Interview[1] with Joseph P. Saba, Rule of Law for Development Program (PROLAW)

Adjunct Professor, Rule of Law for Development Program; Senior Adviser, World Bank; Former Chair, ANERA

Prof. Joe Saba has over four decades of experience in international affairs, focusing on development, post-conflict reconstruction, and migration issues, particularly in the Middle East and Africa. As a Senior Adviser at the World Bank, he contributed to key initiatives such as the Flagship Study on "Building Peace and Reconstruction in the Middle East" and the "Iraq Vision 2020" project. He has also consulted for UNRWA and led evaluation missions for the EU and Denmark in Palestine. From 1997 to 2010, he served as Director of World Bank programs in the Mashreq region, and prior to that, was a partner at Jones Day specializing in international law. His commitment to refugee and migration issues is reflected in his 13 years on the Board of Directors of American Near East Refugee Aid (ANERA), including nine years as Chairman. ANERA, a U.S.-based NGO, delivers approximately $150 million annually in goods and services to refugees, migrants, and host communities in Lebanon, Jordan, the West Bank, Gaza, and Jerusalem—supported almost entirely by private donations and implemented by local staff. Prof. Saba has also held academic appointments at Georgetown University and lectured globally at institutions including NATO Defense College and Harvard.

[1] Interviewers: Halyna Kokhan & Goodness Ajinomoh

Question: I would like to start our interview with our first question regarding what are the origins of migration in the modern world? What role armed conflicts play in triggering migration crisis, in your opinion?

Professor Saba: Well, obviously, conflict has led to a great deal of migration and forced displacement. The definitions of migrant and refugee sometimes are difficult to differentiate. Whether a person has moved across the border for just economic improvement or whether they were forced to move due to conflict or natural disasters. I prefer the term forced displacement, and that includes the possibility that someone moves because they have no security, perhaps it is physical, economic or social but they have no means of living securely. Conflict, of course, is the biggest destroyer of the means of livelihood. Obviously the places in the world where we are seeing the greatest conflicts are o in the Middle East, in Sudan, Yemen and Gaza as well as South Sudan. Right now we're seeing, unfortunately, increasing numbers of the forced displaced in the Great Lakes District in Africa and in the Western Hemisphere. We've seen, in particular, over the last decade, a large movement fleeing both political oppression as well economic discrimination from Central America towards the United States.

So these areas are widespread. The destination countries have tended to be those which are the richer countries. Obviously, the European Union countries and the United States. But most of the displaced do not end up in those richer countries. And the bigger story, in a way, is that most of the forced displaced are finding themselves in lower and low income countries where the host communities are having serious problems.

This in turn leads sometimes to either discrimination or differentiation or loss of identity for the forced displaced. There are many problems that they face that are often overlooked in the journey from the home country to wherever it turns out they end up, which is not always where they intend to go. And in that journey, they face huge hardships.

In the areas that the NGO I work with operates, we look to provide not only humanitarian assistance but also address basic human needs. And right now in Gaza it involves medical supplies and food. But we also try to do what others would call development work. For example, we do a lot of technical training, we've had a lot of success in training migrants and immigrants and refugees to achieve a t higher level of employment in terms of wages. An example is training to fix electronic equipment that has broken down. Most of them have an education. They're not all people without education. So, you have to do assessments of these groups.

Other examples are rooftop gardens. Anara provides small reverse osmosis machines to clean water, some plastic tubs, and a small solar panel for energy to pump water to the rooftops. These small rooftop gardens provide nourishment, good fresh vegetables, and sometimes food which can be sold. This usually benefits the women in that community,

And I think that's a good example of what we're talking about how small interventions can address immediate problems..

Question: Thanks a lot for describing these problems. It gives us a broader picture. I would like to ask you different aspects regarding politics cut across migrants' policies,

actually. So, can the increasing politicization of immigration policies in certain countries undermine the rule of law, in your opinion?

Professor Saba: We know that in the last couple of decades, migrant flow, particularly, again, to the richer areas, namely the United States and European Union, has led to some political backlash. In many cases, the flows into both of those places have come outside the legal systems that are in place to admit such people. So many of these people have come across borders in a way that has not followed the local law or procedures. Sometimes they're referred to as illegal, which in my view is not the correct terminology. They are undocumented. They fall outside the legal system. It doesn't mean they should be without rights, protection, without dignity, or without care.

