
Paper Promises:

An analysis of changes in United Nations rhetoric surrounding refugees

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The UN Refugee Agency (UNHCR) is the world's leading protection agency for refugees. Founded in 1951, the program is mandated by the United Nations to oversee the implementation of two key documents. These documents are the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees. The Convention and the Protocol form the basis of international guidelines designed to outline the rights that should be accorded to refugees, determine obligations surrounding refugee assistance for countries in the UN, and explicitly define what it means to be a "refugee" ("The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol" 2011:6). 145 Nations are now parties to the Convention (meaning they have endorsed it fully or with registered reservations) and 146 Nations are parties to the Protocol ("Chapter V" 2013). These documents have long represented a foundational framework for addressing the refugee crisis on a global scale (Cunliffe 1995:279). Over the years, small updates and adjustments to these documents have been made in other international gatherings related to refugee aid. For example, after 2001, some members of the UN fought back against a number of increasingly isolationist nations to argue that refugees could not be discriminated against on the basis of their country of origin, and indeed in many cases, these refugees were those with the most urgent needs ("Refugees Victims of Terrorism, Not Its Perpetrators" 2001). Overall, however, most of these changes have been minor. Then, this past September, the UNHCR hosted the first ever Summit for Refugees and Migrants, designed to "address large movements of refugees and migrants, with the aim of bringing countries together behind a more humane and coordinated approach" ("Summit for Refugees and Migrants" 2016:1). As a result of the Summit, the 2016 New York Declaration for Refugees and Migrants was published. This new document offers an updated perspective on the responsibilities that UN countries

share in addressing the global refugee crisis. Adopted by the United Nations General Assembly on 19 September 2016, The New York Declaration will likely shape rhetoric surrounding refugee protection and relocation for years to come. This influence is especially important given recent trends in the number of refugees recorded worldwide.

The publication of the 2016 New York Declaration is significant in light of the global refugee situation in recent years. The UNHCR's 2015 Global Trends report noted a record high of 65.3 million forcibly displaced individuals that year, a number that included 21.3 million refugees, 3.2 million asylum-seekers, and 40.8 million internally displaced individuals (23). This represents a sharp increase in the number of UNHCR identified "persons of concern". In its 2006 Global Trends report, the UNHCR only recorded a total of 23.5 million forcibly displaced individuals, which is a third of the size of the 2015 estimate (5). In conjunction with the escalation of the refugee crisis, many countries are simultaneously facing pressure to supply fewer resources to the UNHCR in order to focus efforts on supplying social services at home. This pressure stems from the aftermath of the 2008 recession as well as from increased nationalism within individual states (McCabe and Meissner 2010: 8).

Given the increased number of refugees as well as the lack of resources to provide support for them, understanding the impact that the New York Declaration will have on global commitments to address the refugee crisis will provide essential insight into the evolving demands of refugee resettlement and protection. A thorough analysis of each of the documents outlined in this essay points towards a more abstract, ambitious, UN-centered approach to the refugee crisis. This shift is representative of general trends seen worldwide, where international organizations are taking the lead while individual states participate only as members of these larger institutions.

Literature Review

In order to understand changing rhetoric around refugees, it is essential to engage with changes surrounding citizenship more generally in the past half of a century. In particular, Christian Joppke of the American University of Paris argues that access to citizenship has experienced substantial liberalization in the past 50 years. Joppke points to the elimination of racial barriers to entry, barriers for female applicants for citizenship, and barriers for semi-permanent residence as a key source of this sense of liberalization (2007:39). As the result of this liberalization, states do not possess the same level of power to manipulate the citizenship process. Because minority rights are being upheld, and even advanced, there is less of an opportunity to refuse to grant individuals citizenship on the basis of discriminatory categorizations. This is of particular relevance to analyzing changes in international approaches to refugee protection and resettlement, as the increased liberalization of citizenship clashes with the limited resources that states have to ensure the well being of their citizens.

