

AMNESTY INTERNATIONAL PUBLIC STATEMENT ON THE GLOBAL COMPACT ON REFUGEES

April 2018

Amnesty International urges governments to make the Global Compact on Refugees fit for the future

Mid-way through UN-led consultations with member states to agree a Global Compact on Refugees, Amnesty International urges governments to ensure the Compact will be an ambitious, inclusive and visionary plan that will mandate action and deliver results for effective refugee protection. The necessity to reach an outcome that would usher in a revitalised approach to global refugee protection is as strong today as it was when States first began the process of building towards a compact in 2016. While protracted refugee situations continue amidst drawn out conflicts, in the last year alone, the world has watched as new refugee situations have unfolded. Over 650,000 refugees were forced to flee from Myanmar into Bangladesh, and it is anticipated that 800,000 refugees from the Democratic Republic of Congo will have moved into surrounding countries by the end of the year due to growing violence and unrest at home. At the same time, we have witnessed a dilution of refugee protection from some States, regardless of the human cost, including a reduction of resettlement pledges, and the prevention of refugees from reaching their territory in the search of protection. The Compact was born from the idea that the international community needed to work together to better protect refugees, and that this responsibility should not fall to only a small number of States as is the current reality. Amnesty International is concerned that the current draft of the Global Compact is falling short of addressing this concern, with few new substantial outcomes envisioned, or concrete progress towards true sharing of global responsibility.

To date, there have been three rounds of formal consultations with governments, based on draft texts penned and shared by UNHCR, the UN's refugee agency, at the end of January and early March. The compact is intended to operationalise commitments toward improving refugee protection made by all UN member States in 2016 as part of the [New York Declaration](#). It aims to tackle a number of critical issues including: establishing a fairer, more equitable way for governments to share responsibility for refugees, and establishing a model for a comprehensive response to large refugee movements and refugees in protracted situations. The current draft Compact proposes a range of measures that States and other stakeholders can take in response.

Whilst recognising the significant challenges to creating consensus amongst all 193 member states on an approach to tackling refugee situations, Amnesty International is concerned that, at this stage of consultations, the Compact process risks missing an important opportunity to truly transform the way the world responds to refugees.

As consultations on the Compact continue, Amnesty International is making the following proposals to UNHCR and member states for inclusion in the Compact to ensure a more robust and far reaching plan to protect the human rights of refugees.

ON FAIR AND EQUITABLE RESPONSIBILITY-SHARING

Fair and equitable responsibility-sharing is central to protecting refugees effectively. Currently, the vast majority of refugees, 84%, are hosted by middle and low-income countries. The Global Compact presents a critical opportunity to redress this balance by ensuring that wealthier states, with the means to do so, share responsibility by agreeing to accept greater numbers of refugees.

While the Compact, in its current iteration, states that responsibility-sharing and international cooperation are key to finding solutions for refugee situations, Amnesty International is concerned that the current global mechanisms proposed to achieve this in the Compact draft will not go far enough to address the imbalanced status quo. Proposals in their current form hinge on semi-regular refugee summits every three (although some states would prefer five) years and a 'global support platform' that would be activated in certain situations, whether new or protracted. The platform would mobilise equitable responsibility sharing, including through solidarity conferences seeking resettlement places and other forms of support. However, with current responses to solidarity conferences and regional refugee response plans often falling short of the commitments needed to fulfil their objectives, it is unclear how the platform will mobilize the significant political will needed to push beyond the current status quo or ad hoc approach of conferences. Amnesty International is concerned that current proposals risk replicating already-existing initiatives and creating extra layers of bureaucracy.

Amnesty International believes that in order for the Compact to deliver genuine responsibility sharing, it should work towards the establishment of a new, permanent and mandatory responsibility sharing mechanism. This mechanism would include criteria to calculate and share amongst States, fairly and equitably, the global 'vulnerable' refugee population (around 10% of the overall refugee population) in need of resettlement. The proportion of refugees that each State accepts would be calculated according to various factors such as GDP or GNI, population, unemployment rate, existing refugee population and/or number of asylum applications received, for example.¹

A second mechanism should also be established to facilitate the transfer of refugees from countries of first asylum where the refugee population has reached a certain threshold. The threshold would also be defined using objective criteria that reflect the country's capacity to host refugees. Other States, with a greater capacity, would be asked to accept a proportion of those refugees.