But there has been a political backlash. And that backlash comes from people in the host communities, not only the richer ones, but frankly also in many of the less prosperous countries where they find themselves. The host communities themselves face low employment or other economic problems, and the migrants are sometimes perceived as taking jobs or taking resources that otherwise might be better, in their view, better used for domestic purposes. And that does create some political divides, because there are also groups, political parties in these countries, which favor migrants and others which exploit resentments to advance in power. A number of economic studies have been done which show that migrants, immigrants, and refugees actually contribute more to an economy than they take. But it is sometimes very hard to convince a host population which has its own problems with security and economic struggle and which sees a huge inflow in a short time. So yeas, we do see political divides.

Question: Thank you very much. As you referred to legal framework, I would like to ask you about how effective are international framework right now, like for instance, refugee convention for addressing displacement challenges.

Professor Saba: The applicable international legal framework for refugees was basically put together after the Second World War. Like anything born at that time, it needs a lot of maintenance now, and that maintenance and updating to current circumstances has not been done. So the institutional systems supporting the legal framework have become fragile, just as anything 70 years old might become fragile, in need of a lot of care, and in need of adjustment to a world which doesn't look like the world of the early 1950s. So these systems are really in need of major reform, to accommodate the realities that we're faced with.

Unfortunately, much of the political attention has been directed to either preventing the migrations or the difficulties created in the migration itself. We really haven't, as an international community directly dealt with the immediate problems of reforming those legal frameworks or addressing the root causes of forced displacement..

Question: And my next question, from your experience at the World Bank, how has international financial institutions affected migration patterns and trends, especially in nations experiencing hardships and conflicts?

Professor Saba: Well, yeas, international Financial Institutions, in cooperation with UN, mostly UNHCR, launched a number of initiatives to address the challenges of forced displacement and its broader context. They have created a global compact on refugees. They've done a good deal of research and analysis on causes and impact. The 2023 World Development Report was entitled Migrants, Refugees, and Societies. It provides a great deal of explicit guidance on policy actions that could undo more responsive legal frameworks, encourage refugees' internal mobility, promotemigrants' self-reliance, and deliver services, including how they can be delivered. The Report provides specific recommendations onstrengthening institutional and financial arrangements. The financing, though always difficult and a focus of public attention is not in my opinion the main issue. It has been addressed and can still be managed well if targeted and held accountable.. The multilaterals have looked at a dedicated financing window hosted by the World BankThe fund totals over $2.4 billion. Eighteen refugee hosting countries are eligible for the sub-financing.. The World Bank and the United Nations have developed systems o monitor that financing and accumulate data to inform better efforts at effectiveness and efficiency. So there has been a good deal of work done

But in the context of the global situation, where you have about 117 million forced displaced, in a total of 304 million, f displaced generally , there's a lot more to be done.

Question: Today, a large number of migrants are escaping post-colonial economic systems that still harm developing nations. What part, in your opinion, should development aid and assistance, especially such institutions as the World Bank, play in tackling the underlying causes of migration?

I think in two ways. First, there's always the analytics so that an evidence-based approach can be taken. And I mentioned a moment ago the 2023 World Development Report. These development reports are the product of years of research and work by large numbers of teams, which not only collect data, but do a lot of analytical work as well as recommendations.

They dedicated those teams and that budget was a good first step, so that's one. So data, information, and getting past so much misinformation in the world on migrants and refugee. Number two, obviously it's resources, and that can be done in two way. The multilaterals are well positioned to mobilize resources. First, they are often able to help the hosting countries cope.

The World Bank, United Nations agencies, Asian Development Bank, African Development Bank, Inter-American Development Bank, the EU' and some of the other national funds, have provided hosting countries with facilities, technical assistance and finance, to help them manage. The European Union has provided, for example, recently, Tunisia and Turkey with a fair amount of resources to help them bear the costs of the migrants and refugees that are stuck, inside their countries, who are not citizens of those countries, but cannot reach their destinations in Europe and either cannot or will not return to their home countries for various reasons. There are also the global funds, which I mentioned, which are essentially trust funds into which many states have made contributions according to their needs and desire. These global funds can be accessed in the form of grants. Those grants help not only the refugees and migrants, but also their hosting countries.

