

A CALL TO  
**action**

TRANSFORMING THE GLOBAL REFUGEE SYSTEM



# nine

## ENHANCING ACCOUNTABILITY AT ALL STAGES OF DISPLACEMENT

Accountability, Ruth W. Grant and Robert O. Keohane have suggested, “implies that some actors have the right to hold other actors to a set of standards, to judge whether they have fulfilled their responsibilities in light of these standards, and to impose sanctions if they determine that these responsibilities have not been met” (cited by Orchard, forthcoming 2019).

In looking at the global refugee system, it is clear that accountability is in short supply at every stage: from addressing the causes of displacement, to responding to IDPs and refugees, to finding durable solutions. While aid organizations are accountable to their donors, there are varying levels of accountability to affected populations. In particular, the voices of displaced people, especially those of women, girls and individuals with diverse sexual orientations and gender identities, are too often ignored, with limited participation in decision making at all levels (UN Women 2018, 5).

Being displaced is a terrible experience. To be forced from your home and your community, to leave behind your belongings and often your family

members, to leave your livelihood, culture and way of life is a deeply painful experience. A survey by the ICRC and Ipsos in eight countries almost a decade ago found that people feared displacement more than just about anything, including death — only loss of a family member and economic hardship ranked higher (ICRC and Ipsos 2009). Yet, in today’s world, more than 68 million people have been forced from their homes and communities, with little accountability demanded of those responsible for their displacement. Even when the causes of displacement are well-known and where individuals responsible for the displacement can be identified, as in South Sudan, Venezuela and Myanmar, there is little accountability. The lack of accountability for causing displacement means, in turn, that political leaders and insurgent groups alike can act with impunity — without regard for the immense suffering caused by their actions.

The international refugee regime, according to Grant Dawson and Sonia Farber, “does not and was not intended to, place any positive obligation on governments to refrain from displacing

Opposite page:  
A rally against  
persecution of  
Rohingya Muslims  
outside Myanmar’s  
embassy in Jakarta,  
Indonesia.  
(AP Photo/Achmad  
Ibrahim)

individuals within their borders or to apprehend those who commit forcible displacement within their borders” (cited in Orchard forthcoming 2019).<sup>1</sup>

However, as Phil Orchard (*ibid.*) points out in a research paper commissioned by the WRC, there are clear prohibitions in international law against forced displacement, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and, in particular, the Convention on the Prevention and Punishment of the Crime of Genocide. International humanitarian law prohibits forced displacement of people, unless it is intended to protect civilians or absolutely necessary for military reasons.

When it comes to holding governments accountable for displacing people, it is not the responsibility of humanitarian agencies to address the causes of the displacement. The granting of asylum is seen as a non-political act and the UNHCR’s statute specifies that its work is of an “entirely non-political character” (UNGA 1950, 4). But addressing the causes of displacement is *always* a political act, and for the UNHCR to engage in actions to try to prevent displacement could place serious limitations on its ability to operate.

1 The United Nations’ Economic and Social Council’s 1998 *Guiding Principles on Internal Displacement* do note a prohibition on arbitrary displacement, which frames internal displacement as a rights-based problem and creates a duty on states to ensure that arbitrary displacement is prevented. Specifically, in Principle 6, the council maintains that displacement is arbitrary “(a) When it is based on policies of apartheid, ‘ethnic cleansing’ or similar practices aimed at/ or resulting in altering the ethnic, religious or racial composition of the affected population; (b) In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand; (c) In cases of large-scale development projects, which are not justified by compelling and overriding public interests; (d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and (e) When it is used as a collective punishment” (UN Economic and Social Council 1998).

## CALLS TO ACTION

### Accountability for Displacement

#### ACTION 46

The WRC calls on governments of countries in which regimes have deposited financial assets to develop appropriate legal measures to confiscate and repurpose such assets for the benefit of the people in the country of origin, including those who have been forced to flee their communities because of the actions by the regime in question.

#### ACTION 47

The WRC recommends that the World Bank, the IMF and regional financial institutions develop fair and effective means of reducing allocations to countries causing displacement and that they reallocate these funds to support governments hosting refugees, with requirements mandated to ensure a gender-responsive approach.