As citizenship becomes more universally available, the benefits set aside for citizens are less abundant and carry less weight. Linda Bosniak's book *The Citizen and the Alien* (2006) points to some of the contradictions inherent in the expansion of citizenship by explaining that, even as citizenship is sometimes seen as taking on a more global meaning, in that terms like "transnational" or "cosmopolitan" citizenship have become increasingly relevant, this has simultaneously contributed to the discrediting of the traditional status of citizen (33). As Bosniak notes, "citizen" is seen as a valuable status, for it affords an individual access to the rights and privileges that a state has set aside for its citizens. At the same time, if more and more individuals are being granted access to these rights, sometimes even from multiple countries (as is the case with dual citizenship) then the impact of this privilege is diluted. This trend plays a role in determining refugee protection and assistance as resistance to the dilution of citizenship privileges makes it harder for states to help resettle refugees. Resistance to allowing refugee resettlement within one's country stems from increased nationalism in addition to fear about resource allocation in the post-recession era. Thus, understanding whether this resistance has altered global attitudes towards refugee resettlement will help to inform the ways in which

refugee assistance might be evolving or changing in the future.

After examining the status of citizenship more broadly, one can begin to investigate global responses to refugees more specifically. Refugees are often the most vulnerable individuals in the world, left stranded at the bottom of the hierarchical citizenship tower. With this vulnerability in mind, one can begin to understand why increasing rates of refugees are now being referred to as refugee crises (Global Trends 2015). With a crisis at hand, both individual states and organizations like the UN feel pressure to act. The second half of this literature review will develop two perspectives on the future of rhetoric surrounding refugee aid. The first is that increased isolationism and nationalism, demonstrated most recently by the Brexit vote and the election of Donald Trump, will result in individual state responses to refugee needs, without any large coordinated efforts. The second is that, despite the isolationist actions that have been taken by certain countries in recent years, rhetoric surrounding refugee aid is still shifting towards a more globalized, UN-led approach.

Proponents of the first school of thought argue that an unequal power distribution will prevent some states from feeling that they have adequate control over certain international organizations (Vayrynen 2001). This goes against the tendency for states to protect their autonomy – even if it means there will be a more ineffective solution overall. Thus, individuals who support this ideology about a shift towards isolationism tend to focus mainly on the desires of individual states. These desires, however, can also be used to support the opposing argument – that states actually want a more globalized approach to rhetoric surrounding refugee aid. As Loescher (2001) points out, many states see bowing down to the authority of a larger institution as fulfilling two goals; first, the state appears mature, and deserving of the same treatment on the international scene as any peer states that are also involved in international governance. Second, states may see the assignment of duties to a larger organization as a way to avoid carrying the burdens of addressing issues on their own – particularly if that organization is given little power to complete the tasks assigned to it. With these opposing viewpoints in mind, the paper will now address methodology and analysis, ultimately finding that, although it appears that rhetoric is trending more towards a globalized approach to refugee aid, a lot of

uncertainty still remains in regards to how refugee crises will be handled in the future.

Methodology

To perform the analyses outlined in the findings section below, this research relied on a content analysis of three documents: the 1951 Convention Relating to the Status of Refugees (twenty-five pages), the 1967 Protocol Relating to the Status of Refugees (five pages), and the 2016 New York Declaration (twenty-four pages).¹ The coding of these documents centers on an axial approach. This methodology was selected due to its ability to capture changing relationships between key themes that might be causally related. The axial approach, as Strauss and Corbin (1998) explain, involves determining a phenomenon to study, conditions relating to that phenomenon, actions directed towards the phenomenon, and potential outcomes of the actions aimed to address the phenomenon. Then, each document is examined, and references to each theme are noted. Patterns and relationships are then explored between each theme. For example, one document might contain a multitude of references to one theme under examination, and no references to another theme being considered. This emphasis on one theme, combined with a lack of attention towards another theme, can be extremely informative in describing patterns and trends in a body of documents.

The set up of this axial approach is clarified below and summarized in Table 1. In regards to this research, the phenomenon under study is refugee status, which is operationalized as the way in which “refugee” has been defined in the documents mentioned above. In addition, the conditions relating to that phenomenon are defined as the rights afforded to refugees in the documents above. The actions directed towards the phenomenon will be the obligations of states towards refugees and the obligations of the U.N. towards refugees, as outlined in each of the documents. Finally, qualifying statements such as, “We acknowledge also that, while upholding these obligations and principles, States are entitled to take measures to prevent irregular border crossings” will comprise the potential outcomes mentioned by Strauss and Corbin (Declaration: 6). The example of a qualifying statement used above merits further explanation. That sentence, granting states the right to protect their borders, immediately follows this one – “We reaffirm that, in line with the principle of non-refoulement, individuals must not be returned at

borders” (Declaration: 6). The sentence about non-refoulement seems to say that states should not turn away refugees at the borders of their countries – and yet, in the next sentence, the UN appears to acknowledge that some countries will continue to do so. Anytime a phrase is identified as a qualifying statement, it is because it contradicts or undermines another statement within the document. This was the general framework used to identify the qualifying statements in each of the documents.

