



OXFAM

UN High Level Summit on large movements of refugees and migrants
Reactions to the zero draft of the outcome document and Global Compact on Responsibility
Sharing for Refugees
6th July 2016

The zero draft of the negotiated outcome document and the Global Compact on Responsibility Sharing for Refugees include useful references and commitments to existing norms and standards regarding refugees, displaced people more broadly and migrants. To ensure that the UN Summit delivers on the unprecedented opportunity to share responsibility for refugees and sets the agenda for an inclusive and accountable process for a Global Compact on Migration, Oxfam calls on UN Member States to strengthen the documents by including concrete, time bound commitments and follow-up mechanisms to ensure implementation.

The following is Oxfam's assessment of both documents. It provides general comments on the different sections as well as detailed recommendations on how language could be improved. We are suggesting deleting ~~strike through~~ text and have *added text in italics*.

On the Global Compact on responsibility sharing for refugees:

For the Global Compact to function as a framework for responsibility sharing, it needs to include concrete commitments that are time bound and that will hold Member States to account.

We recommend retaining the following language:

3. We reaffirm respect for the institution of asylum, including the fundamental principles of non-refoulement, and the need to ensure protection to all those who need it, in line with the rights and obligations under international law, international refugee law and international human rights law
13. first para Ensure as far as possible, at the outset of an influx of refugees and migrants, that measures are in place to ensure that refugees are appropriately identified. Even those found not to be in need of protection as refugees may require protection and support on other grounds.

Responsibility sharing will have to be formally determined to ensure a reliable international response that upholds the rights of refugees and adequately supports host communities.

We therefore suggest the following changes:

12. We commit to an equitable sharing of responsibility for hosting and supporting refugees, while taking account of differing capacities and resources among States. We will consider ways in which an equitable sharing can *formally* be determined, ~~either formally or informally~~, in specific situations of large-scale movement.

Reception

This section needs to address the importance of preparedness and investment in adequate reception facilities, asylum processes and protection and assistance mechanisms before a crisis erupts.

In addition, all the different paragraphs should include specific time bound targets to highlight when in any particular response these standards should be fulfilled.

Meet essential needs

For the Global Compact to change the way refugees and hosting communities are supported, this section needs to include concrete commitments on how non-receiving countries will change their approach.

This note has been drafted by Oxfam International in reaction to the zero draft of the negotiated outcome document and the Global Compact on Responsibility Sharing for Refugees. For any comments or questions, please contact Josephine Liebl at jliebl1@oxfam.org.uk.

We therefore suggest the following changes:

14. Para 1 Provide predictable and consistent humanitarian financing, including through wider partnerships involving State, civil society, religious and private-sector partners. *25% of humanitarian funding should go to local organizations by 2020 and engaging local women's groups in humanitarian assistance and protection should be prioritized*

14. Para 2. Ensure financial support for national institutions to meet increased needs, including by *committing to from 2017 onwards consistently allocateing* development funds to programmes which simultaneously benefit refugees, the local host population and the host State.

Self reliance

To ensure a dignified future for refugees, the Global Compact needs to include a commitment for access to education, health care, livelihoods and services that goes beyond pledges.

We therefore suggest the following changes:

16. para 2: Build self-reliance in countries of asylum by ~~pledging to expanding~~ the legal, social and economic opportunities for refugees to access education, health care and services, livelihoods and labour markets, without discrimination among refugees and in a manner which also supports host communities

16. para 3: ~~Consider ways of e~~Enableing refugees, including in particular women and adolescents, to use their skills and capacities, in recognition of the fact that empowered refugees are better able to contribute to their own and their communities' protection

Support for host communities and countries

Support for host communities and countries has to consider how gender, class, ethnicity and economic and political status may exacerbate vulnerabilities of host communities and seek to address those specifically.

We therefore suggest the following changes:

17. para 1: Ensure a rapid risk and impact assessment after the onset of a large refugee movement in order to identify the assistance required for national institutions and communities impacted by a refugees presence *taking specific gender, class, ethnic, economic and political vulnerabilities into account.*

Voluntary repatriation

This section is very extensive in outlining the importance of voluntary repatriation without including the important principles of what 'voluntary' means. It should therefore include a separate paragraph that clarifies this, which includes reference both to conditions in the country of origin (calling for an informed decision) and the situation in the country of asylum (permitting a free choice).ⁱ

Legal admission pathways

To guarantee that as part of responsibility sharing, countries other than neighbouring states offer protection, the Global Compact needs to include concrete commitments so that all refugees identified by UNHCR to be in need of resettlement or at least 10% of the refugee population are resettled. *In addition, member states should utilize additional mechanisms to extend protection to refugees and vulnerable migrants, including by expanding family reunion.*

The Global Compact should stress that the establishment of safe and legal routes must never be used as justification for undermining the right to claim asylum, which, alongside the principle of *non-refoulement*, is sacrosanct.

