Human rights preparedness and protracted ongoing emergencies

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Abstract*: The terms "emergency" and "refugee" often conjure up images of short-term crises quickly resolved by one-off aid efforts and people who will be able to return home at some stage in the near future. However, many emergencies around the world continue for decades and those fleeing them struggle to exist in conditions totally unsuited for the long haul. In Asia Pacific alone, Afghanistan, Tibet and Sri Lanka are all suffering ongoing long-term emergencies with tens of thousands of citizens bringing up new generations in exile: many are denied basic human rights such as citizenship, education and the ability to make a living in their host countries, not to mention the steady erosion of their cultures and traditions. With economic crashes and climate change amongst the many reasons people may flee their countries of origin in order to survive, this article recommends that the global community broadens its definition of refugees and imaginatively redesigns its approach to human rights preparedness in face of ever-increasing movement of peoples migrating from varied and complex long-term emergencies.*

Key words*: long-term emergencies; refugees; economic refugees; climate change; Afghanistan; Tibet; Sri Lanka*

1. Introduction

Every emergency is different, bringing with it new challenges and hardships. Emergencies include pandemics, natural disasters, conflict, wars, economic crises and many more. As such situations manifest, humankind has addressed human rights-related issues time and again and we learn lessons from the past to prepare better for the future. What is sometimes overlooked in preparing for emergencies is that they need not always be short-lived. For example, a crisis from a natural disaster ends when the mitigation efforts and reconstruction of infrastructure ends, and the pre-disaster situation is restored. On the other hand, in situations of war and conflict, when there is displacement of peoples and human

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rights violations, the emergency lasts until a status quo is reached and violence ceases. However, we know that war and conflict are not short-term emergencies and tend to have a spiralling impact on any affected population, sometimes ongoing for generations.

Human rights preparedness must play an increasingly bold and reflective role in promoting a rights-based approach to all emergencies, especially emergencies that cause movement and displacement, keeping in mind that emergencies can seem never-ending, and/or their effects lingering. It is also essential to note that the current definition of refugees excludes many displaced persons whose human rights are denied long-term. To explain further, the definition of refugee in the 1951 Convention Relating to the Status of Refugees refers to someone who is unable to or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion (UNHCR 1951, Article 1). This definition is restrictive and narrow with growing forced displacement due to economic crisis and climate change. The Convention principle of *non-refoulement* that bars the return of refugees with a well-founded fear of being persecuted to places where their lives, livelihood and freedom will be threatened fails someone who has fled due to climate or economic reasons despite these also being sometimes life and death situations. Even the common understanding of what it means to be a refugee must change to ensure protection reaches all the forcibly displaced. This piece dives deep into how humankind can protect, respect and fulfil human rights in prolonged emergencies and imagines how better we can be prepared to meet such challenges.

2. Prolonged effects of emergencies

Each emergency requires coordinated and cooperative implementation of specifically tailored strategies in order to utilise available resources to meet the urgent needs of those affected. Emergency plans are living documents undergoing constant revision based on changing circumstances. Such plans include research, writing, dissemination, testing, and updating (Alexander 2015). Urgent human rights that must be addressed include the right to food, shelter and physical safety. However, since some emergencies have long-term effects, many human rights such as those to education, livelihood and freedom of movement are restricted. Rapid response support is often unsustainable longer term and sometimes stops at one-time aid. This kind of support is suitable for short-term emergencies such as disasters or public health emergencies where the crisis eases or passes relatively quickly. However, this one-time aid may not satisfy a group of refugees living in camps for several years or those living in conflict zones. In these cases, it is difficult to say when the emergency will end and the

affected population will be able to return to a pre-emergency situation. While human rights preparedness addresses immediate needs, it frequently overlooks long-term needs such as employment or higher education. This is also seldom addressed in international instruments.

Managing migration and displacement of people, for instance, has evolved beyond the purpose for which relevant international instruments were created. For example, the 1951 Refugee Convention provides protection to asylum seekers who satisfy its requirements. Recognition as a refugee becomes a necessity for many who cross borders due to war and persecution to legally claim rights. Migration management at borders where time has tested ways to allow the flow of people who do not count as Convention refugees, is a global challenge. War and persecution are not the only circumstances forcing people to flee their homelands yet they are the only legal reasons to claim asylum in many countries. For example, economic desperation is often ignored and unrecognised, yet sometimes it is also a matter of life and death (Pahnke 2022).

The 1951 Refugee Convention is a creature of its time and circumstances. Perhaps now is the time to make it more inclusive, keeping in mind that in many cases refugee status may not be temporary. Economic drivers, climate-related displacement and movement growing by the year provide all the more reason to do so. Moreover, borders are man-made and ordinary people in desperate circumstances rightly refuse to understand the complexities of borders when their lives are at stake. Is it fair and just that someone with all the resources at their disposal decides what happens to those who have nothing?