#### ACTION 48

The WRC urges governments of countries hosting refugees to pursue criminal charges against political leaders who deport or forcibly expel their citizens or habitual residents from their territory, including charges for crimes perpetrated during the forced displacement of populations, in particular, acts of sexual and gender-based violence.

#### ACTION 49

The WRC urges competent civil society advocates to collect information contemporaneously on forcible transfers and deportations, to serve as evidence in any future criminal trials.

And, as the New York Declaration (UNGA 2016b) affirms, there are resolutions galore from the UN Security Council and other international and regional bodies for governments to stop persecuting their people and to prevent and resolve the conflicts that force people to flee their communities. The issue of protection of civilians has been on the Security Council’s agenda since 1999 — almost 20 years (UN Security Council 1999). If the measures included in those statements, reports and resolutions had been implemented, there would not be more than 68 million displaced people in the world today.

In addition, there is an urgent need to ensure that international justice

mechanisms respond to the systematic violations of all those who are displaced — in particular, crimes of sexual or gender-based violence, which are often invisible to human rights monitors and international investigators. Too often, gender-specific crimes against humanity, such as “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence” (UNGA 1998, art. 7(g)) have been notoriously difficult to prosecute in comparison with other crimes against humanity (UN Women 2017).

The WRC considered a number of possible ways that governments can be held accountable for displacing people.

The WRC noted that while the UN Security Council has been constrained in recent years, efforts should continue to support — and to press — the Security Council to fulfill its obligations under the UN Charter and in subsequent resolutions. The Security Council has a range of possible actions in its tool kit — ranging from sanctions to military intervention. Specifically,

- The UN Security Council should continue to press governments to protect civilians, including to protect them from displacement through the Security Council and through relevant regional organizations.
- The UN Security Council should take action under R2P to respond to those situations of forced displacement that are the result of crimes against humanity, war crimes and ethnic cleansing.
- The UN Security Council should mandate peacekeeping forces not only to protect returning refugees and IDPs, but also to create and maintain conditions conducive to returns.
- The UN Security Council should undertake more fact-finding missions, such as the 2018 visit to Myanmar and Bangladesh.
- The UN Security Council should make refugees and IDPs a standing item on the agenda of the Security Council.

### Repurposing Frozen Assets

The WRC believes that financial measures should be used as a tool for holding governments accountable for displacing people, specifically, by repurposing frozen assets and working with international financial institutions. While these are seen primarily as measures to strengthen



UN Mission in South Sudan chief David Shearer visits the troubled region of Yei, in South Sudan. (AP Photo/Sam Mednick)

accountability, they also have the potential of easing financial shortfalls in host countries and communities.<sup>2</sup>

In increasing accountability of governments for displacing people — as well as in generating new sources of funding — the issue of confiscating and repurposing stolen assets was considered by the WRC. In 2015, Guy S. Goodwin-Gill and Selim Can Sazak called on those states responsible for creating refugees to assume the financial burden for their care. They noted that this idea dates back to 1939 but is presently relevant and suggest that “those countries that drive people from their homes should pay the costs of providing them with a humane life. An important step in this direction would be to allow refugee-receiving states or competent international institutions to draw on the assets of refugee source countries” (Goodwin-Gill and Can Sazak 2015).

<sup>2</sup> The Enough Project works to support peace and end mass atrocities in Africa. Together with its investigative arm, the Sentry, it conducts research into the “money trail” of autocratic regimes. See <https://enoughproject.org/about>.

As a discussion paper prepared for the WRC put it:

In considering accountability, it is important to remember that forced displacement is often the result of bad governance. Violent or oppressive regimes, or those that fail or refuse to protect their populations, are responsible for much of the forced migration in the world today. Those regimes are also often corrupt, stealing from their treasuries and placing the money and other assets offshore for the unlawful benefit of the rulers and their associates.

When the jurisdictions in which the purloined assets are placed become aware of the assets’ existence, they frequently ‘freeze’ them and, if the property can be traced, seize it. These steps may be authorized by court order, by domestic legislation or through sanctions imposed by the United Nations Security Council...