We therefore suggest the following changes:

21. para 1 *In addition to resettling all refugees in need of resettlement or at least 10% of the refugee population, make available or enhance or facilitate increase admission pathways for refugees through such means as expanded resettlement, medical evacuation and humanitarian admission programmes, and also opportunities for skilled migration, labour mobility, education, family reunion and other pathways by the end of 2017.*

22. UN Member States who have not yet established resettlement programmes ~~are encouraged to consider~~ *will* doing so at the earliest opportunity. Those who have already done so ~~will~~ *are encouraged to consider* significantly increase ~~in~~ the size of their programmes *by the end of 2017.*

23. Member States ~~will work toward commit~~ *to* the provision of resettlement places ~~and other legal pathways~~ on a scale which would enable at least 10 per cent of the global refugee population to benefit annually.

On the zero draft of the outcome document for 19 September 2016

Overall Message and Framing

The political declaration should stress the need for responsibility sharing for refugees while at the same time acknowledging the contributions of refugees and migrants. **Language describing refugee-hosting as a “burden” is therefore unhelpful.** And while Oxfam agrees that regular, orderly and safe migration is preferable to irregular migration, we feel **it is critical to stress that irregular migration is authorized under international refugee law for asylum-seekers, who often are unable to migrate through regular channels.**

The political declaration should ensure that respect for human rights – including women’s rights - are at the centre of any agreement or initiative regarding all migrants. It should further **address development challenges through the lens of human rights and focus on reducing poverty and inequality, rather than framing these challenges as “drivers of migration” to be addressed in order to restrict migration.**

We therefore suggest the following changes:

1.5 The benefits and opportunities of safe, orderly, regular and responsible migration are considerable and are often underestimated. Our world is a better place for the contribution made by *refugees and migrants*; diversity enriches many societies. Displacement and irregular migration, on the other hand, present enormous challenges. The rise of large-scale displacement has had a deeply unsettling effect *on the displaced and their families as well as the communities to which they move.*

1.6 This is above all a moral and humanitarian challenge. We are determined, first and foremost, to save lives. Refugees, migrants and asylum seekers involved in these movements face a desperate *ordeal and gender specific vulnerabilities may increase their risk of exploitation and abuse.* Many take great risks to reach safety and security, embarking on perilous journeys - frequently by sea -- which they may not survive. Many fall prey to criminal groups. If they reach their destination, they face an uncertain reception and a precarious future.

1.7 Large movements of refugees and migrants have political, economic, developmental and humanitarian ramifications which cross all borders. These are global phenomena which call for global approaches and global solutions. No one State can manage such movements on its own. Neighbouring countries *are most affected. also carry unfair burdens.* And protracted refugee crises are now commonplace, with long-term repercussions both for the families directly involved and for their host countries and communities.

1.11 In the principles and commitments which follow, we are setting out a new global consensus on addressing large movements of refugees and migrants. This is a pact of solidarity with millions of people who, for reasons which may be beyond their control, may be forced to uproot themselves and their families and to seek refuge and safety elsewhere. Displacement and migration, whether voluntary or forced, are realities in today’s world which require well-managed policies and coordination at the bilateral, regional and global levels. The ~~burden involved in responsibility to receiving~~ large movements has for too long fallen on a relatively small number of countries, many of them developing countries. Countries in the immediate vicinity of a conflict zone have been particularly affected. This

burden must be shared on an equitable basis. Meeting today at the United Nations, we are ready to assume our responsibilities.

3.vii We will build on key commitments made at the World Humanitarian Summit which aim to address gaps in humanitarian assistance for vulnerable people who have been displaced. World leaders envisaged a new approach to addressing forced displacement which would not only deal with immediate humanitarian needs but would also reduce vulnerability and improve the resilience and self-reliance of refugees and internally displaced persons. They envisaged providing host countries and communities with increased financial and other support and helping to strengthen their resilience. They also envisaged collective efforts towards a reinforced international framework for equitable responsibility-sharing and burden-sharing in response to large-scale movements of refugees and long-term refugee situations.

5.iv We are determined to counter *irregular, unsafe and unplanned migration, as well as the exploitation, abuse and discrimination suffered by many migrants as a result of irregular, unsafe and unplanned migration. We are further resolved to promote regular, safe, and planned migration as an alternative, while recognizing that irregular migration is sometimes the only option for asylum-seekers and other forcibly displaced persons.*

6.v We underline the centrality of responsibility-sharing and burden-sharing within international refugee protection. Echoed in the emphasis on international cooperation in the preamble to the Convention, this has been reaffirmed in successive General Assembly instruments and regional refugee instruments. We commit to an equitable sharing of responsibility for hosting and supporting the world's refugees, while taking account of the differing capacities and resources among Member States ~~for shouldering the burdens involved~~. We will consider ways in which an equitable sharing can be determined, either formally or informally, in specific situations of large-scale movement and protracted refugee situations.

