

New York Declaration for Refugees and Migrants

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New York Declaration

1. Why is it important for refugees?

The New York Declaration is important for refugees because all 193 member states of the United Nations: reaffirmed the enduring importance of the international refugee protection regime; committed fully to respect the rights of refugees; pledged to provide more predictable and sustainable support to refugees and the communities that host them; and, agreed to expand opportunities to achieve durable solutions for refugees.

2. What is new in it?

Among the key new elements are commitments by States to:

- Strengthen and facilitate emergency responses and a smooth transition to sustainable approaches that invest in the resilience of both refugees and local communities;
- Provide additional and predictable humanitarian funding and development support;
- Explore additional avenues for refugees to be admitted to third countries, including through increased resettlement;
- Support the development and application of a comprehensive refugee response (CRR) framework for large refugee movements, including protracted as well as new situations.

3. Does it cover all those forced to flee their countries?

The New York Declaration addresses large movements of refugees and migrants. A refugee is defined in international law to be a person who is outside his or her country of origin due to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion. The person is in need of international protection when his or her country of origin is unable or unwilling to provide protection from the persecution or serious harm feared.

This definition is at the heart of the 1951 Refugee Convention and its Protocol and is also reflected in regional instruments. It has broad scope and relevance. It encompasses those who flee individual persecution, as well as those fleeing armed conflict or violence associated with one or more of the above-noted grounds. It includes those fleeing State and non-State actors and has been the basis for providing protection for, amongst others, those escaping war, conflict, human rights abuses, gang violence, domestic abuse and other forms of serious harm on the basis of their age or gender identity or orientation.

Comprehensive Refugee Response Framework

4. What is it?

The New York Declaration sets out the elements of a CRR framework, and requests UNHCR to engage with States and all relevant stakeholders in its implementation and further development for situations involving large movements of refugees.

The framework presents a comprehensive response designed to ensure rapid and well-supported reception and admission measures; support for immediate and ongoing needs (e.g. protection, health, education); assistance to national/local institutions and communities receiving refugees; investment in the resilience capacities of refugees and local communities (livelihoods); and, expanded opportunities for durable solutions.

The elements of the CRR framework elaborated in the New York Declaration draw on best practices from over 65 years of experience in international refugee protection, humanitarian assistance and the search for solutions. The elements, while comprehensive, are not necessarily exhaustive. The

New York Declaration specifically requests UNHCR, in consultation with Member States and other relevant stakeholders, to develop and apply the CRR framework and, on that basis, assess and further refine it so as to inform a global compact on refugees.

5. How is it different from the current approach?

Rather than responding to refugee displacement with an exclusively, and often underfunded, humanitarian approach, the elements of the CRR framework are designed to provide a more systematic and sustainable response that benefits both refugees and the communities that host them. It engages a much broader group of stakeholders: government authorities, UN and national partners, international and regional financial institutions, and business and civil society actors. It seeks to ensure more sustainable responses by linking humanitarian and development efforts early on in a crisis, and by strengthening and making more inclusive service delivery, including through investment in national and local systems wherever possible. It also calls for more robust and expanded planning and opportunities for durable solutions.

6. How are the pilot situations selected?

UNHCR has begun working with Member States and its national, local and international partners to implement the CRR framework in a range of specific contexts. These will be selected on the basis of a number of relevant factors, including agreement and active engagement of the hosting State; potential for progress; availability of diverse and representative partners; regional diversity; and inclusion of different operational contexts (emergency, established and protracted situations) and particular aspects of the CRR.

Three governments in Africa -- Somalia, Uganda and the United Republic of Tanzania -- have already expressed interest in participating in a pilot, and UNHCR is exploring opportunities with countries in Asia and Latin America. Further consultations will be conducted to apply the CRR framework to new emergency situations and contexts beyond the specific pilots.

Global Compact on Refugees

7. What is the aim of this?

Based on the practical application of the CRR framework, and an assessment of how it might be refined and further developed, the New York Declaration calls on the High Commissioner to propose a global compact on refugees in his annual report to the General Assembly in 2018.

The objectives of the global compact on refugees, as based on the CRR framework, are to:

- Ease pressures on host countries;
- Enhance refugee self-reliance;
- Expand third-country solutions; and,
- Support conditions in countries of origin for return in safety and dignity.

Essentially the idea is to provide a more equitable and predictable responsibility-sharing arrangement among countries of origin, transit and destination to address large movements of refugees.

8. What are possible elements?

The global compact on refugees will be based on the CRR framework, taking into account lessons learned from its application. It could also include a structural arrangement for more predictable global responsibility-sharing measures triggered by certain factors. Stand-by and partnership arrangements, as well as operational commitments could be envisioned, covering, for example, the

deployment of technical expertise; release of funding reserves; activation of emergency resettlement quotas; and/or triggering of increased donor funding.

9. How does it interact with the 1951 Refugee Convention?

The normative legal regime for refugees is grounded in international law, notably the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as well as regional refugee instruments. The global compact on refugees will not create new legal norms or envision a fundamentally different international architecture for refugee protection. Rather, it provides the framework for applying these norms in large-scale influx, as well as protracted refugee situations, grounded in the principles of international cooperation and responsibility-sharing.

Global compact for safe, orderly and regular migration (GCM)

10. What is this?

The New York Declaration provides for two separate compacts, recognizing that there is already in place a distinct legal, policy and operational regime for refugees which the New York Declaration reaffirms. The global compact for safe, orderly and regular migration (GCM), as anticipated in the New York Declaration, will have wide scope: setting out a range of principles, commitments and understandings regarding international migration in all its dimensions.