As a result, such assets are often tied up for extended periods.

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## BOX 9.1: SWITZERLAND'S PROGRAM FOR FREEZING AND REPURPOSING ASSETS

Despite Switzerland's popular reputation as a haven for stashing illicit funds, over the past 30 years its government has led the way in the freezing and repurposing of assets of "politically exposed persons" (PEPs). Since the mid 1980s, Switzerland has returned almost US\$2 billion deposited by PEPs, which is more than all other financial centres in the world by far. The list of dictators and other corrupt officials that have used Swiss banks to keep their assets, which Switzerland has frozen and then returned for redistribution, is extensive: Ferdinand Marcos (Philippines), Vladimiro Montesinos (Peru), Mobutu Sese Seko (former Zaire), José Eduardo dos Santos Santos (Angola), Sani Abacha (Nigeria), officials in Kazakhstan, Raul Salinas (Mexico), Jean-Claude Duvalier (Haiti), Zine el-Abidine Ben Ali (Tunisia) and Hosni Mubarak (Egypt). In July 2016, Switzerland passed new legislation on the freezing, confiscating and returning of illicitly acquired assets of PEPs. Among other things, the new legislation improves on existing practices by increasing transparency and monitoring of the confiscation and restitution of assets.

An example of this concept in action comes from Kazakhstan. During the 1990s, some US\$84 million was placed in a Swiss bank as a result of corrupt dealings among Kazakh officials. The United States, Switzerland and Kazakhstan had conflicting claims to the money. The three governments agreed that the money should be placed in a trust foundation for the benefit of poor Kazakh children. A foundation was created to oversee the disbursement of the funds, and just over US\$115 million (US\$84 million plus accrued interest) was disbursed through conditional cash transfers, scholarships to attend Kazakhstan higher education institutions and grants to support innovative social service provision. Although there is some criticism of the arrangement, it involved a number of monitoring mechanisms and conditionalities. The government of Kazakhstan was required to make anti-corruption reforms to ensure the funds would be used properly and to promote better governance. The trust foundation tasked with disbursing the funds was monitored and overseen by the World Bank. Most importantly, the confiscated and repurposed money went to support the future development of Kazakhstan's youth and not to corrupt government officials.

*Source:* Greta Finner Zinkernagel and Kodjo Attisso, cited in WRC (2018, 6).

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Meanwhile, host countries struggle to manage the cost of accommodating large numbers of refugees or displaced persons whose dislocation was caused by the very regime that stole the money. (WRC 2018, 1)

The question then becomes, is it possible to use the stolen money

to support refugees and those who host them in order to not only generate more funds but also achieve both greater accountability and serve as a concrete expression of responsibility sharing?

There are examples where measures are in place to confiscate frozen assets and return them to the country of

origin. In 2015, Switzerland enacted the Foreign Illicit Assets Act (FIAA),<sup>3</sup> under which the Swiss government can apply to the Swiss Federal Court for an order authorizing the confiscation of frozen assets. Provided certain conditions are met, the Court can authorize the government to seize the assets. Once the assets have been confiscated, Switzerland can seek to restore the assets to the country of origin for the purpose of "[improving] the living conditions of the inhabitants of the country of origin" and strengthening "the rule of law in the country of origin and thus contributing to the fight against impunity" (FIAA, art. 17, as cited by WRC 2018). Switzerland has also used civil society organizations to help ensure transparency when assets are returned to the countries of origin, and to monitor the process. For example, in returning assets to Kazakhstan following criminal bribery proceedings in Switzerland (see Box 9.1), an independent non-profit foundation was set up to monitor the return of the assets. As an added layer of transparency, the foundation was supervised by the International Research and Exchanges Board Washington and Save the Children (Fenner Zinkernagel and Attisso 2013).

