

Leveraging change to policies, laws and practices in refugee hosting countries

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Question

What lessons can we draw from Bangladesh and other refugee-hosting countries on how to leverage change to policies, laws and practices applied to refugees? In what situations have we seen drastic shifts towards more protective legal and policy frameworks? What endogenous and exogenous factors and incentives have contributed to those shifts and what were the associated risks?

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1. Overview

This rapid review synthesises data from academic, policy and NGO sources on influencing government policies on refugees, with a particular focus on Rohingya in Bangladesh. However, it must be noted that this is an under researched topic with only the work of Jacobsen (1996) focusing specifically on the subject. Additionally, there are very few successful cases in the literature with most scholars focusing on failures. However, important lessons can be drawn from failures as well as successes. Although the data on influencing government refugee policies is extremely limited, a number of scholars have written on Targeted Development Assistance (TDA), whereby host countries refugee policies are influenced through providing development assistance.

It is important to highlight the difficulty in transferring the lessons from other experiences directly and they must be contextualised and developed to fit the dynamics of the local context (McGarry, 1998).

Key findings are as follows:

- Bangladesh is not well placed to deal with a large influx of refugees due to poverty and a large population and thus politicians often use anti-refugee policies to attract votes (UNHCR, 2011).
- In Southeast Asia governments have previously been given more aid the harsher their policies towards refugees were, which has created a negative precedent (Shum, 2011).
- Host governments can be pressured to change their policies by the international community, local actors, or by the refugees themselves.
- Refugee policies are affected by bureaucratic choices made by the government, international relations, the absorption capacity of the local host community, and national security considerations.
- It is important that donors recognise the sensitivities around the host country's dependence on their assistance and work to empower them, as failure to do so can lead to negative relations (Jacobsen, 1996).
- The host country's domestic context must be taken into consideration in influencing refugee policies, as they affect the local communities response to refugees, which in turn influence the government's policy choices.
- Although refugee policies are based on policymakers' calculations of national interests, the case study of Mexico demonstrates that these can be affected by incentives and policy options from international actors (Hartigan, 1992).
- If a country is experiencing a significant refugee influx that they cannot manage, they are likely to accept a ready-made framework if skills and financing are provided with it.
- Local actors play an important role in influencing government policies and also implementing policies on the ground, and thus they are an important group that should not be ignored in any processes to influence refugee policies.
- If aid is tied to development refugees can be seen to contribute to a community's economic capacity, however, there must not be the perception that they are privileged over the host community.

- For TDA to work, donors must commit to offering significant additional assistance and aid must target refugees and the local community. Whereas, the host country must accept refugee self-sufficiency and improved refugee protection.
- For successful TDA the full policy cycle must be considered, or a successful programme can become a failure (Milner, 2014).
- When a policy window for action emerges it must be acted on quickly, as perceptions of refugees can change quickly.

2. Influencing Policy in Bangladesh

Bangladesh is not well placed to cope with this protracted refugee situation, as the country is confronted with extreme poverty and high rates of population growth. Moreover, refugees are located in the most impoverished areas of Bangladesh. From a Bangladeshi perspective there has been a lack of concerted international action to address the circumstances that forced the Rohingya to leave Myanmar in the first place. From a political position the government is also under pressure to address the impact that refugees have on the host communities and the Bangladeshi government does not believe they have received enough international support in this regard. Thus, the policies that the Rohingya are trying to escape in Myanmar are often mirrored in Bangladesh (UNHCR, 2011). Prior to the most recent influx of Rohingya refugees into Bangladesh, UNHCR (2011) recommended a number of initiatives to overcome the protracted refugee situation:

1. A framework should be developed that provides refugees with a formal status to allow them access the employment market and government services. A factor that can be used to push for this is that Bangladesh itself is dependent on income from migrant labourers and has signed the International Convention on the Rights of Migrant Workers.
2. To counteract the political actors and their securitisation of refugees other sectors of the population should be mobilised to seek solutions to the refugee situation, such as the educated elite, civil society, NGO and human rights movement, as well as journalists and media representatives.
3. As the Rohingya refugee situation is a regional one, also affecting Thailand, Malaysia, Indonesia and Australia, as well as India and the Middle East there should be an Asia-Pacific approach to the issue, involving not only those states that are hosting refugees, but also countries such as China and India that have considerable influence throughout the region.
4. Finally, the attention that the Rohingya are currently receiving should be monopolised to also get the international community to work towards addressing their situation in Myanmar, as without finding a resolution to this the protracted refugee situation will continue (UNHCR, 2011).