11. How is it different from the global compact on refugees?

The global compact on refugees will draw on lessons learned from the application of the CRR framework and be proposed by UNHCR following consultations with Member States and other relevant stakeholders. In contrast, the GCM will articulate, for the first time, a comprehensive framework for migration and be developed through a Member State driven process.

12. Are vulnerable migrants in the same situation as refugees?

There are some situations where migrants and refugees face similar risks. These include:

- Exploitation or abuse by smugglers/traffickers or unscrupulous employers; and,
- Risk of harm due to personal circumstances, for example, unaccompanied or separated children, women at risk, elderly people, persons with disabilities or medical needs, or survivors of torture or trauma.

While refugees often share the same vulnerabilities as migrants, they are different in one important regard: they face persecution, serious harm, or death should they return to their home countries. Additional vulnerabilities only compound the consequences of being returned home. It is for this reason that the refugee protection regime was established over 65 years ago and still remains as relevant as ever.

13. What is UNHCR's position in regard to the GCM?

UNHCR strongly supports the elaboration of a GCM, and hopes that it can achieve:

- Enhanced international migration governance;
- New and expanded channels for safe and regular migration;
- Promoting respect for the human rights of migrants;
- Protection of migrants in transit; and,
- Protection of migrants in countries in crisis.

14. What is UNHCR's role in the GCM?

In the New York Declaration, Member States ask UNHCR to contribute its expertise to the development of the GCM, as well as to the elaboration of non-binding principles for migrants in vulnerable situations. For many years, UNHCR has worked with migration partners and provided guidance to States on how best to respond to mixed flows of refugees and migrants, and to initiatives for the protection of migrants in countries in crisis and those displaced by climate change and disasters.

Areas where UNHCR expects to contribute to the GCM include:

- Ensuring coherence and complementarity between the two compacts;
- Providing policy and technical expertise on cross-cutting issues affecting both migrants and refugees including on combating xenophobia and intolerance, rescue at sea, trafficking and smuggling, and on developing protection-sensitive border management policies;
- Addressing humanitarian and protection needs of migrants in vulnerable situations;
- Expanding possibilities for increased safe migration opportunities, which could also benefit refugees (e.g. family reunification and labour mobility); and,
- Improving migration governance.

Links between the two global compacts

15. What is a global compact?

The term “compact” refers to an agreement that is not legally binding but that captures, by consensus, political commitment both to principles and to concrete action by Member States.

16. Why are there two compacts?

The New York Declaration specifically provides for two compacts. This is in recognition of the fact that, for refugees, there is a specific legal regime already in place, and a framework that is elaborated in the New York Declaration for addressing large refugee movements. The New York Declaration also sets out the objectives for this framework, which are to: ease pressures on host countries; enhance refugee self-reliance; expand access to third country solutions; and, support conditions in country of origin for return in safety and dignity. (Annex I)

In contrast, there is no specific legal regime concerning migrants, and no agreed framework for addressing large movements of migrants. So, the starting point for achieving greater predictability and responsibility sharing for refugees is different than for migrants.

In regard to migrants, the New York Declaration provides that the GCM will set out a range of principles, commitments and understandings regarding all aspects of international migration. It sets out a non-exhaustive list of twenty four issues that could be included in a global compact, reflecting the broad scope of aspects that could possibly be addressed. (Annex II)

17. How will overlapping areas be addressed?

As recognized in the New York Declaration, there are a number of areas where State obligations and commitments for refugees and migrants are the same. For example, these include: providing for adequate reception and determination of specific needs; efforts to counter xenophobia; combating sexual exploitation and abuse; strengthening search and rescue; support to victims of trafficking; providing for alternatives to detention and non-detention of children; and ensuring births are registered. Certainly, for these and other issues common to the protection of refugees and

migrants, and for which Member State obligations are the same, it will be important to include consistent language within the two compacts.

18. How will consistency and complementarity between the two compacts be achieved?

There are a number of ways this can be done, taking into account the overall orientation and approach of each of the compacts. One is to ensure that already established legal foundations common to both refugees and migrants are clearly referenced in each document. This could, include, for example, referencing relevant provisions in human rights instruments which States have already agreed. Additionally, for operational areas where migrants and refugees should be afforded similar treatment – the wording in each compact should be similar. Thematic discussions on a number of these areas leading up to both compacts will help to ensure such alignment. Moreover, lessons learned from the application of the CRR framework as they may pertain to migrants could also be included in the discussions regarding a GCM.

19. What are the next steps for the global compact on refugees?

As provided for in the New York Declaration, UNHCR is asked to engage with States and consult with all relevant stakeholders on the detailed practical application of the CRR Framework, with a view to its refinement. Based on the outcomes of that process, UNHCR will propose a global compact on refugees in the annual report of the Office to the General Assembly in 2018, which Member States will then consider for adoption.

20. What are the next steps for the GCM?

The New York Declaration provides that this compact will be elaborated through a process of inter-governmental negotiations, to begin in early 2017. These will culminate in an intergovernmental conference on international migration in 2018, at which time the GCM will be adopted. The modalities of this process are now being negotiated (led by the co-facilitators, Switzerland and Mexico) and are expected to be adopted in a General Assembly resolution by the end of January 2017.