There are similar, although less-developed, mechanisms either in place or under discussion in other countries to repurpose illicitly acquired assets. The discussion paper prepared by Allan Rock and colleagues (WRC 2018) presents an outline of how this could be implemented in Canada, but similar processes can be used elsewhere. Progressive countries should pass similar legislation, and themselves freeze and confiscate assets, thus narrowing the scope for concealing ill-gotten gains and deterring other prospective perpetrators from following suit. Such actions should be carried

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<sup>3</sup> See [www.admin.ch/opc/en/classified-compilation/20131214/index.html](http://www.admin.ch/opc/en/classified-compilation/20131214/index.html).

out in consultation with the victims, as per good transitional justice practice.

In addition, other measures could be taken to hold accountable those responsible for displacing people, including the following three examples.

**Freeze or transfer part of a country's allocation from international financial institutions from the country of origin to the host country in the case of mass displacement.**

Allocations from the IMF, the World Bank and regional development banks could be tailored to penalize governments of countries that displace people. Funds for a country causing displacement could be held back, to a degree proportional to the number of people who were forced to flee, and made available to support a viable plan for return (regionally or internationally monitored where appropriate). If no viable plan for return is implemented, the grant portion of the funds could be used each year by the refugee-

hosting country. Thus, allocations to Myanmar for example, could be held back to support eventual return of refugees and, in the meantime, could be added to Bangladesh's allocation. In addition, such mechanisms with requirements related to gender-responsive programming could be used to incentivize and/or require that responses are no longer gender-blind.

**Use the UN Human Rights Council's Universal Periodic Review process as a model to hold governments responsible for forcibly displacing people.** Signatories to the 1951 Refugee Convention have an obligation to consider the asylum claims of those arriving on their territories and an obligation not to practise *refoulement*, that is, the returning of refugees to countries where their lives are in danger. Indeed, the principle of *non-refoulement* has become customary international law for all states, whether or not they have signed the 1951 Convention. Nonetheless, there are

many cases, such as return of asylum seekers to Libya, where governments, in their desire to prevent the arrival of asylum seekers on their borders, are acting in ways that violate basic principles of refugee protection.

The Universal Periodic Review mechanism, created in 2006, sought to ensure that the human rights performance of all UN member states would be reviewed on a cyclical basis every four years or so. The state under review, the OHCHR and NGOs submit reports, which are used as the basis for discussion. This process has been used to call out incidents of forced displacement, to encourage states to adopt relevant laws and standards and has provided an opportunity for non-state actors to present evidence within the specific recommendation process.

In order to assess progress on responsibility sharing for refugees, indicators should be developed to measure the extent to which governments are acquitting their responsibility. These indicators should reflect the full range of measures, from hosting refugees to providing technical advice to contributing funds to confronting xenophobic narratives. In particular, the WRC notes that good work is presently being carried out by DARA to develop a refugee policy index.<sup>4</sup> An independent monitoring group is best placed to keep track of governments' compliance and to issue regular public reports.

Once known as a safe haven for investments by corrupt leaders, Switzerland now has one of the most effective programs for freezing and repurposing assets. (AP Photo/Martin Ruetschi)



4 DARA is "an independent non-profit organisation committed to improving the quality and effectiveness of humanitarian action for vulnerable populations affected by armed conflict and natural disasters," see <https://daraint.org/about-us/>.

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## BOX 9.2: THE ROHINGYAS OF MYANMAR

At the heart of the current crisis of Rohingya refugees are the human rights violations against Myanmar's population of around one million Rohingya Muslims — an ethnic Muslim minority, living mainly in Rakhine state, who are not recognized as citizens by the Government of Myanmar (BBC 2018).

As a result, the vast majority of the Rohingya are effectively stateless. The government has institutionalized discrimination against them through restrictions on marriage, family planning, employment, education, religious choice and freedom of movement. Rohingya must seek governmental permission to marry and to travel outside their townships. Widespread poverty, poor infrastructure and a lack of employment opportunities in Rakhine state have exacerbated the cleavage between the Buddhist majority and the Muslim Rohingya minority.

Over the past decades, Rohingyas have been displaced in large numbers as a result of counter-insurgency campaigns and widespread human rights violations. The situation of the Rohingya took a dramatic turn in August 2017, when the military mounted a brutal campaign that destroyed hundreds of Rohingya villages and forced nearly 700,000 Rohingya to flee Myanmar for neighbouring Bangladesh.

