

# **Expert Group Meeting on the Global Compact on Refugees Recommendations for the Second Draft of the GCR**

**April 2018**

**The Zolberg Institute on Migration and Mobility, The New School, convener**

On March 17, 2018, the Zolberg Institute on Migration and Mobility of The New School convened a meeting of experts on refugee law and policy to consider the First Draft of the Global Compact of Refugees (GCR).<sup>1</sup> The Experts Group took note of the significant improvements made by the First Draft as compared to the Zero Draft.

In order to further strengthen the GCR, the Group drafted a set of recommendations for additional amendments relating to (1) responsibility-sharing, (2) refugee participation, (3) human rights, (4) equitable development, (5) mobility, and (6) accountability.

The specific language recommended is included in the attached document.

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<sup>1</sup> Participating in the meeting were: T. Alexander Aleinikoff, Emily Arnold-Fernandez, Kiran Banerjee, Joel Bell, Cathryn Costello, Anna Crowley, David Donoghue, Jerome Elie, Carolina Gottardo, Ninette Kelley, Susan Martin, Pietro Mona, Amanda Porter, Lauren Post, Sarnata Reynolds, Christian Wolff, Mark Yarnell, and Leah Zamore.

## Proposed Amendments for the Second Draft of the Global Compact on Refugees

The section numbers below correspond to paragraphs in the First Draft of the GCR. **Suggested new language is indicated in blue.**

### RESPONSIBILITY-SHARING, INCLUDING THE PLATFORM

5. The success of the global compact will ultimately hinge on how much progress is made in the following areas: (1) an improved system of burden- and responsibility-sharing, measured in terms of the distribution of contributions among States – and, where relevant, other stakeholders - including through the hosting of refugees, making financial contributions, and providing solutions; (2) strengthened national protection systems and response capacities worldwide that safeguard the rights of refugees; (3) enhanced socio-economic conditions for refugees and host communities, notably women and girls, measured against the 2030 Agenda for Sustainable Development (‘the 2030 Agenda’); (4) greater efforts to resolve protracted situations, measured by a reduction in the number of refugees who live in such situations through the achievement of durable solutions; **and (5) the development of enhanced international cooperation and solidarity by States and other relevant stakeholders to support the international refugee protection regime.**

8. [...] However, averting and resolving large movements of refugees are matters of serious concern to the international community as a whole: they require improved cooperation and complementarity among political, humanitarian, development and peace efforts. **Toward this end, States will work collectively to support the international refugee protection regime, cooperate with UNHCR in the pursuit of its mandate, and pursue all forms of international cooperation necessary to support protection and solutions for refugees in specific situations, including through innovative forms of support to host States.**

22. In response to a significant refugee situation, whether new or protracted, host countries will be able to rely on the **Global Support Platform**. This platform would consist of States, **including the Chair and Vice-Chair of the Executive Committee of the High Commissioner’s Programme (ExCom)**, that are dedicated actively to providing and mobilizing more equitable and predictable burden- and responsibility-sharing through concrete **hosting**, financial, material and other contributions. The platform would **constitute an on-going effort at the global level to enhance cooperation, build trust, predictability and advance best-practices in mobilizing responses to individual or regional refugee situations and in accelerating** the search for solutions, bearing in mind broader peace processes that may be under way, including to address root causes.

23. **In response to a call from the High Commissioner for Refugees, based on established and agreed-upon criteria, and in close consultation with affected host countries and other States involved, the platform would establish a working group, co-led by a relevant host State and another State participating in the platform, tasked to develop and promote proposals for comprehensive response to the specific or regional refugee situation.** Depending on the situation, other stakeholders would be invited to engage in the **working group. These could include relevant international organizations, representatives of civil society, people with lived refugee experience and, as appropriate, the private sector.**

24. Where it would add value, the platform could initiate the organization of a **solidarity conference to support the response developed by a working group.**

25. The platform could **also** support the development of a **country or region-specific compact** that articulates a set of mutual commitments between cooperating States and other stakeholders. This would include follow-up arrangements and reporting on progress, including from an age, gender, and diversity perspective (see Part IV).

26. The platform will meet in Geneva, Switzerland, and/or at the national or regional level as appropriate. It will not engage in operational activities or duplicate existing coordination mechanisms. **Working group co-chairs** will report regularly on their **efforts** to the Executive Committee of the High Commissioner's Programme (ExCom). **Plans developed by platform working groups could, in turn, serve as a basis for the concrete national, regional, and international support measures (e.g. standby capacity; opportunities for resettlement or other pathways for admission; development and other funding; and policy initiatives) to which States can pledge support at global refugee summits. Detailed Terms of Reference for the platform could be adopted at the first global refugee summit.**