However, Shum (2011) highlights the difficulties of influencing refugee policies in Southeast Asia. He argues – through the case study of the Indochinese boat people refugee crisis in Southeast Asia – that Southeast Asian governments have found that ignoring international refugee law actually leads to the international community paying more attention to their concerns. He argues that the harsher the policies or the poorer the conditions, the more aid they receive. Thus, according to Shum, this has created a culture of ignoring refugee rights in order to receive more aid.

3. Influencing Government Policy

In her seminal work on factors influencing host government's responses to refugees, Jacobsen (1996) argues that there has relatively few studies focusing on government responses to refugees or comparative refugee policy studies. Although this study was carried out some time ago, little inroads have been made with regards to studies focusing on influencing government policy.

When it comes to refugees, Jacobsen (1996) argues that the host government has relative autonomy from transnational forces and it can make decisions that go against the wishes of donor countries or international refugee organisations. However, if thousands of people cross the border at one time, there is little these states can do to prevent their entry.

Jacobsen (1996) argues that there are three main sources of pressure on the government with regards to refugee rights and legislation:

1. International organisations concerned with the welfare of refugees (such as UNHCR, other NGOs, donors, etc.) who provide assistance to with the influx of refugees and can influence the government through negative publicity and/or diplomatic pressure.
2. The local community that is most affected by the influx of refugees and who can influence the government for political and security reasons.
3. Refugees can directly influence host governments and can indirectly affect the factors that influence policy.

Host countries can comply with international recommendations and laws with regards to refugees, ignore them completely and carry out negative or restrictive refugee policies, or somewhere in the middle with both positive and negative policies.

According to Jacobsen (1996) there are four broad categories of factors affecting refugee policies:

- 1) Bureaucratic choices made by the government;
- 2) International relations;
- 3) The absorption capacity of the local host community;
- 4) National security considerations.

International organisations, governments and donors dealing with refugees influence host governments for both practical and normative reasons. Practically, international assistance increases the host country's ability to accept refugees by providing the necessary assistance, including financial assistance and infrastructure. International governments can also influence policy by promising to resettle some refugees in third countries, which proved successful with Cambodian refugees in Thailand settling in the US in the 1970s. Normatively, refugee organisations can pressure host governments through threats of bad international publicity, as there is a strong desire to be perceived as humane. Negative publicity in the Western media has previously led to refugee policy changes. However, Jacobsen (1996) argues that the influence of these international organisations should not be overestimated, as sensitivities over national sovereignty also occur. When the host country becomes dependent on international assistance to manage the influx of refugees they must compromise their preferred policy directions, however this can be seen by the host governments as a form of imperialism or neo-colonialism. The

problem is aggravated when international officials fail to recognise the sensitivities around this dependency and who work around rather than through government officials, which can lead to them becoming obstructive. For instance, during the refugee crisis in Sudan in the mid-1980s, government officials did not recognise voluntary agency staff and obstructed visa and work permit procedures, resulting in negative outcomes for refugees. Additionally, host governments are responsible for granting visas for international organisations and they can use this as leverage to counter threats of negative publicity. However, the host country generally does need the finances and expertise that comes with having organisations like UNHCR present (Jacobsen, 1996).

The relationship, or development/changing of the relationship between the sending and the receiving country also comes into play. Host governments can adopt policies toward refugees that are intended to embarrass or pressure unfriendly sending countries or prevent embarrassment to friendly sending countries. The host country's internal or domestic context also has to be taken into consideration in influencing refugee policies. The social, economic and cultural factors of the host country affect the local communities response to refugees, which in turn influence the government's policy choices. National security also influences policy making and perceived security threats often lead to refugees not moving beyond their initial receiving communities (Jacobsen, 1996).

