

The perilous path of the UNHCR

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“The UNHCR has always trod a perilous path between its mandate to protect refugees and asylum seekers and the demands placed upon it by state to be a relevant actor in world politics”. Why does Loescher make this statement? Do you agree?

Introduction

This paper takes a political economy perspective to challenge Loescher’s statement. The narrative to this paper argues that the issue is not a question of protection and politics being separate and distinct, but rather – viewed from this radical perspective – they are inextricably intertwined. Each is shaped by continuing interaction with the other. “Politics”, according to Held and Leftwich (Hay and Marsh 1999:13), “is about power, about the forces which influence and reflect its distribution and use; and about the effect of this on resource use and distribution” (Griffiths, 2007:137). Relevant case study material will be drawn from crisis in Africa, Asia, America and Europe, from the 1970s to 2010, to analyse and expose how the UNHCR is failing to fully deliver on its mandate and also understand the strengths and weaknesses of this institution as a relevant actor in world politics.

Role of UNHCR

Although states remain the predominant actors in the international political system, it would be naive to believe that institutions like the UNHCR are without significant power and influence. This is because the UNHCR is an intergovernmental organisation and a branch of the UN system that was created in 1950 to protect refugees and find a solution to their plights (Loescher, Betts and Milner, 2008). Today, this agency could be considered as the “authorised mouth” that speaks on behalf of refugees and facilitates state policies towards refugees. According to Loescher (2001) UNHCR could be viewed as the international “watch dog” on asylum, balancing the protection and the needs of refugees with the legitimate concerns of states. Additionally, UNHCR responsibilities also entail “giving information, advising decision-making authorities and, more rarely, taking part in the determination of refugee status whilst providing or financing in some countries legal advice for asylum seekers” (Joly, Kelly and Nettleton, 1997).

UNHCR’s Role – Problematised

Although the UNHCR was founded as an independent and ‘non-political’ actor to represent the interests of refugees and displaced people (Cunliffe and Pugh 1997), this international institution is placed in an ambiguous position of representing state interests and is also dependent upon donors funding to act as the guardian of refugees. As a consequence, the UNHCR’s role and decision making is circumscribed by its need to convince states that it is in their own interests to find satisfactory solutions to refugee problems (Loescher, 2001).

Indeed one could argue that finding a balance between the UNHCR core mandate and the extending request from the General Assembly in the 1990s and early twenty-first century has pulled this agency in ways that contradict and at times undermine its refugee protection mandate. This I believe is part of the reason behind Loescher’s argument that “the UNHCR has always trod a perilous path between its mandate to protect refugees and asylum seekers and the demands placed upon it by state to be a relevant actor in world politics”. Primarily, because in seeking to exert influence in the international system, the UNHCR has had to confront significant and recurring challenges arising

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from the need to reconcile its normative agenda with the *Realpolitik* of changing circumstances (Loescher, Betts and Milner, 2008).

Case Studies – Conflict and Crisis

For example, from the late 1970s and to the end of 1980s, Central America was the scene of mass refugee movements fleeing the military repression, human rights abuse and internationalised civil war in El Salvador, Guatemala and Nicaragua (Loescher, 2001a). The UNHCR was caught in the middle of this political and ideological battle “a situation of structural disharmony” and had to tread a perilous path between trying to ensure protection for refugees and respecting the political interests of the US and Honduran governments. Moreover, this agency was caught up in this political dilemma since the Honduran government had not ratified the 1951 refugee convention which therefore limited the UNHCR’s effective mandate and protection to refugees and given that this agency needed to negotiate funds from the US to finance its programmes (Loescher, 2001a; UNHCR, 2000).

Loescher (2001a) has argued that the UNHCR in Honduras was greatly constrained by its financial dependence on the US, which contributed about one-third of the agency’s regional budget. Given that it needed funds from the US to finance its programmes and also permission from Honduras to maintain camps in its territories, the office had limited power in persuading the host government to protect refugees. Consequently, to support its aggressive agenda during the ‘contra war’, the US used this leverage to exert pressure on the agency to improve conditions in the UNHCR camps for Nicaraguans and to relocate or repatriate Salvadoran refugees (Loescher, 2001a).

As a result, the UNHCR was caught between “a strategic dilemma”, “a rock and a hard place” because on one hand if it had ignored the interests of the states it would have run the risk of being sidelined, on the other hand, because it did adapt its mandate in accordance with the short term interest of the US, it therefore ran the risk of undermining its moral authority and humanitarian principles.