## **REFUGEE PARTICIPATION**

31. In recognition of the fact that responses are most effective when they actively engage those they are intended to protect and assist, national authorities, UNHCR and other relevant stakeholders will continue to develop and support consultative processes that enable **refugees and host communities** to assess their needs and help design appropriate responses, **including by devoting financial and capacity building resources to foster participation and leadership, and technical expertise within these communities.** States and relevant stakeholders will explore how best to include refugees, particularly women, youth **and other vulnerable populations**, in key fora, institutions, and decision-making processes **on an ongoing basis**, including by facilitating language learning, as well as access to information, for instance through low-cost mobile phone and internet subscriptions. **States and relevant stakeholders will also ensure refugee representation in key global, regional, and national decision-making arenas,**

such as in discussions of country or region-specific compacts. Steps shall be taken to provide space, both physically and legally, for refugees to meet and discuss policies and proposals without fear of discrimination, political interference, persecution, arrest, detention, deportation, or jeopardy with respect to their protection claims.

43. In support of host countries [...] **Refugees, including refugee women, will be identified to formally lead or participate, wherever appropriate, in these and initiatives.**

74. One of the primary goals of the global compact (see para 5) is to increase the availability of durable solutions, including by planning for solutions from the outset of emergencies. [...] This includes the three traditional durable solutions of voluntary repatriation, resettlement and local integration; as well as other pathways for admission to third countries which may provide additional opportunities for protection and solutions. **It also includes efforts to ensure that all refugees are able to provide freely given and informed consent, and to contribute to achieving any proposed solutions.** Pending the availability of solutions, the measures set out in Part III.B.2 above help to strengthen the resilience of refugees and host communities; and provide an important foundation for the success of durable solutions once achieved, including notably voluntary repatriation, the preferred solution of many refugees.

## **HUMAN RIGHTS**

[between paragraphs 30 and 31]

[X.] **States and other relevant stakeholders will work to uphold and protect the human rights of all persons in need of international protection, demonstrating full respect for international human rights law, international refugee law and international humanitarian law.**

### **1. Reception and admission**

[before para. 44]

[Y.] **A cardinal underpinning of the refugee system is the right of all persons to seek and enjoy asylum. Interception measures should not result in asylum-seekers or refugees being denied access to international protection, or result in those in need of international protection being returned, directly or indirectly, to the frontiers of territories where their life, bodily integrity or freedom would be threatened on account of a Convention ground, or where the person has other grounds for protection based on international law.<sup>2</sup> UNHCR, other States and relevant stakeholders will contribute resources or expertise to help ensure**

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<sup>2</sup> See Executive Committee Conclusion No. 97 (LIV) – 2003

**that all persons have the opportunity to seek asylum in safety and security and all States encountering asylum seekers have the capacity to carry out their obligations. These resources may be financial, technological, or other aid to boost the capacity of countries to admit asylum seekers to their territory.**

**[Z]. Saving the lives of those seeking asylum is a first priority for the international community. States and relevant stakeholders will take steps to prevent refugee deaths and injuries through joint preventative actions, search and rescue operations, standardized collection and exchange of information, identification of those who have died or gone missing, and facilitation of communication with affected families.**

48. Security considerations and international refugee protection are complementary. Host States can benefit from the adoption of an integrated approach that protects refugees while safeguarding national security. The legitimate security concerns of host States are fully recognized, as well as the need to uphold the civilian and humanitarian character of international protection. **As such, States, UNHCR, and other relevant stakeholders will take measures to ensure that public officials and law enforcement officers who work in border areas are trained to uphold the human rights of all persons in need of international protection.** In support of host countries, other States, UNHCR and relevant stakeholders will contribute resources and expertise for: [...]

55. In addition, where appropriate, UNHCR will provide guidance and support for measures to address broader international protection challenges, together with other stakeholders with relevant expertise. This could include: [...]

**- measures to facilitate the inclusion of refugees in State implementation of regional and international human rights instruments, for example in national legislation incorporating a State's existing commitments under such instruments;<sup>3</sup>**

57. In support of host countries, all stakeholders and, in particular, humanitarian, **human rights** and development actors, will ensure complementarity between the immediate emergency response, **human rights protection**, and development cooperation. As a supplement to ongoing humanitarian assistance, development **and human rights** actors will be involved from the outset to ensure that the impact of large refugee situation on a host country is taken into account in formulating development policies, **and that refugees are appropriately included in implementation of human rights commitments.** Similarly, humanitarian assistance will be delivered in a way that benefits host communities, in addition to refugees. This will include efforts to deliver assistance through, **and sustainably strengthen**, local and national service providers where possible (including through State-led social protection systems and

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<sup>3</sup> Such as the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Discrimination Against Women; and the Convention on the Rights of the Child.

multipurpose cash assistance), instead of establishing parallel systems for refugees from which host communities do not benefit over time.

73. [...] This could include: infrastructure, urban development, **human rights protections and access to justice**, social protection systems ~~where relevant~~, and access to new technologies. Support in these areas will also be provided to countries of origin, where appropriate (see section 3.1 below).