Mexico Case Study

Although refugee policies are based on policymakers' calculations of national interests, the case study of Mexico demonstrates that these can be affected by incentives and policy options from international actors. In 1981, many Guatemalan refugees arrived in Mexico, however the Mexican government sought good relations with Guatemala making the refugees a political issue. Moreover, the Guatemalans entered Chiapas, an impoverished and volatile Mexican state, and Mexico was experiencing an economic crisis. Thus, it made little economic or political sense for Mexico to protect the refugees and as Mexico was not a signatory of the 1951 convention or the 1967 protocol on refugees, they were under no legal obligation to either. Mexican immigration police did expel Guatemalans from Chiapas in large numbers during the first half of 1981. However, by the late 1980s, Mexico was protecting nearly 50,000 Guatemalan refugees and working toward their permanent resettlement. These refugees achieved *de facto* immunity from deportation and were provided services such as health care and education (Hartigan, 1992). According to Hartigan (1992) officials in Mexico trace the adoption of refugee protection policies to the intervention of the UNHCR who provided a model, the skills, and financing. UNHCR and their presence in the country also ensured refugee protection in the country.

In Mexico in the 1980s UNHCR managed the entire refugee process, from the designation of refugee zones to negotiations between refugees, host states, and states of origin over issues of resettlement and repatriation. Hartigan (1992) explains Mexico's willingness to follow these policies by highlighting the pressure they received from the Catholic Church and the international community over the previous deportations, which drew the attention of UNHCR. However, although this brought UNHCR to the country, Hartigan argues that it was actually the frustration with the failure of the deportation process that made Mexican officials to actively engage with UNHCR. Mexico had lost control of the number of refugees arriving and could not monitor them properly, thus they followed UNHCR's policies as they provided a ready policy option and with incentives to favour its acceptance, rather than for any humanitarian purposes. UNHCR also

managed to partner with politicians and government institutions in Mexico that were in favour of refugee protection and provided them with the training and bureaucracy necessary to achieve this goal. However, the loss of control over refugee policies did lead to the Mexican government to question further commitments to UNHCR and international refugee law, which highlights the importance of managing the lack of sovereignty (Hartigan, 1992).

Endogenous Actors

The majority of the literature on endogenous actors focuses on the negative role they often play in the securitisation of refugees and how this leads to politicians competing for votes on platforms of negative refugee policies (O'Driscoll, 2017). However, as the host population can influence politicians to adopt negative policies, they can also influence politicians to follow positive policies.

Community representatives also play a role in influencing the community's perception of refugees and prolonged hosting. Therefore, influencing community representatives can be transferred to the local population. As Islam has strong positive traditions concerning the offering of temporary refuge or asylum from political persecution, religious leaders can also be used to influence the local population's relationship with Rohingya in Bangladesh. However, the historical experience of the previous influxes will also influence locals' perceptions. When refugees are portrayed as deserving, as they are believed to be in real danger in their home countries, they are more likely to be welcomed and assisted. Influencing local communities perception of refugees is important as they can assist refugees directly and they influence the government's refugee policies. The host government is also likely to respond when local resentment is exploited for political purposes by opposition parties (Jacobsen, 1996).

In developing the theory of policy-orientated learning, Sabatier (1993) argues that learning is conducted by academics, journalists, policy analysts, and so on, as the process is undertaken due to dissatisfaction with the current system and with the aim to gain support for alternative policies. The work of Sabatier stresses the importance role that non-government actors have in developing policies. Moreover, Rose (1991) argues that policymakers do not have time to look for better alternatives across the globe and are more likely to continue on the same path, however, by creating dissatisfaction through raising aspirations, policymakers can be forced to act and thus local actors play an important role in enforcing change.