Discussions about the future of the Rohingya refugees have been difficult. The Bangladesh government sees their stay as temporary, and there is virtually no discussion of their resettlement to third countries, leaving return to Myanmar as the most viable option. Many Rohingya maintain that they will not return until their rights, safety and citizenship can be assured — a process that is likely to be long and limited. Past efforts to register the Rohingya as citizens have required proof of their ancestry in Myanmar — documentation that is simply lacking for most Rohingya.

Given the continued lack of humanitarian access to Rakhine state, there are deep concerns about the security of returning refugees and the ability of independent observers to monitor their conditions. Meanwhile, authorities in Myanmar have reportedly cleared abandoned Rohingya villages and farmlands to build homes, security bases and infrastructure. Negotiations have taken place between the United Nations and the Myanmar and Bangladeshi governments over the return of the Rohingya, but as yet no clear timetable for repatriation nor agreements on security guarantees have been worked out.

The case of Myanmar raises multiple questions about accountability. First and foremost is the accountability of the Myanmar government, which has engaged in policies of ethnic cleansing or genocide. In August 2018, a UN fact-finding mission called for the investigation of top Myanmar military officers for crimes against humanity and war crimes (UN News 2018). The need to balance holding the Myanmar government accountable for its actions toward the Rohingya with the need to work with the government to facilitate the return of hundreds of thousands of refugees is a difficult one. Questions about assuring the safety of the returnees and about the access of international monitoring groups inside Myanmar raise issues about the relationship of the international community to decisions taken by a sovereign government.

Over the years, the United Nations has taken many actions with respect to Myanmar, including the appointment by the Human Rights Council of a Special Rapporteur on Myanmar and statements by the Security Council calling on the Myanmar government to refrain from “excessive use of force,” although more strongly worded resolutions have been blocked by China. Regional organizations, in particular ASEAN, which includes Myanmar as a member, have been largely silent on the Rohingya crisis.

Although the persecution and flight of the Rohingya have received considerable attention in recent years, Myanmar has a long history of conflict with ethnic minorities, resulting in periodic and often large-scale displacement of ethnic Chin, Karen, Karenni and other groups both within and across Myanmar's borders.

*Data sources:* Albert (2018); International Crisis Group's webpage on Myanmar at [www.crisisgroup.org/myanmar](http://www.crisisgroup.org/myanmar).

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Forced from their villages in Myanmar, Rohingya Muslims cross into Bangladesh in late 2017. (AP Photo/Dar Yasin, File)

**Use International Criminal Law, in particular, the Rome Statute.**

The Rome Statute of the International Criminal Court includes “deportation or forcible transfer of population” as a crime against humanity “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack” (UNGA 1998, art. 7(1)(d)). While this provision is on the books, there have been few cases where it has been used (Orchard, forthcoming 2019). Vetoes by the permanent members of the UN Security Council have precluded prosecuting perpetrators who are under their protection.

However, the forced deportation of over 700,000 Rohingyas to Bangladesh opens the possibility to argue that, even though Myanmar is not a party to the Convention, the court has jurisdiction, because part of the crime occurred on the territory of Bangladesh, which is a party to the Rome Statute. The court recently ruled that it does indeed have jurisdiction (Safi 2018), opening the possibility of more cases being brought to the International Criminal Court by refugee-hosting states, charging that deportations in other cases are

crimes against humanity. Global Affairs Canada’s report by special envoy Bob Rae on the situation in Myanmar found “strong signals that crimes against humanity were committed in the forcible and violent displacement of more than 671,000 Rohingya from Rakhine State in Myanmar” (Rae 2018, 4), and suggested that “Canada should lead a discussion on the need to establish an international impartial and independent mechanism (IIM or ‘Triple I-M’) for potential crimes in Myanmar, such as was established by the UN General Assembly for Syria” (ibid., 5). In August 2018, the Independent International Fact-Finding Mission on Myanmar released its report, calling on the “Security Council [to] ensure accountability for crimes under international law committed in Myanmar, preferably by referring the situation to the International Criminal Court or, alternatively, by creating an ad hoc international criminal tribunal” (UN OHCHR 2018a, para. 105).