We must prepare for prolonged emergencies because the world has witnessed so many in the first two decades of this millennium alone. We can no longer be in denial of what is happening in places like Afghanistan, Sri Lanka, regions with border disputes, and climate emergencies. There have been different causes and consequences of emergencies in the region, and these include war, conflict, natural and man-made disasters and climate change. In Asia and the Pacific alone, the number of displaced and stateless people reached 11.3m at the end of 2021 (UNESCAP 2022). Host countries continue to need support, considering that most hosts in the region are also developing countries themselves struggling to meet their own development goals. In order to understand the need for long-term human rights preparedness, this paper will now examine the reality of emergencies which have lasted for a considerable length of time and are ongoing.

Afghanistan continues to be a country of concern in the Asia Pacific region in terms of human rights and humanitarian issues. The sudden though planned withdrawal of US troops from Afghanistan after nearly 20 years of conflict was followed by the swift Taliban takeover in mid-

August 2021. In the two to three decades of conflict, the country has witnessed high levels of human rights violations with little human rights preparedness. Despite best efforts, abuses were high throughout the period, and even now reports suggest drastic violations and absence of human rights preparedness. Afghanistan was one of the top countries of origin for refugees in the region in 2021 and this has been the case for some time.[1] Beyond what is accounted for, there will be irregular migration and displacement both internally and across borders. The end to this emergency is unknown, keeping the lives and livelihoods of thousands at stake, with aid and assistance out of reach for many.

Meanwhile in Sri Lanka, decades of civil war followed by temporary peace and economic crisis have led to further instability. Prolonged conflict, displacement, loss of lives and unaddressed war grievances have heightened political and economic tensions. Sri Lanka is a small Indian Ocean Island nation of approximately 22m people, which became a republic in 1972. Almost three decades of civil war between the government and the minority Tamil population officially ended in 2009. Notwithstanding the prolonged conflict and political instability, the country began to recover between 2009 and 2019, making some progress in various sectors. Tourism, for example, thrived: in 2018 alone more than 2m tourists visited Sri Lanka. Economic development was at the centre of policy-making during this period, with several major infrastructure projects commissioned. However, despite these efforts, many projects failed to produce expected returns on investment. Political volatility and economic difficulties have sparked widespread protest while the crisis in what we call a democracy has intensified in the post-civil war years due to government mismanagement. With the position of minorities precarious and the prospect of transitional justice for war atrocities still far away, this is one of the worst economic crises the country has seen in almost 75 years of independence. A substantial population is waiting to return to Sri Lanka post-war, but that has not happened. The current economic problems are driving more migration; thus, the emergency has remained ongoing for decades, displacing and impacting thousands of people and with no end in sight.

Myanmar is another country from which many have fled due to prolonged unrest. The southeast Asian state previously known as Burma has a population of 54m and has suffered decades of ethnic strife, only emerging from almost half a century of military rule in 2011. However, on February 21, 2001, the country announced a state of emergency following a military coup against Aung San Suu Kyi's democratically elected government. Adding to the ongoing issues surrounding the Rohingyas, this coup and continued human rights violations have resulted in thousands of people fleeing their homes. Many Burmese refugees live in camps in Thailand, Bangladesh and India, where they have been confined for more

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1   Refugees by Country 2022, <u>Link</u> (last visited 8 November 2022).

than three decades. Again, this situation has been ongoing for years with many refugees born and brought up in camps, knowing nothing of the world beyond them. What once started as an emergency continues to date, and insufficient long-term preparedness has resulted in these people being denied their basic human rights as they are fully dependent on outside assistance for survival (Burma Link 2022).

The final example is that of Tibet, where the Chinese invasion and subsequent takeover more than 70 years ago provoked minimal response from the international community. Previously, the mountainous Himalayan country, which shares land borders with China in the north and India, Nepal, Myanmar and Bhutan to the south, was an independent Buddhist nation with very little contact with the rest of the world. In 1950, the year after the founding of the People's Republic of China, the Chinese People's Liberation Army marched into Tibet, setting in motion the forcible occupation, followed by years of turmoil under the 17 Point Agreement for Peaceful Liberation, imposed by China on Tibet. Nine years of resistance culminated in a failed uprising on March 10, 1959. The Chinese brutally suppressed protests, claiming tens of thousands of Tibetan lives. This was also followed by a complete overthrow of the Tibetan Government. Tibet's political and spiritual leader, the 14th Dalai Lama, and almost 100,000 Tibetans were forced to flee into exile where they have remained ever since. The circumstances surrounding the Chinese takeover of Tibet also started as an emergency which in many ways is yet to end with Tibetans across the globe looking forward to an eventual return. While crises may arise suddenly as a result of armed incursions, no one can predict when or even if the after-effects will subside and refugees might have the chance to return home. Tibet teaches us that the process can stretch out over lifetimes, thus emergencies and emergency response need not always be short-lived.

While many of us take freedom of movement and livelihood opportunities for granted, others have no choice but to be confined to certain countries and indeed refugee camps. For some, life in a refugee camp, with no prospect of work or education, is their only reality. Many camps are usually built as temporary short-term solutions to address the immediate need for shelter and are ill-suited to people spending their entire lives there. In addition, while some countries recognise UN Convention refugees, others do not, leaving identities of displaced people in question and making their access to rights in the countries to which they have fled even more difficult.