4. Targeted Development Assistance

The economic capacity of the host country to absorb refugees is determined by such factors as land availability, the carrying capacity of the land, employment patterns, and infrastructure. However, this can be influenced by international assistance, as it brings in scarce resources such as food and medical supplies, creates infrastructures, and provides economic opportunities. This is particularly beneficial if the agencies buy food from local markets, stimulating the local market. Thus, if aid is tied to development, refugees can be seen to contribute to a community's economic capacity. However, if there is the perception that refugees are privileged over the local population this can lead to resentment. Therefore, this process needs to be carried out carefully, ensuring equal development for both communities (Jacobsen, 1996).

Targeted Development Assistance (TDA) refers donor states providing overseas development aid to host countries of refugees in order to enhance refugees' rights and living standards. In an integrated approach, it focuses on the needs of both refugees and host communities by improving livelihood opportunities, service provision and infrastructure. According to Betts (2009) successful TDA requires significant reciprocal commitment from donors and host states. Donors need to commit to:

- Additional development assistance beyond what the host country would normally receive
- An approach towards refugees that also targets the local community.

Host countries need to be willing to accept:

- Refugee self-sufficiency and potential local integration;
- Improved refugee protection.

An integrated approach should include interventions focusing on livelihoods, using pre-existing community structures, and using evaluations to monitor and follow-up on project implementations. Consultations with donor and host states should be carried out to better understand concerns and interests so that a mutually beneficial programme can be developed (Betts, 2009).

Host interests

Through exogenous actors providing significant integrated development assistance it can become worthwhile for politicians and governments in host states to go beyond encampment and commit to self-sufficiency and local integration.

Benefits for local host communities

Refugees are perceived as a threat because their presence often causes grievances amongst the local population. This is due to competition for resources, security issues, and perceived privileged treatment. However, this attitude can change through TDA, as services such as education, health, infrastructure and markets are made available to both refugees and the host population. In Tanzania, the TDA programme Special Programme for Refugee Affected Areas (SPRAA), which was funded by European Commission between 1997 and 2003, is a successful example of integrated development. The programme enhanced the country's ability to host refugees, whilst also benefiting the host community through promoting sustainable farming, environmental education, road construction, etc. Moreover, as refugee camps and settlements are often located in underdeveloped and sometimes-insecure border regions, as is the case with the Rohingya in Bangladesh, TDA can help to significantly transform these regions. For example, TDA in Mexico in the 1990s contributed to the development of the underdeveloped Yucatan Peninsula. Refugee-hosting states are accountable to their electorates, which makes it difficult to prioritise refugees when large parts of the country lack development. In doing so, the government risks creating grievances between the host and refugee populations as well as between themselves and the voters. However, TDA can counteract any sense of horizontal inequalities¹ or

¹ Inequality between different communities living within the same society

injustice felt within the host community, which can in turn empower politicians to win votes on a pro-refugee stance (Betts, 2009).

Donor commitments

For TDA to work it is vital that the assistance is both *significant* and *additional*, as this enables it to lead to self-sufficiency or local integration. A significant financial commitment allows for the perception of the assistance (and in turn the refugees) as an unequivocal benefit for host country and population. The lack of additionality has previously led to TDA failing, as for example with the International Conference on Assistance to Refugees in Africa (ICARA) during the 1980s. The assistance must also be integrated, as failure to offer the same services and opportunities to the host community leads to animosity and tensions between the two communities. Through these commitments from donors the host government is able to argue that refugees constitute a benefit to the country, thus avoiding the securitisation of refugees (Betts, 2009).

Host commitments

Host governments must commit to provide self-sufficiency to refugees and to consider possibilities for local integration. There is also the need for them to move beyond confining refugees to enclosed settlements and to offer freedom of movement, access to livelihood opportunities and labour markets, and, if possible, access to farming land. Additionally, host countries also have to offer greater refugee protection, as this encourages donors that their assistance prevents mass onward migration (Betts, 2009).

Process

It is important that there is a neutral arbiter to facilitate the TDA agreement between host and donor countries. This prevents donor bias and ensures inclusivity in the process. The process also cannot work if both host and donor countries do not commit fully and if some form of trust is not created between the two.

