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ADSP

Afghan Displacement Solutions Platform

Welcome to the Afghan Displacement Solution Platform's July newsletter, which focuses on the Global Compact on Refugees. With more than 68 million refugees worldwide, the number of people seeking international protection has reached unprecedented levels and has highlighted structural flaws in existing refugee protection frameworks. The GCR is an attempt to address these challenges and develop mechanisms which will provide protection for those in need.

Discussion on the GCR is currently focused on policy development, which can often feel far from the day-to-day work of field-based ADSP partners. However, the agreements made on the GCR today will inform the programming decisions of tomorrow, and it is therefore important to understand the ongoing debates around the GCR, as well as the opportunities and challenges which will flow from its adoption.

In this newsletter we explore some of the key issues around the GCR, and its relevance for field-based colleagues. NRC sets the scene, providing an overview of legal context within which the GCR is being developed and outlining the current gaps in refugee protection. IRC provides an insight into the importance of accountability in order to ensure that the GCR represents a meaningful commitment to change, and DRC considers the challenges and opportunities that the GCR represents for programming.

The next newsletter will focus explore disaster-related displacement, and particularly the drought in Afghanistan. All contributions are welcome!

Thematic focus

Global Compact on Refugees



Addressing gaps in protection: Can the Global Compact on Refugees live up to its potential?

Etsehiwot Kebret and Elisabeth Koek - Norwegian Refugee Council

With the rising number of people being forced to flee conflict, war or natural disaster, the international community is tasked with providing a solid protection framework for all refugees. The adoption of the New York Declaration for refugees and migrants in September 2016, “expresses the political will of world leaders to save lives, protect rights and share responsibility on a global scale”, articulates a set of bold commitments towards this goal. In a display of profound solidarity, all UN member states reaffirmed their commitment to address, in a comprehensive manner, recent large movement of people and develop a compact for refugees and a compact for migrants that will stand the test of time.

The refugee compact is aimed at providing greater protection to refugees and facilitating broader engagement and commitment from all states. In this contribution, we put the spotlight on key refugee protection issues that could be addressed through the Global Compact on Refugees (GCR) and its subsequent implementation.

1. International Legal Framework for the Protection of Refugees

The core legal foundations of the international refugee protection system are enshrined in the 1951 Convention relating to the Status of Refugees and its complementary 1967 Protocol. At the time of the New York Declaration, 148 states were parties to one or both instruments, some with reservations. These two frameworks are also further complemented by regional refugee laws namely the 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa, the 1984 Cartagena Declaration, and the 1999 Common European Asylum System. In addition to regional instruments, international humanitarian and human rights laws and international criminal law further supplement both the global and regional refugee agreements, thereby strengthening the protection of refugees. Practice has shown that these important frameworks for the protection of refugees are not always sufficient and critical gaps remain.

II. Protection gaps in the context of large movements of refugees

The first gap pertains to the number of states party to international refugee law instruments. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), “[i]n 2011, more than 40 per cent of refugees under UNHCR’s mandate were hosted by states that had not acceded to either instrument [of international refugee law], notably in Asia and the Middle East.” While many governments have acceded to the 1951 Refugee Convention and the principle of non-refoulement is being recognised as a customary international law, some others are still not signatories or have reservations, creating difficulties in a global application. Moreover, there are discrepancies in the interpretation and subsequent application of the 1951 Refugee Convention, mainly with regard to individuals covered and the rights refugees are subsequently entitled to once their status is determined. Even with those states that have accepted a broader definition of refugees in regional instruments, there remains varying practices when applying refugee protection. In addition, some states acceded to the 1951 Refugee Convention but have yet to ratify it into domestic law and even if they have done so, at times, gaps in compliance exist. This lack of consistency of approach to refugee situations around the globe has resulted in serious protection gaps for refugees.

Beyond issues around accession to international refugee law instruments and their application, frameworks for situations of protracted displacement, large-scale refugee influxes and approaches to durable solutions have not found explicit mention in the 1951 Refugee Convention. While in some cases certain regional instruments have (partially) addressed these issues, a holistic and unified global approach to finding lasting solutions remains absent.

Most notably, and as highlighted in the 2016 New York Declaration, one of the most critical gaps is the absence of a mechanism for equitable responsibility sharing “to manage[ing] large movements of refugees [...] in a humane, sensitive, compassionate and people-centred manner.”

Furthermore, of critical importance is the omission of reference to people on the move “in response to the adverse effects of climate change, natural disasters (some of which may be linked to climate change), or other environmental factors”- something that has found prominence in the New York Declaration.