For over 60 years, the UNHCR has assisted not only “traditional refugees” but also “persons of concern” which includes internally displaced persons (IDPs), returnees and other victims of conflicts (Loescher, 2001b). Many are those who have crossed national and international borders “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion or simply because of genocide, armed conflict between and within states” (Joly, Kelly and Nettleton, 1997; Chiusiwa, 1999).

UNHCR – Successes?

We should therefore not forget to acknowledge that, the UNHCR has a global reputation for its humanitarian relief effort supported by diverse and complex players.

For example, in the horn of Africa, Europe, Afghanistan and Central America, during the 1980s and 1990s, a series of wars exacerbated famine and persecution causing millions of people to flee their home in desperation for survival or safety (UNHCR, 2000). According to Loescher, Betts and Milner (2008), as an instance of conflict multiplied around the globe, the UNHCR had to confront refugee emergencies in overlapping succession by providing protection and assistance to refugee emergencies on the different continents simultaneously (UNHCR, 2000).

In Mozambique, after its independence from Portugal, during much of 1980s and early 1990s this country was devastated by civil war and armed conflict between the Mozambique Liberation Front “Frelimo government” and the Mozambique National Resistance “Renamo Insurgent Group” who both turned to ruthless tactics including “systematic killing, maiming, raping and pillaging” to control the population and secure a degree of popular support (UNHCR, 2000). Consequently, Mozambicans fled the country in the course of this devastating civil war and represented the world’s third-largest refugee population after Palestinians and Afghans (UNHCR, 2000). Many of these Mozambican refugees fled to neighbouring countries such as Malawi, Zimbabwe, Swaziland and Zambia where they were granted asylum with the help of UNHCR (Chiusiwa, 1999; UNHCR, 2000).

In addition, despite the fact that refugee crisis presented complex challenges – not only to the host countries but also

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the international community – through the course of the 1990's the north east of Africa witnessed particularly significant dislodging of people between Somalia and Sudan which over time resulted in Kenya taking on increasing numbers of refugees. The Kenyan government was reluctant to accept more refugees from Somalia, because it is was regarded as a heavy burden for the Kenyan economy and society (it was already hosting a large number of refugees from Somalia, Sudan and Ethiopia). However, it has been argued that US funding enabled the UNHCR to effectively negotiate with the Kenyan government not to send back the influx of new Somali refugees to Somalia where they feared persecution (Chiusiwa, 1999).

UNHCR – Failure?

In 2011, a study of the UNHCR's performance for over the last five decades showed that this agency has helped more than 34.4 million people around the world to restart their lives (UNHCR, 2011). However, whilst this success deserves and commands international recognition, this agency is often at the mercy of its donors and host governments, since it can only carry out its emergency and maintenance programmes if it receives sufficient funding from its generous donor states and can only initiate operations on the ground if the host government grants them permission to do so (Loescher, 2001; Loescher, 2001b).

UNHCR – Flawed by Design?

Additionally, Loescher (2001b) argues that the euro-centric orientation of this agency could be reflected in the international political environment and the foreign policy priorities of the major powers. He emphasises that this is due to the fact that these powerful players created the UNHCR during the cold war period, in such a way that it would “neither pose a threat to their sovereignty, challenge the policies of its funders and host government, nor impose new financial obligations” (UNHCR, 2000; Loescher, 2001b; Salomon, 1991).

This historical and political context is why many scholars have argued that the effectiveness of the UNHCR in fulfilling its mandate of protecting refugees and asylum seekers depends on the cooperation of the countries it is working with (the host countries) and the influence or interest of the major powers (Chiusiwa, 1999; Loescher, 2001; Loescher, 2001b; BBC, 2010). Thus a fair depiction of the UNHCR through a realist perspective has been “He who pays the piper calls the tune” to emphasise that there are number of external (donor) and internal (host state) constraints that inhibit the organisation from achieving its full potential.

Taking former Yugoslavia as one example, we can see that the UNHCR can do nothing without the political support of major powers and states who are both causes of the issues as well as potentially part of their solution. Cunliffe and Pugh (1997) argued that the Yugoslav experience and the Dayton Peace Agreement highlighted the continuing financial and political pressures facing UNHCR. Their analysis demonstrates how this agency was “thrust into a political role that challenged its operational effectiveness and was also compounded with the absence of international political will”. Hence, the UNHCR mission in Yugoslavia was caught between a “rock and a hard place” facing political pressure and insufficient funding which led to a slow and inadequate response to refugee emergencies and protection crisis – hence “a blurring of the humanitarian and military operation” (Cunliffe and Pugh, 1997).

