



## Recommendations of Members of the Experts Group on the Global Compact on Refugees

This note summarizes recent outputs of the Experts Group on the Global Compact of Refugees (CCRF)<sup>1</sup>, a joint initiative of the New School's Zolberg Institute on Migration and Mobility and New York University's Center on International Cooperation. Over the course of 2019, the Group met to deliberate on and make concrete recommendations for strengthening international refugee policy, including in relation to the Global Refugee Forum (GRF), the Comprehensive Refugee Response Framework, and other mechanisms.

These summary recommendations - detailed in the following pages - seek to further the fundamental objectives of the international refugee system:

- **Strengthening Protection:** work towards a stronger regime for the protection of refugees displaced in the context of disasters and the effects of climate change, and examine ways of extending protection to displaced persons beyond those defined as refugees under the 1951 Convention and 1967 Protocol. (pp 2-3)
- **Refugee Participation:** take concrete steps to facilitate *meaningful* participation of refugees, including by supporting and strengthening refugee-led associations and ensuring their full participation in GCR mechanisms (pp 3-4)
- **The Comprehensive Refugee Response Framework:** critically examine the assumptions and bargains that underpin the CRRF, advocate for further positive steps on refugee rights, build realistic and costed country-level plans for refugee self-reliance and host community support, commit to tracking donor humanitarian and development support, and re-affirm third country resettlement as an essential component of any framework. (pp 4-5)
- **Refugee and Asylum Seeker Work Rights:** facilitate dignified and decent refugee employment, including by opening labor markets to registered refugees and asylum seekers and by providing proper identification and legal protections that ensure the automatic, unconditional freedom of movement and the right to work, including the right to be self-employed. (pp 5-6)
- **Accountability and Responsibility-Sharing:** enlarge accountability and responsibility-sharing foreseen in the GCR to include deeper structural and institutional changes in the areas that could benefit refugees and their hosting countries, such as debt relief, trade concessions, and efforts to combat impunity for leaders or regimes that provoke forced displacement. Displacement as a standing item on the Security Council as well as state and stakeholder peer review mechanisms could drive these efforts of greater accountability. (pp 6-7)
- **Making GRF Pledges Successful:** focus pledges under the GCR on addressing structures of inequality and marginalization, tied to on-going dialogue with national actors and refugees, ensure that they are SMART: Specific, Measurable, Attainable, Results-oriented and Time-bound. (pp 7-8)

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<sup>1</sup> This synthesis was written by Alex Aleinikoff and Leah Zamore on the basis of papers by Alex Aleinikoff, Emily Arnold-Fernandez, Nicholas Crawford, Fen Hampson, Amanda Klassen, James Milner, Sorcha O'Callaghan, Andrew Thompson, Sanjula Weerasinghe, and Mark Yarnell. Links to the papers will be included with the published version of the note. We are deeply grateful to the paper authors as well as all those who provided feedback, and to Open Society Foundation for supporting the work of the Experts Group.

## 1. International Protection of Displaced Persons

### Normative principle:

The international community has a responsibility to *prevent, respond to, and solve* situations of displacement when the state (or community) in which the displaced person is located is unable or unwilling to provide protection or assistance and the person is unable to return home in safety. The concept of *protection* includes access to a legal status, rights, physical safety and security, and a guarantee against non-return to situations of danger.

### Analysis and recommendations:

#### *A. Protection of refugees displaced in the context of disasters and the effects of climate change in addition to conflict*

While many people displaced in the context of disaster or adverse effects of climate change may not be refugees, those who are refugees must have the opportunity to access that legal status and benefit from attendant rights. A commitment to international cooperation and responsibility sharing demands recognition of obligations established under international and regional legal instruments.

Important steps in collective efforts to ensure protection for people displaced in the context of disaster, climate change, conflict, and violence would include:

1. The preparation of guidance, tools, and capacity building initiatives to support States, decision makers, and practitioners in understanding the substance and scope of regional refugee definitions and how to apply them in practice;
2. The promotion of research on the ways in which disaster events and climate change affect public order and relate to conflict and violence, and therefore may trigger obligations under international and regional law protecting refugees;
3. The promotion of access to refugee status determination and the expedient adjudication of claims.