Others believe that in the interests of finding solutions for refugees — as in the case of the Rohingyas, who may eventually return to Myanmar — the international community should find

ways of working with governments that have committed abuses in order to strengthen democratic and rights-respecting elements within the government. Others point to regional organizations such as ASEAN as being in a strong position to advocate with the Myanmar government.

The balance between holding governments accountable for displacement and, at the same time, working with those governments to find solutions for refugees is a delicate one (see Box 9.2). Governments should proceed with care in trying and sanctioning perpetrators.

At the national level, governments have different forms of accountability built into their political systems. The lack of a national legal framework is a major deterrent to strong government policies to support refugees and IDPs — and also to encouraging accountability to national institutions. For example, one of the largest refugee-hosting countries in the world, Pakistan, has neither ratified the 1951 Refugee Convention nor adopted national legislation to deal with the millions of refugees who have sought protection on its territory or to respond to the



## CALLS TO ACTION

### Accountability for Policies toward Refugees and IDPs

#### ACTION 50

The WRC urges interested states, in association with key stakeholders, to develop gender- and age-disaggregated indicators and to issue regular reports on how governments are fulfilling their responsibilities toward refugees.

#### ACTION 51

The WRC calls on interested states and other stakeholders to develop a new peer review mechanism to hold both states and non-state actors accountable for displacing people; *refoulement* of refugees; and finding solutions.

#### ACTION 52

The WRC urges regional organizations to develop regional mechanisms for accountability regarding refugees and IDPs, building wherever possible on existing models in the region. The Council further calls on donor governments to support the development of these regional peer review mechanisms, which could build on the example of the OECD's Development Assistance Committee's peer review process.

#### ACTION 53

The WRC recommends that interested states and other parties draft a new protocol to the 1951 Refugee Convention that includes a monitoring and accountability mechanism for compliance with the obligations assumed under the Convention.

millions of Pakistanis who have been displaced within its borders (Azlam 2017). In fact, four of the 10 countries hosting the largest number of refugees have not ratified the 1951 Refugee Convention or its later Protocol.

In democratic regimes, the role of legislative and judicial bodies is crucial in holding governments accountable for their actions toward refugees and asylum seekers. Legislatures are mandated to develop laws and policies, and courts interpret and monitor compliance with the law. Among other actions, these bodies can conduct investigations, hold hearings and hold executive agencies to account. Interparliamentary dialogues, information exchanges and joint efforts, such as the Parliamentary Assembly of the North Atlantic Treaty Organization, are tools that can be used to increase accountability. In addition, courts have often played a critical role in holding governments accountable for their actions. For

example, in the United States, a series of court rulings have postponed or stopped many executive policies related to border enforcement and detention. In some countries with large numbers of IDPs, for example, Colombia, judicial bodies have played a key role in enforcing compliance with laws and policies; thus, the Constitutional Court of Colombia insisted that the government comply with its own laws toward IDPs, even going so far as to declare in 2004 that the government was in an unconstitutional state of affairs because of its failure to ensure adequate conditions for IDPs. National human rights institutions and regional courts, such as the European Court of Human Rights and the Inter-American Court of Human Rights, as well as civil society groups, can also play important roles in raising awareness of human rights issues and monitoring the well-being of refugees and IDPs.

While policies are set at the national level, municipal authorities are

frequently on the front line of responding to IDPs and refugees, although often they do not receive the support they need to provide services to the displaced — even when formally mandated to do so. For example, in Colombia, which has strong national legislation and judicial institutions, municipal authorities often complain that they are responsible for providing education and health care to IDPs without additional funds (Ferris 2014a). In a research paper commissioned by the WRC, Robert Muggah and Adriana Erthal Abdenur (2018) argue that cities in the developing world, which often operate in isolation from one another, would benefit from more channels for sharing experiences and adopting best practices.