Table 1.

Phenomenon	Definition of refugee
Conditions relating to phenomenon	Rights afforded to refugees
Actions directed towards phenomenon	Obligations of states and UN towards refugees
Potential outcomes of actions	Qualifying statements

In choosing how to define each of these categories, the researcher relied on the original warrant for the 1951 Convention as a document designed to provide a framework for refugee aid after the massive displacements that occurred as part of WWI and WWII (“The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol” 2011). In addition, before beginning the coding process, there was a thorough pre-reading of the documents to assess whether these designations would be appropriate. Following the methodology above, the documents were coded. For examples of the coding designations used, see Table 2 below. In addition, detailed notes were taken in regards to the ways that each key theme was discussed in each document. Using this axial coding, it was then examined how statements related to each theme were used in each document – comparing frequency, diversity, and specificity between all three documents. The analysis walks through some of these general themes and analyzes a few specific points in more detail.

Table 2.

Coding Outline

Example:	Coding outcome
“For the purposes of the present Convention, the term “refugee” shall apply to any person who...”	Definition
“The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion, or country of origin”	Rights, Obligations
“Nothing in this Convention shall prevent a Contracting state, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security...”	Qualifying statement

Analysis

A thorough examination of the 1951 Convention, the 1967 Protocol, and the 2016 New York Declaration reveals a distinct shift in the rhetoric that the UN and the UNHCR use to discuss refugee aid. Despite this distinct shift, there are still some commonalities between the earlier documents and the recent New York Declaration. Through the axial coding process outlined in the methodology, each of the four key themes assigned to each aspect of the axial framework was examined in each document. This section will walk through each theme, addressing any changes in rhetoric surrounding each theme and talking about either the potential implications of such changes or the potential implications of the lack of change found in regards to some themes.

The definition of a “refugee”

In the 1951 Convention, a refugee is defined as someone who, “owing to well-founded fear... is outside the country of his nationality... and being outside the country of his formal habitual residence... is unable or, owing to such fear, is unwilling to return to it” (Convention 14). This definition stems from the precedent of a number of earlier documents, such as the 1926 Arrangements, the 1933 and 1938 Conventions,

and the 1939 Protocol. Because the 1951 Convention was framed as a foundational document in refugee aid, a considerable amount of space within the document is dedicated to discussing the definition. There are fifteen phrases in the Convention coded as relating to the definition of refugees.

This stands in contrast to the 1967 Protocol, which, although admittedly a short, five-page document, contains only two references to the definition of refugees. This is somewhat surprising given that the goal of the 1967 Protocol is to effectively expand the definition of refugee given in the 1951 Convention, removing temporal limitations (“The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol” 2011). Specifically, the 1967 Protocol eliminates the statement in the 1951 Convention that says refugees are individuals displaced “[a]s a result of events occurring... before 1 January 1951,” instead considering any individuals that were considered displaced (whether or not that displacement took place before January of 1951) to be refugees (Convention 14). In addition, in the 1951 Convention, states were given the option to choose whether they wanted the phrase “events occurring in Europe before 1 January 1951” or the phrase “events occurring in Europe or elsewhere before 1 January 1951” to apply to the definition of refugee (Convention 6). Congo, Madagascar, Monaco and Turkey selected the more restrictive definition. In the 1967 Protocol, this option was still available for interested states to declare, but it wasn’t explicitly specified as an option in the text of the document. Congo and Monaco opted to drop the geographic restriction, Turkey reaffirmed it, and Madagascar is not yet a party to the 1967 Protocol.

The 2016 New York Declaration essentially reaffirms the definition offered in the 1951 Convention and modified in the 1967 Protocol. Allusions to the definition of refugee are infrequent, occurring just three times. This reaffirmation is significant because it demonstrates continued commitment to serving refugees. Although the definition was not widened, it was also not narrowed in any way, and this sense of stasis shows the UNHCR’s continued, steadfast commitment to individuals that they see as refugees.