#### *B. Displaced persons not included in the Convention definition*

We believe that international protection extends to persons beyond those defined as refugees under the 1951 Convention and 1967 Protocol. Thus, despite the lack of binding norms regarding internally displaced persons, persons displaced because of the effects of climate change, or migrants in vulnerable situations, the international community nonetheless has a responsibility to provide international protection when such persons' rights and safety cannot be guaranteed in their places of displacement or in their home communities. This responsibility is reflected in well-established practices of the international community that respond to most forms of displacement, whether or not there is international law mandating that they do so.

There are a number of possible actions that could render this responsibility more concrete, including:

1. Adopting a new convention on displacement (either free-standing or as a protocol to the Refugee Convention) that would define the category of, and provide for, all persons compelled to flee their places of residence;
2. Expanding the mandate of UNHCR to establish a *High Commissioner for Displacement*;
3. Adopting a General Assembly resolution expressly affirming the Guiding Principles on Internal Displacement;
4. Strengthening and formalizing cooperation between UNHCR and IOM (and other relevant agencies) to better prevent, respond to, and solve situations of displacement and other situations of migrant vulnerability irrespective of cause or status;

5. Working through the Task Force on Displacement established under the UNFCCC to craft norms and structures (operational and funding);
6. Creating a “Global Platform on Displacement,” constituted by member states, international organizations and financial institutions, and civil society that would provide financial and technical support to affected states and persons. The Platform could be established by a group of interested stakeholders, with UNHCR and IOM serving as the Secretariat.

## 2. Refugee Participation

### Normative principle:

In making decisions about policies and programs, it is essential to include those who will be fundamentally affected by those decisions. The notion of “nothing about us without us” is not only ethically appropriate – those with lived refugee experience, whether still in displacement, resettled, or returned, offer necessary perspectives to inform smart, practical, and sustainable programs. That refugee participation has not always been prioritized, at either the local or the global level, is a discredit to the international system.

### Analysis and Recommendations:

The Global Compact on Refugees calls for the meaningful participation of refugees in its implementation. Refugee-led groups such as the Global Refugee-led Network are building concrete channels through which refugees can participate in global, national, and local policy discussions. Other opportunities for engagement, such as the growing commitment to pursuing “whole-of-society” approaches, have opened, and momentum is building. Yet considerable barriers to meaningful participation remain. There is often political opposition to refugee participation at country and global levels as well as a dearth of institutional mechanisms for facilitating such participation. Restrictions on refugee movement and travel, as well as financial, cultural, and linguistic barriers, also pose significant challenges.

UNHCR and others have recently made strides in addressing these barriers, including in regards to the GRF itself. However, much more can and should be done. UNHCR, member states, and others should:

1. Include refugees within delegations and/or invite a refugee-only delegation to the GRF and subsequent global meetings under the GCR;
2. Facilitate remote refugee participation at the GRF and beyond;
3. Adopt and promote the GRN pledge for refugee inclusion<sup>2</sup>;
4. Evaluate how refugee contributions were incorporated at the GRF and report back to refugees the results of the evaluation.

Over the longer-term, UNHCR, member states and others should:

1. Comprehensively map refugee-led groups and provide adequate and appropriate support to those groups, as well as support the creation of new, inclusive refugee-led initiatives where these are missing;

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<sup>2</sup> **Refugee Participation Pledge:** My government/institution/organisation/company/me individually pledge(s) to meaningfully engage refugees themselves in all processes and decisions which affect them, and pledge(s) that the meaningful engagement of refugees will underpin and strengthen every contribution or pledge my government/institution/organisation/company/I, will bring to or announce at the first Global Refugee Forum, to be held on 17 and 18 December 2019 in Geneva.

My government/institution/organisation/company/me individually furthermore pledge(s) to share experiences on the implementation of this pledge at subsequent Global Refugee Forums and/or high-level officials’ meetings.

2. Facilitate meaningful refugee participation at the global level (e.g., at IASC, UPR, ExCom, Annual NGO consultations), and give refugees a seat at the table within country-level strategic planning and programmatic decision-making processes;
3. Support national and local host governments to establish specific channels of dialogue with refugees and refugee-led organizations as well as include refugees in existing consultative mechanisms;
4. Include participation as a core criterion in evaluations;
5. Create a Refugee Participation Office at UNHCR.