Apart from movement and displacement due to war and conflict emergencies, there is also movement due to natural disasters and climate change emergencies. The latter has generally been short-lived; however, this will not remain the case in the future as rising sea levels cause permanent land loss. It is widely assumed that small island countries like Tuvalu, Palau and some islands of Vanuatu will be entirely submerged,

costing these countries billions of US dollars in damages (Brook 2021; Esswein and Zernack 2020). Economic costs are quantifiable: loss of identity, culture and tradition are immeasurable, again threatening a wide range of socio-economic rights that fall within the realm of human rights.

3. Why prepare for long-term emergencies?

As the aforementioned examples reflect, it is clear that emergencies can sometimes take a long time to cease, and therefore sustained human rights preparedness is essential. The right to movement, education and work are as fundamental as the right to life itself and the situation of people in prolonged emergencies attests to the fact that they do not always enjoy these rights.

How long can Tibetan communities outside Tibet hold on to identities, culture, language and way of life as they survive in an asylum state? Several countries offer education and asylum to Tibetans across the world but their identities as Tibetan nationals are in limbo unless they acquire a legal status in another country. Moreover, there are countries where some of these communities do not even have access to many basic rights like education and work. These Tibetans are forced to accept what comes their way while hoping against hope to return to Tibet in better circumstances.

Displaced Sri Lankans and Burmese face a similar uncertain future, and there are many more examples around the world. Extended emergencies happen, and uncertainties can linger for longer than one can imagine. When return seems impossible, resettling communities, preserving culture, language and tradition are easier said than done. Somewhere, the essence is lost: that is the price the world pays for silence, inaction, power politics and lack of preparedness. What is even more difficult is to guarantee human rights to the affected population.

The fact remains that prolonged emergencies are not new and we know that rights of displaced people, especially with precarious identities under law are not protected and guaranteed, more so when the protector state is in peril due to emergency. We as the international community must come to their aid: we are talking about thousands of children who might miss going to school, thousands of people left without employment opportunities, and thousands with no alternative way to earn their living securely. This is why we need long-term human rights preparedness with foresight extending two to three decades or more if the situation demands.

4. The way forward

Forced movement of peoples due to various social and economic drivers is an unavoidable reality where more thought must be given to safe and orderly migration. Work is needed on migration governance in order to

eliminate restrictions, making rights and resources accessible to all. The United Nations is an existing international forum which could call for action. We are seeing development in some areas like the Global Compact for Migration which seeks to establish guidelines for safe, orderly, and humane flow of people throughout the world. Nonetheless, most UN actions such as the Compact have their limitations, largely due to lack of consensus among countries, which could prove a barrier to expanding the definition of refugees under the Convention. However, the fact that some countries are attempting to widen that definition and to address the problem is an indication that the system at large needs substantial fundamental overhaul in order to facilitate bigger changes in global movement. Human rights preparedness must be viewed in terms of emergency preparedness and long-term sustainability in cases of prolonged emergencies. While expanding the definition of refugees is one side of the argument, the world should also move towards thinking about support that is beyond just one-time aid to make the process worthwhile and cost-effective for the host country as well as the displaced population.

Not every country in the world is ready to share the burden of providing education and employment to refugees or asylum seekers in camps. The international community also may not have what it takes to make sure these rights reach every person on the planet. What then is a solution to long-lasting emergencies? We perhaps need to revisit emergency preparedness and radically overhaul response mechanisms and make it more sustainable in order to let communities thrive even when external support is unplugged. Rights may reach the affected population quickly this way rather than wait for political will to support expanding the definition and rights of refugees perhaps? Sheltering and protecting refugees, asylum seekers and those who have fled emergency situations is a duty we owe to each other. However, we cannot claim to be championing human rights while ignoring the living conditions of two to three generations of people in camps and temporary shelters fully dependent on external aid and support. Human rights are far away from reaching this population, given that basic rights to livelihood, education, and movement are restricted. When the world knows that there are long-term emergencies whose impact will last for many years, the international community should acknowledge and support the development of the hosting countries as opposed to merely fostering a survival/dependency model. This reinforces the argument that, given the opportunity, refugees or asylum seekers can use their skills and talents to contribute both economically and culturally to the development of their host countries. For example, in small scale, in countries like India, several organisations offer courses and vocational training to refugees to support their economic self-sufficiency Rodriguez, Kallas and Zijthoff 2019; Dagar 2022). There are similar support mechanisms available to refugees in Japan, Malaysia and South Korea. Despite a slow change in refugee rights dynamics, many remain trapped in camps, their economic potential untapped. While most of Asia and the Pacific have yet to fully

embrace the 1951 Refugee Convention, fast-moving global political, economic and social structures mean it is already losing relevance. It is time to redesign existing frameworks and welcome much needed changes to incorporate the needs of millions of displaced in contexts of prolonged emergencies.

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