III. Addressing protection gaps through the global compact on refugees

While not legally binding, if adopted during the UN General Assembly in late 2018, the GCR will not only be a universally accepted document, but it will also have major moral and political weight. The compact underscores the importance of country specific mechanisms and the need for addressing various refugee situations on a merit basis. While the compact does not make explicit reference to national refugee law, it ensures that national refugee policies and arrangements remain in place. The GCR further ensures that a “one size fits all” approach is not deployed universally but instead attempts to reach a global consensus on what are the appropriate responses to each situation. Following the adoption of the GCR text, implementation through mechanisms such as the CRRF will demonstrate whether the GCR will stand the test of adherence of states to the commitments outlined in the GCR.



Photo: IRC

An easy win: Where previous normative legal frameworks failed to include situations of protracted displacement, large-scale influxes and made no mention of approaches to durable solutions, the GCR explicitly recognizes the complex and evolving nature of refugee crises and serves as a working tool to address protracted displacement, large scale influxes and durable solutions. The GCR calls for the activation of a support platform, aimed at context-specific support for refugees and concerned host countries and communities, complementary pathways, closer links between humanitarian and development actors as part of the nexus, and multi-year financing towards ensuring that there is a broad base of support for refugees in protracted situations and for solutions.

One of the core issues of the GCR is equitable responsibility sharing between all member states towards “hosting and supporting the world’s refugees.” From the onset of the GCR negotiations , debate was centered around the need for responsibility sharing, and while this theme features throughout the text, it is anticipated that the final draft will not include clearly articulated mechanisms for achieving this central objective. However, with the introduction of the Global Refugee Forum and Bi-Annual high-level officials’ meetings as next steps following the compact, clearer mechanisms will undoubtedly follow.

Finally, the inclusion of climate and natural disaster as potential drivers for forced displacement is a noteworthy achievement, the importance of which should not be overlooked.

Further reading...

New York Declaration - <https://refugeesmigrants.un.org/declaration>

Global Compact on Refugees - <https://reliefweb.int/sites/reliefweb.int/files/resources/5b3295167.pdf>

Türk, V., & Dowd, R.(2014-06-01). Protection Gaps. In *The Oxford Handbook of Refugee and Forced Migration Studies.*: Oxford University Press.

ReDSS Brief, Implementation of the CRRF in East Africa: Supporting a ‘whole of society’ approach - <http://regionaldss.org/wp-content/uploads/2018/06/ReDSS-Brief-CRRF-process-June-2018-003.pdf>

IRC, Tackling the Realities of Protracted Displacement Case Studies on What’s Working and Where We Can Do Better - <https://www.rescue.org/sites/default/files/document/2652/tackling-realities-protracted-displacement-case-studies-whats-working.pdf>



Moving forward, the important question remains, whether or not the GCR will deliver on narrowing the protection gaps. Certainly, the GCR provides ample opportunity for states to take positive measures towards meeting the world’s refugees’ protection needs but ultimately, the proof is in the implementation pudding.

Accountability in the Global Compact on Refugee: What should we expect from the final text?

Farida Bena - International Rescue Committee

UNHCR is finalising the Global Compact on Refugees (GCR), a non-binding UN agreement that is meant to fulfil the promise of the 2016 New York Declaration for Refugees and Migrants and represent political commitment by Member States and other actors to improve the international response to refugee situations. A final version of the text will be ready at the end of July, and the UN General Assembly is expected to endorse the agreement in the autumn.

One of the most sensitive issues in the Compact is accountability. The latest text reintroduces the proposal to develop indicators of progress against the four objectives of the GCR, namely: easing the pressure on host countries; enhancing refugee self-reliance; expanding access to third country solutions; and supporting conditions in countries of origin for safe and dignified return. Measuring against indicators can help us align our collective efforts and measure improvements in the lives of refugees and their host communities more objectively than simply relying on

generic reports. Most Member States support the development of progress indicators. UNHCR will also map what governments are already doing to protect, host and assist refugees by measuring the impact of their interventions – an exercise that will probably require technical expertise from institutions like the World Bank and the Organisation for Economic Co-operation and Development (OECD). Large host countries in particular, such as Pakistan and Iran, hope this kind of monitoring will lead the international community to redistribute the responsibility for assisting refugees more equitably in the coming years. Other governments, including donors, are broadly supportive, as long as the monitoring exercise does not turn into a ‘naming and shaming’ game.

In addition, the GCR is proposing Global Refugee Forums at ministerial level every four years to track pledges and review progress on the implementation of the agreement. These forums could be used to regularly focus Ministers on refugee concerns and ensure that international responses are actually improving refugee



Photo: IRC

lives. Biannual high-level officials' meetings between Forums will help sustain political momentum through mid-term reviews. The first Global Refugee Forum is planned for late 2019, while the first biannual meeting is scheduled for 2021. To complement these key accountability moments, the High Commissioner for Refugees Filippo Grandi will provide an annual update on GCR progress in his regular report to the UN General Assembly.