### **3. The Comprehensive Refugee Response Framework**

#### Normative principle:

The CRRF calls upon the international community to provide support to refugees, host states, and host communities in a prompt, predictable, consistent, equitable, and flexible manner. Its overarching goals include easing the pressure on host states and facilitating refugee self-reliance. In addition, the framework envisages a shift away from parallel service provision by aid agencies towards nationally-led approaches aimed at including refugees into public systems and services. In these and other ways, it articulates an important transformation in traditional refugee-hosting models.

#### Analysis and recommendations:

Since the inclusion of the CRRF as an Annex in the New York Declaration on Refugees and Migrants in 2016, several positive trends have emerged at global and country levels. Conceptually, there is a growing consensus that displacement constitutes a development concern as well as a humanitarian one and that durable solutions require the active involvement of development actors. At the policy level, progress is occurring on issues such as work rights (see also below) and free movement. In some cases, policymaking processes are becoming more contextualized, for instance through greater involvement of regional actors. On the ground, there is a growing recognition of the need to support refugee hosts and refugee-hosting areas, in addition to assisting refugees themselves. In addition, greater efforts are being made to reinforce rather than replace national and local systems, such as through support to ministries of education to enable the absorption of refugees into public schools.

At the same time, enormous hurdles remain which limit the potential of frameworks such as the CRRF. These include:

1. Limited appetite among many host governments to implement progressive policy commitments;
2. Bias within the system toward local integration over and above third-country solutions;
3. The tendency to focus self-reliance efforts on isolated, under-developed locations where refugees are currently assisted, which can result in perpetuating – rather than dismantling – current systems of encampment and settlement;
4. A lack of sufficient and sufficiently predictable funding (humanitarian as well as developmental) and premature reduction of humanitarian funds;
5. A lack of additionality or of transparent financial tracking systems at country level, making it difficult to determine long-term financing allocations;
6. A lack of strategies for, and investments in, major public sector reforms necessary to enable cross-government engagement and national integration.

To address these and other challenges, relevant actors should:

1. *Develop costed, context-specific plans for self-reliance*

Countries rolling out the CRRF or aiming to put the principles of the GCR into action should establish a context-specific understanding of, and strategy towards, self-reliance for the refugee population in that country. This should include a realistic assessment of the prospects for self-reliance in remote and impoverished districts. It should also go beyond consideration of the economic potential of refugees to consider political, social, and cultural dimensions that affect the achievement of self-reliance, including the different capacities, skills, aspirations, and vulnerabilities of different refugee groups.

2. *Re-focus efforts on refugee rights*

Ongoing advocacy is needed to ensure positive developments for refugees related to freedom of movement and the right to work are realized in practice (see also below). Greater mobility should be facilitated by ensuring that refugees are eligible for assistance if they choose city life.

3. *Commit to predictable, transparent development funding that can shift the balance in terms of responsibility sharing*

Donors need to increase their funding for truly developmental approaches to refugees, including by creatively channeling money through national systems (e.g. trust funds).

4. *Ensure that vulnerable refugees are not left behind*

There must be greater planning to continue providing humanitarian assistance or social protection transfers for refugees in the medium and long term. Some refugees will require these transfers to support them until they become self-reliant, while others may require assistance indefinitely.

5. *Go beyond offering financial incentives*

In seeking to facilitate local inclusion for refugees or durable solutions, partner governments need to go beyond financial incentives and consider social, political and security dimensions—including diplomatic approaches to safe and dignified return or resettlement in third countries.

#### **4. Refugee and Asylum Seeker Work Rights**

##### Normative Principle:

Under international law, refugees are entitled to rights that facilitate their ability to rebuild their lives and contribute to their host countries. These include rights to access jobs and start businesses as well as rights to fair working conditions (“decent work”), non-discrimination, and freedom from exploitation. Together with rights to freedom of movement, legal documentation, education, asset ownership and financial services access, this package of *refugee work rights* allows a refugee to become self-reliant and build a new life in a safe home.