¹ For Amnesty International's full proposal on genuine responsibility sharing, produced ahead of the General Assembly high-level meeting on addressing large movements of refugees and migrants, please see 'Genuine responsibility-sharing: Amnesty International's five proposals' (AI INDEX: IOR 40/4380/2016), available at: <https://www.amnesty.org/en/documents/ior40/4380/2016/en/>

A more comprehensive, global approach is badly needed and Amnesty International believes that a mandatory responsibility-sharing and transfer mechanism would be a concrete way for the Global Compact to address this perennial issue.

In addition, Amnesty International proposes that all references to '*burden*' sharing are removed from the Compact. Refugees are not burdens. They are rights-holders, who can, and do, hugely enrich and contribute to the communities and countries where they live.

ON SIGNIFICANTLY EXPANDED RESETTLEMENT

Resettlement is a key component of responsibility-sharing and allows States to support each other by agreeing to settle refugees from host countries.

Amnesty International proposes that the Compact include a concrete target for resettlement- that by the end of 2020 (a two-year timeframe), States should provide resettlement places on a scale which would meet current yearly resettlement needs, which is around 10% of the global refugee population.

ON EXPANDED COMPLEMENTARY PATHWAYS

The Compact should include a clear commitment and concrete plan for States to significantly expand and increase complementary pathways for refugee admission. Two areas in which States can concretely do this is by establishing and expanding community sponsorship schemes and refugee scholarship schemes. Both pathways provide a route to safety, strong integration and the possibility of independence and realisation of potential. Both these pathways are referenced in the current iteration of the Compact but should be significantly bolstered.

ON COMMUNITY SPONSORSHIP

Community sponsorship (also known as private sponsorship) gives citizens the chance to take a lead role in the integration of refugees. National community sponsorship schemes, established by governments, allow individuals, groups or organisations to apply to become 'sponsors' and commit to settling ('sponsoring') a refugee or refugee family by taking financial responsibility and offering integration support for a pre-determined period of time in order to allow sponsored refugees to become self-sufficient. This model for community-driven resettlement started in Canada forty years ago following the Vietnam War as a response to the urgent resultant refugee situation. Considered hugely successful and with a proven track record in Canada, community sponsorship provides a robust model with which to effectively respond to growing refugee and integration needs around the world.

Amnesty International welcomes the inclusion of community sponsorship in the Compact, including the principle of additionality. Amnesty International proposes that the Compact include a commitment that States with already established resettlement programmes and integration infrastructure put in place legislation and/or policy frameworks that enable community sponsorship via a national community sponsorship scheme. In countries such as the United Kingdom, New Zealand and Ireland, this is already underway. Amnesty

International suggests including in the Compact a commitment that by 2023 (five years) at least 10 new national community sponsorship schemes have been established globally.

Refugees should be actively consulted and included in planning and implementing community sponsorship schemes to ensure that schemes are sensitive to their experiences, meet their needs and protect their rights.

ON TERTIARY EDUCATION

Study visas and refugee scholarships can also offer a complementary route to safety, with the additional benefit that tertiary education offers a means to build leadership, economic independence and integration potential. Currently only around 1% of refugees can access tertiary education.

Scholarships and student visas are included briefly in the current draft of the Compact. The Compact text should be further expanded to include concrete actions to significantly increase tertiary education opportunities as a complementary pathway including by building strong partnerships between governments and academic/education institutions to ensure refugees can access student visas, scholarships, travel documents and safe travel to take up study opportunities. In addition, as key stakeholders, universities should be encouraged to pledge at least two refugee scholarships each, in particular for refugees living in acute or protracted refugee situations, in need of durable solutions. This should be in addition to programmes assisting refugees already in country and specifically act as a pathway to third country resettlement.