The NGO I chair has been an implementing NGO for a number of these programs, since we're familiar with the delivery of these programs. And we find that, assisting the hosting country and the local hosting communities is just as important as assisting the displaced to prevent conflicts, to prevent difficulties and encourage stability to resolve problems arising in displacement. And sometimes we find, frankly, that the hosting communities have barely more resources than the displaced or the refugees themselves. And we have many examples of that. So these facilities offered by the internationals and by funds are quite valuable. And despite the numbers that have been growing dramatically since 1990, the positive fact in all of this, if we can draw something positive, is that we have not seen more conflict than might have expected. Countries which are hosting large numbers of migrants, immigrants, or refugees, forced displaced, have largely avoided any serious conflict among the various groups within their countries. Lebanon is a good example.

In many casesa critical factor is dignity. We still have a long way to go, including in my country, in terms of offering dignity. But the multilaterals, though backed up by a creaky legal framework, has provided some protection.

Where more could be done, is in documenting the force displaced. The need for documentation for the displaced does not receive enough attention. Very often we focus on the basic necessities of sustenance, food, clothing, shelter, their ability to access basic human services, and even their ability to go home, if that's what they want to do, or to move on to get a job, get medical care. But without access to documentation, their plight is susceptible to great exploitation, because many of these people who are forced displaced are trapped in place without clear legal status for many years,

As in normal human life, we're going to have marriages, births, deaths. And they need a way to record that and sustain a family life. Sometimes that's quite difficult in the absence of proper documentation.

Question: I'm glad that you started talking about documentation, because that was about tying to the next question I was going to ask you. You know, because in areas where governments have become more restrictive towards migrants and asylum seekers? What ways, in addition to documentation, what ways can the rule of law principles be implemented to successfully protect them? What are the best practices that you can say can be put in place to provide immediate humanitarian assistance to them?

Professor Saba: In terms of international humanitarian law, it has been successful in holding, in the past, certain governments or certain groups accountable. It has struggled, really, to prevent abuses. So when we look at questions of human rights, it becomes a question of the extent to which the receiving country, the hosting country, adheres to these principles and the extent to which its population is willing to adhere. And in part, increasingly large flows of the forced displaced have tested many populations who themselves are struggling to pay attention to international humanitarian law. So there has been a struggle there.

Having said that, you asked about some of the best practices. There's nothing that's quite perfect but there are lessons . Right now, Mexico, provides a learning experience. Mexico has been subject to very large flows from Central America, as well as internal flows from

within Mexico itself toward the United States. Mexico has been engaged in the last couple of years in a very major effort with limited resources, to provide some dignity to the displaced people, some respect for basic human rights. .

A number of countries, Lebanon is an example that's often overlooked. The forced displace there constitute about 25% of the population of the country. The authorities, the government, such as it is, has made enormous efforts at providing for education and health. They've doubled and tripled school classes to accommodate the forced displaced. They have made some serious efforts at avoiding abuses in employment. Jordan has also received approximately 20%, of its population, has made similar efforts, particularly in healthcare and education. So there are good examples which does reflect, I think, adherence to international humanitarian law. Nothing is perfect anywhere, but there are examples we can take. It's not universally grim, but there's a lot of grimness out there.

Question: Thank you, Professor. Also, given your leadership in humanitarian aid with ANERA, what can you say are the main legal and policy obstacles that prohibits international organizations and non-profits from providing effective reliefs? And are there any ethical dilemmas that arises from responding?

Professor Saba: Yes, there are always ethical dilemmas that arise in responding. There is always a question as to what extent do you cooperate or how much do your cooperate with informal and non-state militia - armed militia? The force-displaced are always the subject of exploitation, almost everywhere. And that often involves armed, illicit groups, non-state groups which often obstruct or mackle demands. So they present a moral, ethical dilemma – to confront or not, engage or not and with what consequences?

If you operate according to international humanitarian principles, you have an obligation to at least to engage with them, not facilitate or resource their actions, but in order to deliver the humanitarian aid to those in need. If you're a development development agency, the principles may be a bit different. A development agency would not want to contribute to institutions which do not respect human rights or the rule of law. And so the question is, how to do no harm? Do you free up budgets of governments which are abusing the forced displaced? These are sometimes very difficult decisions to make.Are you helping a government engage in forcing out a particular ethnic or religious group or some group that it doesn't want in a particular area or place? Or are you providing the humanitarian assistance that you're ethically obliged to provide? These questions occur to us all the time.