Rights afforded to refugees

The rights afforded to refugees as outlined in the 1951 Convention include a number of measures relating to non-discrimination, exemption from exceptional

measures, continuity of residence, personal status, property, access to courts, employment, education, housing, social security, freedom of movement, administrative assistance, and the ability to undergo the naturalization process. In regards to the vast majority of these topics, states are asked essentially to treat refugees as individuals deserving of the same rights and privileges as citizens. Only one right is emphasized above all others, and that is the principle of “non-refoulement”. By granting refugees the right of non-refoulement, the 1951 Convention declares that “no Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion” (Convention 30). This right is seen as fundamental, and cannot even in times of war or extreme peril (see Qualifying statements section below) be disregarded. Essentially, under no circumstances whatsoever can a refugee be sent to a territory (whether this is their original territory or not) in which they may be exposed to the fear of a threat to their life or freedom. The Convention also declares that, stemming from Article 14 of the Universal Declaration of human rights, all persons have the right to seek asylum from persecution in other countries (4). This second declaration, in conjunction with the first, helps to assure that any individual who feels that their life is in danger is allowed to flee and that any potential host country is obligated not to return that individual to a place where they may be in continued danger. This assertion comprises the backbone of much of the UNHCR’s work in protecting refugees.

In the 1967 Protocol, the only substantive reference to the rights of refugees comes as part of a warrant for updating the definition of refugees. The Protocol states, “equal status should be enjoyed by all refugees” in the opening of the document (27). In reality, this is a way of acknowledging that an adjustment to the definition of refugee would allow for more individuals to be classified as such and receive the support offered to qualifying individuals. As such, it is not as closely related to the rights of refugees as other statements in the Convention and the Declaration, and so it won’t be discussed further in the analysis. Finally, in the 2016 New York Declaration, the rights afforded to refugees are generally reaffirmed, although with less of an emphasis on state obligations to see them through (see Obligations section below). Several

references are made to international human rights, with a total of fourteen statements made in regards to the rights of refugees. All of the rights declared in the Convention are upheld in the Declaration, a fact that could be hailed as a victory by some contemporary scholars. Lastly, in one relatively small deviation, the New York Declaration specifies the need to pay attention to several particularly vulnerable groups, in the hopes of developing practices to protect the rights of these groups in the event that they are forced to become refugees. The vulnerable groups include women, the elderly, children, ethnic and religious minorities, individuals with disabilities, indigenous peoples, and victims of violence and sexual violence (Declaration 5). If anything, this analysis lends itself to a positive outlook in regards to the rights of refugees. The Declaration affirms existing rights while encouraging a holistic approach to refugee aid that will provide for particularly vulnerable individuals.

Obligations of states and the UN towards refugees

Of each of the four themes discussed in this analysis, this theme has experienced by far the most dramatic change. In the 1951 Convention, twenty phrases were coded as relating to the obligations of states (referred to as “Contracting States”) towards refugees. Five phrases were coded as relating to the obligations of the UN. State obligations included assisting refugees with things such as former property, courts hearings, wage-earning employment, self-employment, housing, education, social security, ID papers, the transfer of assets, and general administrative assistance. The obligations of the UN in regards to refugees generally included statements about collecting documentation from Contracting States with regards to their treatment of refugees.

In the 1967 Protocol, only one phrase referencing the obligations of states was recorded. There was also one phrase referencing the obligations of the UN that was recorded as well. In the Protocol, states are instructed to provide the UN with any updated laws or other legislation that relate to the enforcement of the Protocol, and the UN is asked to notify states that wish to become parties to the Protocol of their successful accession. As was the case with the rights of refugees discussed in the Protocol, these obligations don’t appear to have much of an impact on the overall conversation about refugee aid.

In the 2016 New York Declaration, the numbers

are drastically different than in the Convention. Thirty-three references to UN obligations were recorded, with only thirteen references to state obligations. This represents a dramatic shift from a previously state-centered approach to refugee aid, with the UN now being asked to provide comprehensive support on a number of seemingly enormous tasks. Some of these tasks include comprehensive education reform, support in gaining skills training for jobs, healthcare, administrative assistance, working in partnership with the IMF to fund various aid efforts, and so much more. This is perhaps the most significant finding of this paper, as it is indicative of a significant shift towards a rhetoric that relies on a strong UN with the ability to provide large amounts of assistance to Contracting States. While in the 1951 Convention almost all of the focus had been on the role of the state in supporting refugees, the 2016 Declaration appears to be establishing a framework for what can only be referred to as an astounding level of support available for countries in need.