Above all, refugee education visa schemes and scholarships should prioritise the protection needs of refugees and the pursuit for a durable solution. Refugees studying should have appropriate legal status, and should be able to stay after their study has concluded if they continue to have protection needs. Scholarship schemes should also consider the provision of post-graduate opportunities, work experience, further training, work placements and employment.

ON REFUGEE LABOUR RIGHTS AND CORPORATE ACCOUNTABILITY

The Compact includes “the private sector” as a relevant stakeholder in achieving its stated goals and includes a number of references to the private sector’s role, for example in job creation and investment.

While recognising that business enterprises can make a positive contribution to the protection and promotion of the rights of refugees (for example, through providing employment opportunities or using their resources and business models to help tackle the challenges refugees face) Amnesty International strongly urges the Compact to include explicit references to both the State duty to protect, and the business responsibility to respect, the safeguarding of refugees’ labour rights and human rights in general.

In particular, the Compact should explicitly reference the obligations of States to protect refugees from abuses of their rights by third parties, including business enterprises, and to

take appropriate steps to prevent, investigate, punish and redress such abuses, including through access to justice and remedy.

The Compact should explicitly include references to the responsibility of business enterprises to respect human and labour rights in accordance with international standards on business and human rights such as the UN Guiding Principles on Business and Human Rights. This includes by undertaking due diligence to identify, prevent, mitigate and account for how they address their human rights impacts, and by providing or cooperating in their remediation when they cause or contribute to abuse.

The Compact should explicitly highlight the need for States to put effective national laws and policies in place to ensure that business enterprises know and show respect for human and labour rights and are held to account when they do not. In addition, the inclusion of “the private sector” as stakeholders in the Compact must not in any way encourage the “outsourcing” of government obligations to business enterprises. Nor should providing employment opportunities to refugees have any negative effect on their refugee status or right to seek asylum.

ON A HUMAN RIGHTS BASED APPROACH TO DATA COLLECTION, ANALYSIS, STORAGE AND DISSEMINATION

Whilst Amnesty International recognises, as per the Compact, that the availability of high quality, reliable, comparable, disaggregated and timely data, including population and socio-economic data, is a key aspect of ensuring refugee protection and assistance, we believe it is critical that the Compact explicitly calls on States and other relevant stakeholders to adopt a privacy-centric and human rights-based approach to all aspects of refugee data collection and management.

Amnesty International welcomes the Compact’s reference to “protection-sensitive use of databases” and the inclusion of a recommendation to “promote the development of common standards for the collection, analysis, and dissemination of age, gender and diversity disaggregated data on refugees and returnees, in line with relevant data protection policies”. However, concerns remain that the text of the current draft, while referring to “relevant data protection policies” may not provide sufficient protection against potential negative human rights impacts. Some States do not have any, or adequate, data protection policies or laws - even where these do exist, they may be difficult to enforce. Where “relevant” data protection laws or policies are mentioned, it should be emphasized that these laws or policies must be based on human rights. Amnesty International therefore strongly recommends the inclusion, at minimum, of a reference to the right to privacy.

While the right to privacy can serve as a gateway to the realization of other rights, a comprehensive human rights-based approach is broader, addressing the full range of human rights potentially impacted by data collection and sharing processes (e.g. right to information and freedom of expression, freedom of association, right to self-identification/determination, freedom of religion and belief, freedom of sexual orientation). It includes establishing and maintaining key principles such as accountability, equality and non-discrimination, participation, transparency, empowerment and sustainability.

Additionally, an approach to data that is premised on human rights should ensure that individuals can challenge violations of their rights and that remedies are accessible and effective. Therefore, Amnesty International advocates for the inclusion of a reference to a human rights-based approach to data.

To avoid rendering refugees more vulnerable through digitisation of their identities, it is important to recognize that identity-related information can be particularly sensitive in a refugee context, where individuals may be fleeing as a result of identity-based persecution. Refugees, as well as their families, may have particular privacy and security-related concerns and they may face the risk of surveillance and/or be subject to identity-based discrimination. Data collection should avoid exposing data subjects to the risk of human rights violations, and it should not create, or reinforce existing discrimination, bias or stereotypes.