## EQUITABLE DEVELOPMENT

**5. The success of the global compact will ultimately hinge on how much progress is made in the following areas: [...] (3) **durably** enhanced socio-economic conditions for refugees and host communities, notably women and girls, measured against the 2030 Agenda for Sustainable Development (‘the 2030 Agenda’), **the Refugee Convention, and relevant human rights treaties**; (4) **development gains and sufficiency of public and private resources as reflected in fiscal capacities, public service provision, decent employment, infrastructure, and private investments**; (5) greater efforts to resolve protracted situations, measured by a reduction in the number of refugees who live in such situations through the achievement of durable solutions; **and (6) the overall achievement of enhanced international cooperation, political engagement and solidarity by States and other relevant stakeholders to support the international refugee protection regime.****

28. The mobilization of timely, predictable and adequate public and private funding [...]

- **development action:** development actors, including international and regional financial institutions, will step up their engagement in support of refugees, host countries and host communities, and include the impact of a refugee situation in formulating policy recommendations, **such as recommendations related to development, investment, debt sustainability, or taxation.** This will involve dedicated development resources, over and above regular development programmes, provided under favourable terms through both bilateral and multilateral channels, with direct benefits to host countries and communities, as well as to refugees. **Such additionality could take a variety of forms, depending on the context, such as direct budget support or debt relief.** These efforts will be guided by “aid effectiveness” principles [...]

- **maximizing private sector contributions:** At the request of host countries, and under their leadership, other States and relevant stakeholders will explore opportunities for private sector investment and job creation in refugee-hosting areas and potential areas of return in countries of origin by:

- creating a new dedicated public-private hybrid institution (described as a “merchant bank”) to increase private sector investing in ventures and infrastructure by the strategic use of limited public funds to create conditions for the undertaking of commercial enterprises, on fair terms and in the public interest, in refugee-hosting areas or, where appropriate, areas of potential return, targeted to enhance employment opportunities, income growth and fiscal capacity for refugees and host communities in a manner compliant with human and labor rights norms.

- supporting host States’ tax authorities to enforce taxation of profits and private wealth and to minimize illicit capital flows.

61. To foster inclusive, **equitable** growth for both host communities and refugees in line with national policies, data on labour markets, investment and skills, and the 2030 Agenda, and in support of host countries, other States and relevant stakeholders will contribute resources and expertise to:

- support the inclusion of refugees and other populations of concern in national development plans and frameworks for implementing Agenda 2030;

- promote economic opportunities for host communities and refugees, including specifically for women, young adults and those with disabilities, through enabling policy, legal, and administrative frameworks **and through adequate and equitable public investments**;

- promote and facilitate the right to work, rights at work (including union and labour rights and rights to just and timely compensation, to equal treatment and against exploitation), and freedom of movement to pursue economic and educational opportunities, through enabling policy, legal, and administrative frameworks and legal empowerment and protection of refugees;

- ensure a fair and equitable distribution of the gains of development through regulatory, labour, and consumer protections and other means;

- develop adequate instruments to attract private sector and infrastructure investment, notably in refugee hosting areas, **including by creating a “merchant bank”**;

- facilitate access to affordable financial products and services [...] in line with national services and policies **and taking due account of rising refugee indebtedness levels**;

- promote, where appropriate for a particular context, preferential trade arrangements, and facilitate access to, **as well as protection within**, local, regional and global supply chains for host communities and refugees; and [...]

63. More specifically, this will include resources and expertise to:

- expand service delivery, including by building health facilities or strengthening the capacity of existing ones, **by abolishing user fees and other obstacles to access (e.g., lack of documentation or status; language barriers);**

73. [...] This could include: infrastructure, urban development social protection systems ~~where relevant~~, and access to technologies. [...]

## **MOBILITY**

85. As a complement to resettlement [...]

~~–labour mobility opportunities for refugees.~~

**Solutions to situations of displacement can be advanced by promoting the mobility of displaced persons to seek opportunities for employment, study, and family unification. The Secretary General is requested to convene a Working Group to consider and make proposals regarding appropriate documentation and strategies for enhancing mobility among states. Arrangements at the regional level (particularly as part of regional response plans) and between states of particular affinity may be especially conducive to mobility.**

## **ACCOUNTABILITY; MONITORING**

15. In addition, other key tools for burden- and responsibility-sharing include: funding; a multi-stakeholder approach; and better data and evidence, including “mapping” of the impact of hosting refugees.

20. Such efforts would result in the preparation of a **comprehensive plan**, when necessary, with the support of UNHCR and other stakeholders, setting out policy priorities; institutional arrangements; and requirements for investment and financing, material and technical assistance, and solutions, including resettlement and other pathways for admission. Linkages with existing national plans, including for development and disaster response, would be made. **In particular, support would be provided such that within five years of the onset of a displacement crisis, refugees can be fully included in assessments of progress toward implementation of the 2030 Agenda.**

91. [...] **In addition, UNHCR will provide an annual report to its Executive Committee on the extent to which refugees and other persons of concern are included in national development plans for every state in which it works.**