Interventions must be integrated and target both refugees and host communities simultaneously. To facilitate integration development must target both communities; targeting only refugees creates grievances, whereas targeting only the host community prevents integration. Refugees also have to be enabled to develop sustainable livelihoods alongside the host community, which can be a challenge, as there is a competition between the two. Thus, development has to focus on increasing livelihood options. Successful TDR utilises the existing community structures. For example, in Zambia UNHCR used the strong kinship and social networks that existed between the host community and Angolan refugees as a basis for development (Betts, 2009).

Case Studies

International Conference on Refugees in Central America (CIREFCA)

By the end of the 1980s there was significant displacement in Central America due to a number of civil conflicts. In response, UNHCR convened a conference in Guatemala City in 1989 in order to develop projects and programmes that would lead to access to the refugees. CIREFCA was managed by UNHCR and UNDP and it included a number of initiatives to promote self-sufficiency and local integration of refugees. Guatemalans refugees in Mexico benefited from

freedom of movement and livelihood opportunities, while Mexico benefited from targeted development assistance in areas such as Campeche and Quintana Roo (Betts, 2009).

The Zambia Initiative and the Ugandan self-reliance strategy

In the early 2000s UNHCR claimed the TDA programme in Zambia with Angolan refugees was a success. However, the refugees had been present since the 1970s and were already fairly integrated. Nevertheless, these refugees contributed significantly to development and when they were repatriated, agricultural productivity declined. Similarly, UNHCR claimed success in Uganda with Sudanese refugees from the late 1990s where plots of land and 'integrated services' were provided and the Danish government provided funds. However, Betts (2009) questions the success, as refugees were given poor quality land, their movement remained restricted, food aid was withdrawn too soon, and significant donor contributions were spent in Kampala.

Syrian Donor Conference

In February 2016, at an international donor conference in London, the international community agreed on 'a comprehensive new approach' to respond to the protracted Syrian refugee crisis. Governments of neighbouring countries hosting Syrian refugees agreed to open their labour markets to refugees, and increase efforts to create new jobs for their own populations, by improving regulation and the investment climate in their countries. In return, other participants agreed to create greater access to external markets, to provide access to concessional financing and to increase external support for public and private sector job creation. Donors pledged to support employment creation programmes and to encourage municipalities and communities in their countries to strengthen collaboration with municipalities and communities in refugee host countries. Leading private sector partners agreed to assist with new investment to create jobs. The target was to create 1.1 million jobs for refugees from Syria and host country citizens in the region by 2018. In total, the international community pledged over US\$12 billion for Syria and the region, whilst multilateral development banks and donors announced around US\$41 billion in loans, with many on highly concessional terms.²

Pakistan

The World Bank and UNHCR funded an \$86 million programme in partnership with the Pakistani government that provided more than 21 million person-days of employment between 1984 and 1994. The programme also funded projects in reforestation, watershed management, irrigation, flood protection, road repair and construction in the border region. Three quarters of the employment through the programme was of refugees and the focus was to give them the skills to rebuild Afghanistan if they returned (Crisp, 2001).

Success into Failure

In 2007 the Government of Tanzania offered naturalisation for its 220,000 Burundian refugees who had been in Tanzania since 1972. In June 2010 162,156 applications for naturalisation had been approved. The UNHCR played a significant role in getting the Tanzanian government to pursue the naturalisation policy. However, domestic opposition to the policies led to politicians not fulfilling the policy and the vast majority of applicants did not receive their citizenship papers

² [http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/599387/EPRS_BRI\(2017\)599387_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/599387/EPRS_BRI(2017)599387_EN.pdf)

and a policy reversal took place. Thus, although global refugee policy made an important contribution to developing the naturalisation policy in Tanzania, it has done little to overcome local resistance. Milner (2014) argues that there are key lessons to be taken from the Tanzanian experience. Firstly, one must consider the full cycle of the policy process when assessing the impact of a particular policy; the formal adoption does not mean it is going to be implemented. Secondly, it is important to recognise and seize policy windows when they emerge, in Tanzania the quick action by UNHCR led to the naturalisation policies being adopted. Finally, it is important to understand the domestic context within which global refugee policy is implemented. Although UNHCR were able to identify and respond to the policy window in Tanzania, they failed to respond to the changes within the local context (Milner, 2014).

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