Regarding the development of national capacity in the area of registration, documentation and biometric data, while Amnesty International welcomes the inclusion of a recommendation in the Compact to establish “protocols for the sharing of personal and biometric data, in line with relevant data protection principles”, the organisation urges that the appropriateness and necessity to include personal identity information and biometrics in data collection exercises is carefully assessed in each particular context.

In all circumstances, personal data should be handled only with the express and informed consent of the individual and any categories of identification should be developed through a participatory approach. Specifically, Amnesty International would urge that strong safeguards around data collection, processing and sharing should be put in place to ensure refugee data cannot be used by States or other stakeholders to facilitate human rights violations, to conduct surveillance, or to serve as a means of population control. Furthermore, if refugees are physically unable to provide biometric or other forms of data used for registration or other purposes, this must not result in their discrimination. In addition, refugees should not be discriminated against or have aid withheld if they have refused to cooperate with biometric or other data collection used for registration or other purposes. Amnesty International recommends that explicit language on this should be included in the Compact.

ON THE NEED TO ACKNOWLEDGE THE ROLE OF CLIMATE CHANGE

Amnesty International is concerned that all references to climate change included in the initial draft (the zero draft) have been deleted in the current version. In addition, while we welcome the inclusion of a paragraph on the different causes that can drive refugee movements in the introduction of the Compact, we note that climate change is not listed alongside environmental degradation and natural disasters

The terms “environmental degradation”, “natural disasters” and “climate change” refer to interconnected but separate concepts, all of which are linked to displacement. This is reflected, among other documents, in the 2016 Secretary General’s report 'In Safety and Dignity: Addressing Large Movements of Refugees and Migrants', in the 2016 New York Declaration and in UNHCR’s Strategic Directions 2017-2021 which all include climate change, disasters and environmental degradation/factors as separate reasons causing

people to flee.

By failing to acknowledge climate change as a contributing factor to refugee movements or to explicitly name those displaced in relation to climate change as a category of people in possible need of international protection, the Compact would neglect the reality of displacement in the context of a changing climate.² In addition, the use of the term “natural disaster” could be misleading if not accompanied by “climate change”, as it might convey the message that people fleeing as a consequence of slow-onset events not necessarily labelled as natural disasters (such as sea level rise, ocean acidification, salinization of groundwater and soil, and desertification) would not be in need of international protection. UNHCR has publicly clarified and stated that some people displaced by disasters and climate change may qualify as refugees under international or regional law, while others “may in certain circumstances also require international protection, on a temporary or longer-term basis”.³

Amnesty International therefore stresses the need for the introduction to include “climate change”, alongside environmental degradation and natural disasters, among the factors that drive refugee movements. It also calls for the reinstatement of UNHCR’s role in providing advice and support on measures to assist people displaced in the context of both disasters and climate change who might be in need of international protection.

ON OPPOSING ALTERNATIVES TO DETENTION FOR REFUGEE CHILDREN

Amnesty International is concerned at the reference to “the development of alternatives to detention, particularly for children”. “Alternatives to detention” should not become alternatives to freedom and release.

“Alternatives to detention” are non-custodial measures that can nevertheless restrict rights, including freedom of movement or the right to privacy. They vary in levels of intrusiveness and can range from registration requirements, bond/bail, designated residence, community release/supervision, reporting conditions, electronic tagging, or home curfew.

Amnesty International opposes migration-related detention of all children (migrant, asylum-seeking and refugee children) as deprivation of liberty is never in their best interests. Similarly, any restriction on children’s freedom of movement or right to privacy must be strictly justified and weighted against their best interests. No measure restricting the rights of children should be imposed, unless prescribed in law, proportionate and necessary.

² For example, the Intergovernmental Panel on Climate Change projected with high confidence that without adaptation “hundreds of millions of people will be affected by coastal flooding and will be displaced due to land loss by year 2100” (AR5, WGII Report, p.364).

³ UNHCR, Climate change, disaster and displacement in the Global Compacts: UNCHR’s perspectives, November 2017, available at <http://www.unhcr.org/uk/protection/environment/5a12f9577/climate-change-disaster-displacement-global-compacts-unhcrs-perspectives.html>