##### Analysis and Recommendations:

The legal and economic benefits of effectively implementing refugee work rights are manifest: Refugees fill gaps in the economy and bring new skills; they create jobs and hire local workers; when refugees work, they buy more goods, pay taxes to local and national authorities, and increase cross border trade; and refugees who work are more likely to return home sooner than those who do not work.

To reap the benefits of refugee participation in local economies, encourage self-reliance, and increase the basic living standards of refugees, all states should open labor markets to registered refugees and asylum seekers. The general commitment can be operationalized through the following actions:

1. Providing refugees and asylum-seekers with state-issued identification cards;

2. Amending laws so as to specifically grant refugees and asylum seekers holding identification cards an automatic, unconditional right to work, including the right to be self-employed, to operate their own businesses, and to work at any vocation or in any sector with the same restrictions as nationals;
3. Enacting freedom of movement policies for refugees and asylum seekers, including those currently living in camps.

Critically, the challenge is not only to facilitate refugee employment but also to ensure that such employment is *decent*. This requires an emphasis not only on the right to work but also rights at work. Additional actions in this regard could include:

1. Enhancing labor protections (e.g., related to collective bargaining, minimum wage, time off) and increasing labor enforcement to ensure all types of workers, including nationals, migrants, and refugees, can access their labor rights and avoid exploitation in the workplace;
2. Implementing legal awareness programs to ensure that refugees and asylum seekers understand the rights and responsibilities of working in the country (including payment of tax);
3. Funding language learning programs for adult refugees and asylum seekers to allow them to more easily access the job market as well as assert their rights at work;
4. Establishing a vocational training program for women refugees and asylum seekers in the area of entrepreneurship (how to set up a business, business structures, taxation, licencing, marketing) to enable women to run their own businesses and to avoid exploitative occupations;
5. Revising legislation to allow refugees who have lived in and worked in the country for more than three consecutive years to apply for permanent residency and/or citizenship;
6. Developing a mobile banking system for un-banked host communities and refugee communities to be able to save income and obtain access to credit.

Multilateral humanitarian and development agencies and financial institutions should support this agenda by:

1. Urging hosting states to enact legislation that protects the rights of all workers in the country and provide assistance to infrastructure, livelihoods and agricultural projects that foster refugee self-reliance (including conditioning concessional loans on adoption of such legislation and programs by the hosting state);
2. Providing technical assistance to implement community paralegal programs that help refugees and asylum seekers better understand their legal rights and responsibilities in the country, including labor rights.

## **5. Accountability and Responsibility-Sharing**

### Normative principle:

The current refugee regime suffers from an acute accountability deficit. Some states behave badly, committing systemic and gross human rights violations, provoking internal conflict and civil war, and causing mass exoduses. A system of “responsibility by proximity” ensures that the vast majority of refugees are accommodated in just a handful of developing countries, which struggle to cover the significant financial costs associated with providing social services such as education and healthcare to refugees. Meanwhile, other states make pledges to contribute but fail to deliver on their commitments. UNHCR and other humanitarian organizations are left to pick up the pieces, but lack the tools to hold governments to account. Indeed, the modern refugee regime is in many ways a classic case of strong standards, but no meaningful enforcement of those standards.

### Analysis and recommendations:

The GRF marks a welcome step in the quest for greater accountability and responsibility-sharing in the global refugee system, but it is not enough. True accountability will require efforts beyond operationalization of the Compact— it will require deeper structural and institutional change. Concerted action in the following areas is especially important:

1. Interested states and other stakeholders should develop a new peer review mechanism to hold both states and non-state actors accountable for putting displaced persons in harms way and for finding solutions to their plight.
2. The IMF and other partners could explore the feasibility of debt refinancing schemes for host states so that repayment of loans and programs of “fiscal consolidation” do not undermine efforts to support refugees, as well as locals.
3. The international community could also do much more to “ease the burden” on host states by lowering duties on goods produced in sectors where refugees are allowed and able to work.
4. The World Bank, the IMF, and regional financial institutions could develop fair and effective means of reducing allocations to countries causing displacement and reallocating these funds to support governments hosting refugees, with requirements mandated to ensure a gender-responsive approach.
5. Governments of countries in which regimes have deposited financial assets could develop appropriate legal measures to confiscate and repurpose such assets for the benefits of the people in the country of origin, including those who have been forced to flee their communities because of the actions by the regime in question.
6. The UN Security Council could include displacements as a standing item on its agenda and designate one of the elected members with the responsibility to carry this forward.
7. Governments of countries hosting refugees could pursue criminal charges against political leaders who deport or forcibly expel their citizens or habitual residents from their territory, including charges for crimes perpetrated during the forced displacement of populations, in particular, acts of sexual and gender-based violence.

## **6. Making Pledges Successful**

### Normative principle

The global refugee regime is premised on the principle of international cooperation. As articulated in the Preamble to the 1951 Convention: “the grant of asylum may place unduly heavy burdens on certain countries, and...a satisfactory solution...cannot therefore be achieved without international cooperation.” Similar statements have been included in more than 30 conclusions of the UNHCR’s Executive Committee over the past 35 years and as many UN General Assembly resolutions. Enhancing international cooperation through burden and responsibility sharing is the central objective of the Global Compact on Refugees.

### Analysis and recommendations:

Through the Global Refugee Forum, states and other stakeholders are being asked to pledge to further the GCR’s objectives of burden and responsibility sharing through specific support for refugee-hosting states and communities and commitments to support implementation of the GCR. But what makes for a good pledge? And how can the impact of pledges be measured over time?

In analyzing the implementation of pledges from the 2016 Leaders’ Summit, those made in the context of the Millennium Development Goals (MDGs), and the early experience of the Sustainable Development

Goals (SDGs) specific features of pledges contribute to lasting change. In reviewing pledges made at the Leaders' Summit, for example, two broad categories of pledges can be identified: (1) those that are intended to contribute to structural change, and (2) those that are primarily programmatic and immediate in nature.

Research suggests that pledges have had the greatest impact when they include three features:

1. *They are focused on addressing structures of inequality and marginalization.*  
Without such considerations, pledges may inadvertently reinforce such inequalities. An emphasis on supporting the participation of national institutions and refugee-led organizations will go some way to addressing these concerns. More generally, pledges need to be mindful of diversity within refugee populations and the need to take intersectional considerations into account.
2. *They are part of an on-going process of dialogue with national actors and refugees.*  
Pledges were found to have the greatest impact when they were associated with active and on-going engagement with partners in national contexts, especially national civil society actors, to identify and craft pledges that will reinforce and support on-going dialogue in national contexts to promote protection and solutions for refugees. Likewise, such local engagement will also be critical in assessing the impact of pledges made at the GRF.
3. *They are SMART: Specific, Measurable, Attainable, Results-oriented and Time-bound<sup>3</sup>:*

**Specific:** Pledges should be focused on specific needs identified through national processes.

**Measurable:** Pledges should include a commitment to a process to measure the implementation of the pledge through longitudinal, disaggregated data collection around indicators of shared understandings of success.

**Attainable:** Pledges should be based on commitments that are attainable, both in terms of programmatic practicality and given an understanding of the environment in which pledges are to be implemented.

**Results-oriented:** Pledges should be focused on delivering results that have qualitative and quantitative measures (e.g., not only number of students enrolled in school, but the quality of education they receive).

**Time-bound:** To help ensure accountability, the results of pledges should be measurable within a specified period of time, ideally within the four years leading to the next GRF in 2023.

Pledges that include these three features are likely to have the greatest impact beyond the GRF. Likewise, including these three features in follow-up arrangements from the GRF will provide additional support to the process of implementation and measuring the impact of pledges by: examining their impact on structural drivers of inequality, engaging national NGOs and refugee-led organizations in the monitoring and evaluation of pledge implementation and impact, and providing benchmarks that can be used to assess specific pledges ahead of the first high-level officials' follow-up meeting in 2021.

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<sup>3</sup> The meaning of SMART is adapted from: Lee Ann Jung, "Writing SMART objectives and strategies that fit the ROUTINE." *Teaching Exceptional Children* 39.4 (2007): 54-58.