Sometimes it's not easy to answer. Sometimes there are places we'd like to go, but for security or ethical reasons, we don't go. And yet, as a board chairman, questions typically come to our board. Should we go to a certain place? What if the answer is that to go there is to risk the lives of our staff? And even if the staff says, yes, don't worry about it, we have prudential obligations, accountability obligations . We do worry about these issues as board members. That is our job.

Another example might concern a government which does not respect the rights or dignity of the displaced or even its own citizens displaced. That government may wans an NGO to provide assistance because it will not, though it has the resources to do so. . Are you assisting

that government to avoid its responsibilities, to free up resources that facilitate it being more repressive? Or engage in activities it should not engage in? These are hard questions.

Of course, they often come down to our reason for being - our job is to help people according to humanitarian principles, we're gonna do everything we can. But yes, behind that, there are always these difficult questions of security, your own staff's safety and responsibility to them. And NGOs engaged in this work almost everywhere face these problems literally every day, whether in the Great Lakes District in Africa or, Gaza.

Question: A final question will be, what reforms do you consider most urgent for tackling the challenges posed by global migration concerns in the 21st century?

Professor Saba: I'm a lawyer, so I would have to say the rule of law and legal framework, honestly. Because if something is legal or illegal, if there is rule of law, then someone can be held accountable for any violation. And very often, at borders or other places where there is an absence of legality or an uncertainty about the legal framework, discretion opens the door to abuse. Not every border official will engage in abuse of power, but as they say, sadly, where there is an opening to abuse, some will take it.. And particularly at borders are large gaps there are gaps within the existing legal framework concerning rights and recourse,

The entire legal framework for displacement needs to be reformed to establish a stronger groundwork for international financial institutions, foundations, charitable organizations and NGOs to serve the displaced and restore a rule of law to cross border migrations. In the absence of a proper legal framework, NGOs and other organizations are open to the question and charge sometimes of “why is it your business?” Or -You have no right to do this. Why are you here? A whole range of uncertainties and variables deter or limit what we can do. A better legal framework would give us the chance. Another example concerns the rules of engagement in military activities.

So, there's a whole panoply of legal reforms at both national and international levels, which could at least convey some dignity, some rule of law to maintain basic human rights if nothing else,, which the forced displaced deserve as human beings.

Question: If I may ask just a small clarifying question to your response. Do you see any potential that international legal framework can change in the near future or any actor that can take this role on him or herself? And probably some tendencies in changes in the national framework.

Professor Saba: I wish we could resurrect Eleanor Roosevelt, but we cannot.

We lack charismatic leadership motivated by our better angels. It's not everything we need, and sometimes it produces very little. But nevertheless, I'm looking. I think charismatic leadership is important. And I mentioned her, but there have been others over the years. A strong voice for integrity, human dignity and charity would help to provide the leadership that would mobilize public opinion.

I know from Anara,that there are very generous donors. We have thousands of people who are online with us every day who want to help, looking for ways to help. So I think the legal and financial talent is out there, and there's a strong will to do it. But the enabling

environment to do that in less in place right now than a few years ago.. So I think we need a charismatic or some multiplicity of charismatic leaders who take this on. And we also need a renewed commitment to international organizations because what we see happening in the last few years is that international humanitarian and human rights principles, as well as the supporting legal measures are being eroded. In terms of what I see in the field, we're going backwards.

I would like to finish on a positive note, if I can. Tthere are literally tens of thousands, if not millions of people who, in many countries, are trying to assist, who are looking for ways to assist. There are people who are generous. In my view, the fundamental issue is not money, is not capital resources. It's, to some extent, moral and political will.

And I'm still optimistic about that, despite everything, a lot is being done to try to address the needs of the forced displaced - their basic human needs. So we are not without hope or optimism. And we have avoided some of the historical disasters that have occurred when large numbers of people have moved. We may have forgotten a history of famines, of terrible disease, of terrible massacres. They have occurred. We're not seeing that now, not quite yet. Maybe we've reached a plateau at a level, though not yet at the heights we seek, is still much better than any other time in history. So I'm optimistic that we can move forward.

Thanks for the conversation.