Furthermore, Loescher (2001b) considers that the UNHCR's mandate (i.e. its legitimacy as a world actor in the political economy perspective), has also become increasingly problematical. The case study of former Yugoslavia provides an excellent example of how protection necessitates political action, and political action cannot be separate and distinct from humanitarian assistance, hence its “dilemmas of politicization”. This is just one example of the importance of political action by the wider international community to prevent, mitigate or address issues caused by host states, which cannot be delivered by the UNHCR on its own.

To illustrate this point, under its “lead agency role” in the Balkan conflict, the UNHCR were able to deliver large quantities of humanitarian supplies, but were not as successful at protecting civilians from human rights abuses, expulsions and “ethnic cleansing”. It found itself in the awkward position of trying to save lives by helping people become refugees and yet providing assistance to those responsible for their persecution (Cunliffe and Pugh, 1997; Loescher, 2001b).

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A similar scenario occurred in Iraqi Kurdistan, Rwanda and the Democratic Republic of Congo (DRC). In Loescher (2001b), he quotes from Frohardt, Paul and Minear (1999), that in Rwanda, DRC and Iraqi Kurdistan, the UNHCR along with the international community were largely reactive to events and therefore failed to address the real issues between human rights abuse, humanitarian emergencies and violence. There was a catastrophic separation between assistance and protection, compounded by a failure to provide protection from aggressors in refugee camps and other traditional humanitarian relief programs (Loescher, 2001b).

The Political Dictates Action

From a realist perspective, one could argue that the dual role of the UNHCR is both a curse and a blessing. However, this paper argues from a political economy perspective, suggesting that the dual role has arisen precisely because assistance garners political support from affected states, whilst protection garners support from key donors. From this perspective, every action of the UNHCR has an implication and consequence for both the protection of refugees and on the politics of the issue being addressed. They are basically the opposite sides of the same coin. This applies to UNHCR engagement with the problem, how it interacts with key actors, and how it plans, secures and allocates limited resources.

The UNHCR's mandate must be continually negotiated and renegotiated between all of the key players and in the differing contexts within which it must operate. For example between 1981 and 1994, it became involved with the Haitian and Cuban boat people crisis, however it failed to prevent the US from violating the 1951 convention on refugees, as it could not effectively engage the US government. Consequently, the Haitian and Cuban boat people were systematically turned away at sea by the US Coast Guard without any assessment of their claims to Asylum (Loescher 2001a: 103).

In Italy, since May 2009, when the "Push-back policy" was unveiled, it is estimated that at least 900 people with dozens of asylum-seekers, trying to reach Italy were returned to Libya and other countries by Italian authorities after they were intercepted in the Mediterranean Sea (UN News Service, 2009). In an interview from BBC HARDtalk with Stephen Sackur, Antonio Guterres (current UN High Commissioner for Refugees) expressed serious concerns about the impact of the "push back policy" and believed that in the absence of adequate safeguards, such a policy could prevent access to asylum and therefore undermine the international principal of non-refoulement (BBC, 2010; UN News service, 2009).

Thus, in cases like this, the UNHCR is left in an uncomfortable position. All that this agency can effectively do is remind a country of its obligations, but the final decision on whether refugees are granted asylum is made by the country concerned. This illustrates the relative impotence of the UNHCR in protecting refugees, but also demonstrates that governments have the power, whatever their legal obligations, to turn a blind eye to violations of the rights of refugees (Chiusiwa, 1999; BBC, 2010; Unreported World, 2009).

Conclusion

In conclusion, in the absence of a more autonomous political and resource base for the UNHCR, there will continue to be a limit in the effectiveness of its response to refugee crises and ability to check host countries that do not comply with agreements to protect the human rights of refugees. In addition, viewed from a political economy perspective, this paper has argued that a reliance on powerful donor governments and host states both empowers as well as impedes this agency's ability to deliver its dual mandate of protection and durable solution. However, Loescher (2001a) also argues that "it is only through the development of foreign policy tools and mechanisms aimed at the prevention and reversal of forced migration", that the international community will address the needs of displaced peoples in a sustainable and effective manner. This is why Loescher and many other observers overtly criticise this agency as treading a perilous path between its mandate and the demands placed upon it by states to be a relevant actor.

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