At the international level, there is no formal accountability — or even reporting — mechanism attached to the refugee system, so the costs of non-compliance with the norms

and principles of the 1951 Refugee Convention are virtually non-existent. For example, governments that return people to places where their lives are in danger — in flagrant violation of the convention — are not sanctioned. Nor is there a mechanism to hold governments accountable when they enter into bilateral deals to prevent refugees from arriving on their territories without considering the potential harm to asylum seekers and others fleeing life-threatening situations. States that refuse admission to asylum seekers should be seen as international pariahs who are in violation of their obligations under both treaty and customary international law. This behaviour has particularly come to the fore in the case of migrants and asylum seekers who are apprehended in the Mediterranean, by Libyan authorities with financial support from the European Union, and returned to Libya where they face detention, exploitation and inhumane conditions (see Box 9.3).

It is time to supplement the 1951 Refugee Convention with a protocol establishing a mechanism for monitoring compliance with obligations assumed under the Convention, and to consider mechanisms to hold governments accountable for their actions.

At all stages of displacement, accountability for sexual and gender-based violence is largely absent. As

### BOX 9:3: LIBYA

Each year thousands of people fleeing war, persecution and poverty at home attempt the treacherous journey across the Mediterranean. Countless lives are lost along the way. European states and Libyan authorities are intercepting migrants fleeing by sea and returning them to Libya as a means to prevent arrivals to Europe. EU-supported Libyan coast guard vessels have intercepted unprecedented numbers of people on the Mediterranean Sea in 2018, only to return them to Libya. Throughout Libya, refugees and migrants face alarming levels of violence, extortion and exploitation, and many report the widespread criminal practice of kidnap for ransom (Médecins Sans Frontières [MSF] International 2018b). As MSF President Joanne Liu said: “The detention of migrants and refugees in Libya is rotten to the core. It must be named for what it is: a thriving enterprise of kidnapping, torture and extortion. And European governments have chosen to contain people in this situation. People cannot be sent back to Libya, nor should they be contained there” (MSF International 2018a).

Eileen Pittaway and Linda Bartolomei (2018) explain in their research paper written for the WRC, sexual and gender-based violence is endemic in all refugee situations due to increased vulnerability from the process of displacement, lack of finances/ possessions, uncertain legal status and social isolation. It occurs as part of the initial persecution, during flight, as refugees seek to cross borders, in countries of first asylum and often continues during resettlement. It includes systematic rape in conflict and post-conflict situations, which leads to stigmatization and shaming of the families of rape victims and other types of abuse, including intimate partner violence and denial that the violent

acts took place. Disabled women, girls and boys are often more vulnerable to sexual and gender-based violence, including rape, exploitation and discrimination/harassment. Lesbian and transgender women can be subjected to physical and psychological abuse. In fact, people with diverse sexual orientations and gender identities are especially vulnerable to persecution and lack substantial support within the existing refugee and IDP systems. Many women are forced to engage in survival sex to feed themselves and their families, which can lead to further stigmatization in their communities. Trafficking, forced marriage and domestic violence are common. Too often, humanitarian workers and forces intended to protect civilians themselves engage in sexual exploitation and abuse.<sup>5</sup>

This type of constant threat, founded on pre-existing gender inequalities, increases vulnerabilities due to gender or to sexual orientation during displacement (see Box 9.4). The consequences of this type of violence are both physical and psychological

## CALL TO ACTION

### Accountability and Gender

#### ACTION 54

The WRC calls on the United Nations’ Inter-Agency Standing Committee to institute accountability measures to prevent all sexual exploitation and abuse, including clear policies to hold perpetrators accountable in both humanitarian and development settings.

<sup>5</sup> See [www.codebluecampaign.com/](http://www.codebluecampaign.com/).