When it comes to accountability, the latest GCR text is far from perfect. There are still no targets or specific mechanisms for sharing the responsibility for hosting refugees; no financial or other concrete commitments, at least not until pledges start to come in at the first Global Refugee Forum next year; and no clarity over what should happen in case of a sudden refugee crisis. However, the latest language on monitoring and accountability is stronger than in previous versions, and that is in itself an achievement, given the current toxic narrative around refugees and other people on the move around the world.

At this stage in the GCR process, our priority as civil society organisations is to stay engaged as much as possible. At the global level, IRC has closely followed the GCR consultations as part of a group of five INGOs, together with DRC, NRC, Oxfam and Save the Children. Through a number of joint statements we have advocated stronger accountability, higher protection measures and better responsibility-sharing. We have also organised several lobbying meetings with key Member States, which has led some of them to use our language in their official statements, as in the case of Canada, Denmark and Iran. We now need to sit at the table when the GCR indicators are finally discussed. We need to provide clear evidence of what it means to improve refugees' lives, and how we can capture that progress by building on our operational experience and expertise. Hopefully, the final GCR text that will be circulated by the end of July will reiterate the stronger accountability language we have seen lately, paving the way to a better global, regional and national response to refugee situations.

The Global Compact on Refugees and the CRRF: challenges and opportunities for programming

Tine Jacobsen - Danish Refugee Council

The Global Compact on Refugees (GCR) offers a unique opportunity to re-shape responses to refugee displacement worldwide, moving from encampment to self-reliance and inclusion in hosting communities and from containment to empowerment and solutions. It is an opportunity that NGOs should and must seize via programming, advocacy and new partnerships.

The Comprehensive Refugee Response Framework (CRRF), which forms the backbone of the GCR establishes the parameters for a new type of response: first, a solutions-oriented response with focus on supporting refugee self-reliance, resilience, out-of-camp living, inclusion in national service delivery and integrated refugee-host community programming; and secondly, a multi-stakeholder response with, first and foremost, a much stronger role for refugees and hosting communities themselves, in addition to the participation of a much wider range of stakeholders, including development actors, different arms of government (not just

refugee departments), local authorities and local civil society and the private sector.

Based on experiences from East Africa, where the CRRF has been piloted, and the content of the GCR itself, the following bullet points outline the key key opportunities and challenges for NGO programming:

Area-based instead of sector-based planning and coordination

Integrated refugee-host community responses, which promote the inclusion of refugees into hosting communities and national service delivery systems while supporting development outcomes for the hosting community, are a key component of the CRRF. To support this, refugee programming should be aligned with local development planning, with local authorities playing a leading role. NGOs should advocate for and pursue this shift in practice – notably at the sub-national level, for example by prioritising proactive engagement with local authorities.

Joint analysis and (protection-oriented) collective outcomes

An area-based approach should bring actors together to analyse options and formulate joint goals and collective outcomes for a longer-term solutions-oriented response which holds protection at the core. NGOs should advocate for and support UN and local government actors to take the lead in collective analysis and joint goal-setting activities which include the inputs of NGOs, refugees and hosting communities. NGOs have a critical role to ensure that collective outcomes speak to protection issues. Further, NGOs should work for a credible accountability system attached to collective outcomes (e.g. in the form of result-frameworks) to ensure that all actors deliver on the same people-centered objectives.

Advance self-reliance and resilience programming

NGOs should lead the change by developing programming interventions which support self-reliance, and increase resilience and social cohesion, benefitting both refugees and hosting communities. Such activities are in high demand, with donors looking to fund high quality programmes, and hosting governments requesting responses which also yield local development benefits. Solid programme design, undertaken with development and private sector partners and coupled with robust learning and evidence building activities are the way forward.

Advocacy for national policy-change

With the GCR, UN member States have committed to promote a comprehensive response with self-reliance and resilience at the core. The right to work, freedom of movement and equal access to public services and justice are preconditions to achieving this goal and, as a result, NGO and programmatic responses should be coupled with advocacy aimed at bringing about the necessary legislative and policy changes.

Advocacy for international responsibility-sharing

At the core of the GCR are a new set of instruments which promote solidarity among UN member states when it comes to refugee protection, including increasing financial and other forms of support to hosting countries, and expanding

resettlement and complementarity pathways. A lot of content and detail is missing on how these instruments will work. NGOs at a national level have an important role to play to develop the function and delivery of these instruments in their context. Further, NGOs should hold donors at national level to account for devising the multi-year and flexible funding instruments required for CRRF implementation, coupled with resettlement schemes and other forms of support.

Refugee and host community voice and agency

The CRRF, with its vision of a multi-stakeholder approach, can and must be a lever to increase the influence of populations of concern in shaping responses. NGOs should advocate for their genuine representation in CRRF structures, but also work to improve their agency's mechanisms for enhanced participation and their social accountability approaches.



If you have any questions or comments on the newsletter please contact anna.stein@drc.ngo