

TOWARDS A GLOBAL COMPACT ON REFUGEES
FORMAL CONSULTATIONS 5
12-13 June 2018

NGO intervention on Introduction (Part 1)

Agenda item 1

Dear Chairperson,

This intervention reflects a diversity of views within the NGO community.

NGOs appreciate UNHCR's on-going efforts to strive for balance in integrating a range of comments. This is surely a challenging task, but we commend UNHCR's stewardship of this process.

In underlining the primacy of national leadership in refugee responses, emphasising efforts towards collective outcomes and progress, and highlighting the need for operational complementarity in mixed movements, UNHCR has sought to address numerous concerns raised in previous consultations.

We note with regret, however, that the third draft is less ambitious, and more ambiguous than Draft 2. In particular, measures to ensure greater accountability at the global level have been reduced and the refugee- and people-centred outcomes have been toned down. Its scope has also become less clear. We encourage States to ensure that the Global Compact on Refugees (GCR) becomes a universal instrument, which does not retract international protection from people who need it for reasons stated in previous drafts. We need a compact that remains inclusive of those in dire need of international protection.

As we enter the critical and final phase of the consultations, it is vital that we continue to work for a compact that can enhance responsibility-sharing. This should strengthen refugee protection, expand durable solutions, and generate additional resources. At a time when vulnerable civilians around the world face a major protection deficit, it is vital to agree on concrete measures that will not only send a message of hope to people desperately in search of safety and security but will also enable to make a difference for them. If not, our commitment to the centrality of protection will be undermined. Already, deterrence policies are pushing people to seek ever dangerous routes, tearing families apart, and resulting in increased abuse and deaths in transit and an unprecedented number of children traveling alone and exposed to the worst forms of violence. Therefore, firmly anchoring the right to seek asylum as well as access to quality asylum procedures in the programme of action is of utmost urgency. This will also actualise the commitment made by States in paragraph 67 of the New York Declaration.

Now to specific comments, we believe **contextualising the abysmal state of forced displacement** today provides a strong rationale for action. We regret however that this contextualisation only focuses on consequences. It is discouraging to note that references to causes of refugee movements are now minimal. Acknowledging the various intersecting drivers and triggers that force people to flee remains crucial to preventing such flows in the first place.

We appreciate that **partnerships** are now broader and could, for example, include other actors that have the potential to contribute such as diaspora groups. Furthermore, we welcome that the compact will now invite contributions towards the achievement of **collective outcomes and progress**, attempting to ‘square the circle’. These must be defined with multi-stakeholder participation in line with the spirit of the New York Declaration, and must have a strong protection, solutions and people-centred focus. Measuring progress requires establishing clear targets and indicators as a means to share a common understanding of how to contribute to collective outcomes.

The **guiding principles** paragraphs remain the cornerstone of the global compact, providing a strong protective foundation to build comprehensive refugee responses. We appreciate that Draft 3 does not limit application of key human rights conventions to specific articles. We also welcome inclusion of the International Convention on the Elimination of All Forms of Racial Discrimination. However, we continue to note the absence of specific references to the International Covenants on Economic, Social and Cultural Rights, and Civil and Political Rights. People, irrespective of categories, enjoy all human rights, and language underlining this must be included in the compact. Without these fundamental guarantees, the compact’s objective to promote refugee self-reliance will remain elusive.

We welcome that the call for countries to accede to international refugee instruments has been maintained. While urging States that have not yet acceded to these instruments to do so, including the 1954 and 1961 Statelessness Conventions, NGOs ask State parties to continue to meet their obligations under these instruments.

We deplore that important indicators of success in achieving the **objectives** – improved responsibility sharing, strengthened national protection systems, enhanced protection and socio-economic conditions for refugees, and reduction in the number of people living in protracted situations – are no longer mentioned in paragraph 7. These indicators must be imperatively reflected in our efforts to define and measure collective outcomes. The removal of references to SDGs in previous drafts, and now further dropping references to indicators of success reflects a gradual weakening of focus on protecting and assisting refugees, and on overall accountability. As a result, the global compact risks losing its fundamental emphasis on responding to peoples’ needs.

Under **prevention and addressing root causes**, emerging evidence shows that climate change and environmental degradation provoke competition and conflict over resources, which may eventually force people to flee. Denying this reality would not augur well for addressing the drivers of refugee movements in a holistic manner. Furthermore, laying the responsibility of addressing root causes solely on countries of origin does not take into consideration the various external and internal factors that precipitate refugee flows, which can sometimes be beyond the control of one State. Respecting international humanitarian and human rights law including avoiding the use of heavy weapons in populated areas as well as ensuring accountability for violations and eliminating inequality can also help prevent violence, protect civilians and reduce displacement. In this regard, the Secretary General’s various reform initiatives, including the new disarmament agenda, are useful references. The flexibility and swiftness of humanitarian action continues to provide a lifeline to people caught up in conflicts, and this is only possible if it remains independent of political considerations and in line with humanitarian principles of humanity, neutrality, impartiality and independence.