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## BOX 9.4: CENTRAL AMERICAN DISPLACED WOMEN AND SEXUAL AND GENDER-BASED VIOLENCE

The large-scale migration of Central American women and particularly unaccompanied children and adolescents to the north, crossing or increasingly staying in Mexico, has become a major policy issue. In 2014, 60,000 unaccompanied children and adolescents arrived at the US-Mexican border. Sexual and gender-based violence is common for women and girls making the dangerous journey from their homes in Central America through Mexico. It is estimated that six out of 10 migrant women and girls are victims of sexual violence carried out by illicit actors, government authorities and intimate partners. However, most of what is known is anecdotal and there is an urgent need for a stronger evidence base in order to inform policy. With the support of IDRC, ECAP (Equipo de Estudios Comunitarios y Acción Psicosocial) from Guatemala, Voces Mesoamericanas and the Center of Human Rights Fray Matias de Córdoba (the latter two both based in Chiapas, Mexico) jointly explore the conditions and causes of displacement of women, children and adolescents in Guatemala and the south of Mexico. This research project seeks to understand the forms and perpetrators of sexual violence being carried out against Central American women and to identify effective policies and practices to counter and prevent the violence. Based on participatory action research, the project proposes public policy recommendations to protect the rights and safety of Mesoamerican migrant and refugee women.

*Source:* Contributed by staff of IDRC.

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Central American migrants, many fleeing violence, walk in a "caravan" on their way to the US border. An estimated six out of 10 migrant women and girls are victims of sexual violence. (AP Photo/Moises Castillo)



## CALL TO ACTION

### Accountability to Refugees, IDPs and Host Communities

#### ACTION 55

The WRC commends efforts to increase accountability of humanitarian actors to refugees and IDPs and calls on both public and private donors to require that all of their beneficiaries put in place gender-responsive accountability measures.

and affect communities around the individuals as well as the individuals themselves. Women additionally face the stigma that can come from bearing and raising children born of rape; young girls frequently die from pregnancy when they are too young and small to give birth to a child; and women and girls are often shunned from families or communities and bear a huge burden of shame (ibid.).

There is growing awareness of sexual and gender-based violence in displacement settings as evidenced by the 2018 decision to award the Nobel Peace Prize to Nadia Murad, a Yazidi survivor of sexual violence from Iraq, and to Dr. Denis Mukwege, a Congolese physician known for his work in treating thousands of women who had been brutally raped during the the Democratic Republic of Congo's many years of conflict.

While there have been many studies, guidelines and training programs on sexual and gender-based violence (Inter-Agency Standing Committee 2015), the fact that it remains so pervasive indicates that a different order of action is needed. Those responsible for protection and

assistance of refugees and IDPs need to be held personally accountable when sexual and gender-based violence occurs. Government officials at all levels, as well as UN and international and local NGOs, need to make it clear that perpetrators will be held accountable if these attacks occur in areas for which they are responsible. Significant investments need to be made to address the root causes of sexual and gender-based violence. Fundamentally, more work needs to be done to create environments that allow for greater gender equality and justice, overcoming toxic gender norms.

For the past two decades, humanitarian actors have considered how to be accountable to the people they serve — and not just to the donors that fund their work. From 2003 to 2015, the Humanitarian Accountability Partnership (HAP) was the locus of much of these discussions, developing standards by which NGOs could be evaluated in terms of the extent to which they were accountable to beneficiaries. In 2015, HAP merged with People in Aid to form the CHS Alliance, with CHS standing for the Common Humanitarian Standard.<sup>6</sup> Humanitarian agencies such as the UNHCR and many NGOs have developed various tools to ensure the participation of refugees and other affected communities in the assessment of needs and programmatic decisions. Still, much more needs to be done. As researcher Lubna Rashid told the Council in Berlin, “Many refugees don't trust foreign aid efforts or other organizations who claim to be helping them...Money ends up going to other large organizations and not civil society groups who are working directly with displaced people and where it would arguably be most effective and impactful.” This issue underscores the importance of including refugees,

such as through the Network for Refugee Voices, in programmatic and policy decision-making processes.

More specifically, women and youth are often left out of accountability mechanisms, because of the multiple barriers they face in meaningfully accessing and participating in these activities. True accountability to affected populations will only be achieved when all those who have been displaced have their voices heard. While some progress has been made to ensure that women not only participate but also take an active role in leadership and decision making, more needs to be done to ensure that such progress is systematic and sustainable.

<sup>6</sup> See [www.chsalliance.org/what-we-do/chs](http://www.chsalliance.org/what-we-do/chs).