

High Commissioner's Dialogue on Protection Challenges 2017: "Towards a global compact on refugees"

12 & 13 December 2017

Thematic session 5: Complementarity between the global compact on refugees and the global compact for safe, orderly and regular migration

Summary

Participants acknowledged that the New York Declaration is a significant political commitment that recognizes migrants and refugees as distinct, but which applies to both refugees and migrants. It provides a framework for UN Member States to work towards the adoption of a global compact on refugees, and a global compact for safe, orderly and regular migration through separate, distinct and independent processes. Each compact has a different scope; the global compact on refugees aims to share responsibilities and burdens more equitably and predictably, whereas the global compact for safe, orderly and regular migration will set out principles, understandings and commitments among UN Member States regarding international migration in all its dimensions.

The two compacts present different challenges and opportunities; as participants noted, however, there are also many interlinkages. The two compacts need to be consistent, complementary, and coherent in order to achieve the best possible outcome. This includes ensuring that common elements are identified and drafted in each document in a way that is complementary, that challenges which are common to both refugees and migrants are addressed comprehensively, and that no issues "fall between the cracks".

Areas of potential complementarity between the compacts

- Participants underlined that fundamental human rights are due to all people, regardless of migratory status. Many noted the need to ensure that the two compacts are sensitive to disability, gender and age, and that they be underpinned by principles of humanity and solidarity.
- Several delegations referred to the importance of reaffirming the applicability of existing legal frameworks, including by making reference to international human rights law, humanitarian law, labour law and refugee law, as well as to the New York Declaration itself.
- Participants also discussed the need to recognize and build upon existing bodies of relevant practice developed over many years, such as UNHCR's standard operating procedures on victims of trafficking with the International Organization for Migration (IOM), and UNHCR's 10-point plan in action on refugee protection and mixed migration.
- There was widespread agreement that, where refugees and migrants travel together, the first priority must be saving lives. All persons on the move should be treated with dignity, and be able to access shelter, emergency health care, and food, and have other basic needs met on a non-discriminatory basis.
- Following reception, refugees and migrants should have their specific needs swiftly identified so that they can be referred to relevant services and so that longer term, differentiated responses can be pursued. Special attention must be paid in this regard towards referral to asylum systems, and assistance for people with special protection concerns such as women at risk, children (especially those who are unaccompanied or separated from their families), and victims of trafficking. Alternatives to detention and the detention of children should be coherent across the two compacts.
- There was general recognition of the need to address smuggling and trafficking, including by bringing perpetrators of these crimes to justice.

- Many participants noted the common challenge of racism, discrimination and xenophobia. Some delegations highlighted the importance of strong leadership among UN Member States, in order to steer public discourse towards credible facts and to avoid inflammatory rhetoric.
- Participants spoke to the importance of legal pathways for migration. Both compacts should address labour issues, including in relation to common interests, such as access to livelihoods, and common risks, such as exploitation in the workplace.
- There was a general recognition that the global compact for safe, orderly and regular migration could have important implications for refugees, and should therefore reflect the need for protection-sensitive entry systems, as well as the need for return that gives due regard to international protection considerations and the non-refoulement principle. In this respect, participants recognized that return is a crucial part of well-functioning asylum and migration systems, and noted that refugee and migrant perspectives could help ensure that return and reintegration are sustainable.
- It was also widely acknowledged that international cooperation and partnerships are crucial for the successful realization of both global compacts. Participatory and people-centred responses, civil society, the private sector, cities and local communities, and regional consultative processes should all play a role.

Process

Participants had a rich discussion on the best way in which complementarity between the two compacts can best be achieved, noting that – until the “zero drafts” of the compacts are made available – it will be difficult to have substantive clarity. Participants discussed some of the following considerations:

- Cross-cutting issues will need to be addressed in *both* compacts. Similar language could be considered for inclusion within each document to ensure coherence.
- UN Member States should adopt national positions that treat cross-cutting issues in a similar fashion across both compacts.
- UNHCR should continue to work together with the United Nations Special Representative for International Migration, Ms. Louise Arbour, IOM and relevant stakeholders to promote complementarity between the two compact processes, including through informal briefings to ensure that delegations are fully apprised of developments relating to both global compacts. These informal briefings would be separate to the formal preparatory processes towards the two compacts; civil society and other stakeholders could be invited to participate in such briefings.

UNHCR
11 January 2018