Lastly, we welcome paragraph 12, which refers to mixed flows, and mentions internal displacement. In 2017 alone, over 30 million people were displaced internally, underscoring the urgent need not only to

address internal displacement, but also to ensure today's IDPs are not tomorrow's refugees. Operational coordination and partnership between UNHCR and IOM in mixed flows should strive to cast a wide protection net to ensure people requiring international protection are not forced to fend for themselves. As such, NGOs encourage extending the CRRF and GCR application in situations of mixed movements. In implementing the CRRF, effective ways of engaging a wide range of actors are still needed. Local actors, refugees, host communities, and sometimes even NGOs, are often excluded from designing and implementing refugee responses.

At the same time, we are concerned that the Global Compact on Migration (GCM) may foreclose avenues for joint partnership on international protection issues that do not squarely fall within UNHCR's mandate. Specifically, during the latest intergovernmental negotiations toward the GCM, significant dispute arose about the inclusion of the principle of non-*refoulement* and communities forced to migrate due to disasters and the impact of climate change, in the GCM text.

Confusion seems to have arisen primarily for two reasons. First, some states incorrectly asserted that under international law, the principle only applied to refugees.¹ Second, some states asserted that regardless, all matters related to international protection, including the situation of those displaced and/or migrating due to disasters and climate change, should be addressed in the Global Compact on Refugees. This perspective does not accurately reflect the New York Declaration, and is not borne out by the most recent GCR Draft, issued on June 4.

Because of last week's developments, civil society organizations are concerned that a gap in protection and humanitarian response is opening up. This would be a devastating result that is largely avoidable. We urge that this be addressed and clarified. There is nothing inconsistent or duplicative about including the principle of non-*refoulement* and considering the protection and humanitarian needs of those displaced by disasters and/or climate change in both compacts. To the contrary, this will bolster the ability of States to both rise up to the challenges presented by mixed movements of people and request international cooperation and support to ensure that those arriving are received and cared for consistent with their rights.

To conclude, we highlight the necessity to lay out a clear vision for the operationalisation of the global compact. NGOs stand ready to support UNHCR, Member States and other stakeholders, not only in implementing comprehensive responses in support of those forcibly displaced, but also contributing to responsibility-sharing and accountability at all levels. The GCR can still redefine refugee response and open up new avenues for much-needed solutions. The challenge now will be to ensure a strong enough agreement and sustain momentum afterwards, and we all have a role to play in this.

¹ "No State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 3, opened for signature Dec. 10, 1984, 1465 U.N.T.S. 85. Non-*refoulement* also finds expression in the Declaration on the Protection of All Persons from Enforced Disappearances, art. 8(1), G.A. Res. 47/133, U.N. GAOR, 47th Sess., Supp. No. 49, at 207, U.N. Doc. A/47/49 (1992), and the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, para. 5, E.S.C. Res. 1989/65, Annex, U.N. ESCOR, Supp. No. 1, at 53, U.N. Doc. E/1989/189 (1989). Protection against *refoulement* derived from these non-refugee specific standards is not limited to persons at risk on account of one of the five Refugee Convention grounds. Instead, all persons at risk of specific concerns such as torture, extra-legal, execution, or enforced disappearance are entitled to protection against return.

We also encourage you to consult comments on the third draft developed by individual NGOs or groups of NGOs as these contain specific analysis and proposals².

Thank you, Mr. Chair and UNHCR, for giving NGOs the opportunity to engage. We are committed to the success of the global compact so that it can truly transform the lives of refugees and host communities.

² For recommendations on **children**, see a paper developed by the Initiative for Child Rights: *Recommendations following Draft Three of the Global Compact on Refugees (June 2018)*.

For recommendations on **women and girls**, see a paper developed by the: CARE International, Plan International, Refugees International, the UNSW, Forced Migration Network and the Women's Refugee Commission: *Suggestions related to Women and Girls for the Third Draft) of the Global Compact on Refugees (8 June 2018)*.

For recommendations on **age, gender and diversity**, see a briefing paper developed by Plan International: *Global Compact on Refugees – Response to the Third Draft for Consideration During the Fifth Formal Consultation (June 2018)*.

For recommendations on **collective outcomes, indicators and targets**, see a briefing paper developed by the International Rescue Committee: *Will it make a difference? Towards a Global Compact on Refugees that actually works (June 2018)*.

For recommendations on **access to information**, see a briefing paper developed by Translators Beyond Boundaries: *Translators without Borders' response to the Global Compact on Refugees Draft 3 (June 2018)*.

For **overarching recommendations**, see a briefing paper developed by InterAction, an alliance of US-based NGOs: *InterAction Refugee Policy Working Group Reaction to Draft Three of the Global Compact on Refugees (June 10, 2018)*.