees in France. As refugees are increasingly conflated with migrants, and the current crisis emanates largely from the Middle East, perceptions of asylum seekers have become linked to broader debates about immigration and Islam. In this context, domestic political forces in Europe and the US have framed the refugee crisis in ways that undermine the potential for R2P to be successfully reoriented as refugee protection.

Navigating these obstacles requires grappling with representations of refugees in social and political discourse, as well as articulating how refugee burden-sharing can serve states' national interests. Organized and predictable responses for allocating refugee responsibilities could, for example, support greater international stability and reinforce principles of cooperative security. In an increasingly interdependent global environment, fulfilling R2P through refugee protection could arguably compliment counterterrorism policies and contribute to an international protective infrastructure that facilitates better coping with transnational threats and humanitarian emergencies.

Za'atari refugee camp, Jordan. Image by DFID via Flick

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