Qualifying statements

The analysis of qualifying statements in each of the three documents has yielded perhaps the most intriguing results of the research. In the 1951 Convention, there were a total of seven qualifying statements recorded. Three of these statements qualified state obligations, and four qualified UN obligations. In general, the statements qualifying state obligations were acknowledgments of existing state laws that might affect refugee treatment. The statements qualifying UN obligations related mostly to an acknowledgment that although the UN might suggest that states consider implementing certain practices (such as reevaluating their naturalization process for refugees), these suggestions cannot necessarily be made with the threat of force, and must respect the individual laws of each state. Overall, the qualifying statements in the Convention are fairly sparse and seemingly harmless.

As a reminder, in the 1967 Protocol, only one state obligation and one UN obligation were identified. There are no qualifying statements in the Protocol, meaning that the state obligation to provide the UN with any updated laws or other legislation, and the UN obligation to notifying states that wish to become parties to the Protocol of their successful accession are both unmodified. Given that these are not challenging obligations, it is not surprising that the Protocol does

not appear to demonstrate any significant trends or patterns in regards to qualifying statements.

There were many more qualifying statements in the 2016 New York Declaration in comparison to the other documents. Specifically, there were six qualifying statements made with regards to states, and ten qualifying statements recorded with regards to UN obligations. This high number of qualifying statements is not entirely unsurprising given the increase in obligations that the UN in particular is assigned in the Declaration. However, despite the hopes of some that the increased obligations of the UN could lead to more comprehensive and effective refugee aid, there is also the concern that qualifying statements may render some of the rhetoric in the Declaration useless.

Discussion

Examining the 1951 Convention, the 1967 Protocol, and the 2016 New York Declaration with regards to the themes above reveals several important takeaways about the future of rhetoric surrounding refugee aid. First, the Declaration's reaffirmation of the definition of a refugee established in the Convention and clarified in the Protocol suggests that this definition will continue to serve the UN and the UNHCR for a number of years to come. Although the definition was not expanded from the Protocol to the Declaration, it was maintained, meaning that there appears for now to be no risk that individuals currently labeled as refugees could be labeled otherwise.

Second, the Declaration's references to Universal Human Rights when reaffirming the rights afforded to refugees by the Convention offer hope that rhetoric surrounding the rights of refugees will not narrow in coming years. In addition, the Declaration's attention to groups of particularly vulnerable individuals is a welcome sign that the UN intends to focus their rhetoric on a holistic, community-based approach to refugee aid, where no groups of individuals are pushed aside or swept under the rug. This too, is a positive sign for rhetoric concerning refugees.

Third, rhetoric surrounding the obligations of states and the UN towards refugees has shifted significantly since the Convention. In particular, the obligations of states have melted from the forefront, and there is an increased emphasis on the UN's role in refugee aid in the Declaration. This shift in rhetoric aligns with other more general shifts towards globalized governance. However, recent events such as the Brexit

vote and Donald Trump's election indicate that the shift towards a more globalized governance predicted by so many is not a given. In addition, any of the structures and tasks outlined as obligations of the UN are nowhere near completed – the next several years will either bring increased clarity in rhetoric, as the UN has promised, or the continuation of bold claim-making accompanied by qualifying statements and no firm commitments. Fourth and final, the use of qualifying statements within rhetoric about refugee aid has also changed. Perhaps because of the ambitious nature of many of the statements made in the Declaration, it should not be surprising that there appear to be more qualifying statements in the Declaration than in the Convention or the Protocol. The implications of the presence of these qualifying statements are somewhat unclear. On the one hand, these qualifying statements subdue much of the grandeur of the promises made by the UN, because they establish the possibility that the UN may not follow through on its obligations. On the other hand, as an international document adopted by all Member States of the UN, the need for exceptions seems obvious. With the UN expected to convene on the subject of refugees again in 2018, in order to develop a more concrete, comprehensive plan, perhaps only time will tell how rhetoric surrounding refugees will continue to shift in the coming years.

In today's increasingly volatile society, the likelihood of future refugee crises looms in the background of much international policy discussion. The analysis of UN rhetoric included in this paper serves as a starting point to delve deeper into understanding what might be the reality of refugee crisis intervention in coming years. Although certainly not a

complete picture of what's to come, understanding the emphasis on paper promises in the UN's most recent published documents relating to refugees can help to equip sociologists and other researchers with the tools to advocate for refugee rights today and in the future.

Notes

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