6.vii Welcoming the extraordinarily generous contribution made to date by countries which host large refugee populations, and the global public good which this constitutes, we will work to increase the support needed for these countries. Building on the outcomes of the London Conference on Supporting Syria and the Region and the High Level Meeting on Global Responsibility Sharing through Pathways for Admission of Syrian Refugees, we commit to sharing in an equitable manner the *responsibility* enormous burden these countries have been carrying.

Ensure that countries other than low and middle incomeⁱⁱ welcome significantly more refugees and expand safe and legal routes for protection

The political declaration should commit Member States (other than low and middle income countries) to increase the number of refugees resettled exponentially **so that all refugees identified by UNHCR to be in need of resettlement or at least 10% of the refugee population are resettled. In addition, member states should utilize additional mechanisms to extend protection to refugees and vulnerable migrants, including through expanding family reunion.** The declaration should stress that the **establishment of safe and legal routes must never be used as justification for undermining the right to claim asylum**, which, alongside the principle of *non-refoulement*, is sacrosanct. **Members of host communities must be supported in order to ensure that their rights are upheld.**

We therefore suggest the following changes:

5.6 We will ensure, on the basis of bilateral, regional and international cooperation, that adequate, sustainable and predictable financing is made available to enable host countries to respond to the immediate humanitarian and developmental needs of the large numbers of refugees and migrants arriving in their territories *taking into account the gendered impacts of displacement. In developed and developing countries alike, we will ensure that host communities receive support in order to secure their own rights and livelihoods.*

6.xv *In addition to resettling all refugees in need of resettlement or at least 10% of the refugee population, we will pursue this target through measures such as the expansion of existing humanitarian admission programmes; introduction of expansion of humanitarian visa schemes; possible temporary evacuation programmes (including evacuation for medical reasons); flexible arrangements to assist and expand family reunification; private sponsorship for individual refugees; and opportunities for refugees with particular skill sets, for labour mobility (including through private-sector involvement) and*

for education (e.g. scholarships and student visas). We will increase substantially the opportunities for skills training and vocational education for refugees.

Affirm that all Member States must uphold the right to claim asylum both in policy and practice

The political declaration should stress that the establishment of safe and legal routes must never be used as justification for undermining the right to claim asylum which is a cornerstone of international law. It should further **reinforce the need for all Member States to uphold the right to claim asylum both in policy and practice, including in agreements with third countries**. At present, we consider the declaration particularly weak on this point.

We recommend retaining the following language:

5.ix Reaffirming that all persons seeking to cross international borders are entitled to due process in the assessment of their legal status, entry and stay, we will consider alternatives to detention while these assessments are underway. Furthermore, we commit never to detain children for this purpose.

We recommend the following changes:

1.5 The benefits and opportunities of safe, orderly, regular and responsible migration are considerable and are often underestimated. Our world is a better place for the contribution made by migrants; diversity enriches many societies. Displacement and irregular migration, on the other hand, present enormous challenges. *While it is often necessary for people to travel irregularly in search of protection, the rise of large-scale displacement has had a deeply unsettling effect, most deeply felt by displaced communities themselves.*

5.iv We are determined to counter ~~irregular, unsafe and unplanned migration, as well as the exploitation, abuse and discrimination suffered by many migrants as a result of irregular, unsafe and unplanned migration. We are further resolved to promote regular, safe, and planned migration as an alternative, while recognizing that irregular migration is sometimes the only option for asylum-seekers and other forcibly displaced persons.~~

5.ix Reaffirming that all persons seeking to cross international borders are entitled to due process in the assessment of their legal status, entry and stay, we will *not detain refugees or migrants consider alternatives to detention* while these assessments are underway. *Particularly, Furthermore,* we commit to never to detain children for this purpose.

6.iv We reaffirm respect for the institution of asylum, including the fundamental principle of non-refoulement, as applicable under the Convention *and that irregular migration is a legitimate, and sometimes necessary, means of seeking asylum.*

6.vii We strongly discourage restrictive refugee admission policies, *policies meant to deter the irregular migration of asylum-seekers, or other arrangements which curtail rights. We wish also to see administrative barriers eased with a view to accelerating refugee admission procedures to the extent possible. We commit to avoid engaging in bilateral or multilateral agreements that may directly or indirectly pose a threat to the right to seek asylum.*

Improve humanitarian response and dignified futures for displaced people

Generally, the zero draft includes strong language on opening opportunities for people in situations of protracted displacement to work, obtain healthcare, and access educational opportunities. These same people should be viewed as development constituencies and included in national development plans.

The zero draft **does not adequately convey the urgent challenge to reform the humanitarian system that is responsible for helping meet the needs and uphold the rights of refugees and vulnerable migrants.** To that end, it is critical to commit to better identify the needs of women and girls. Additionally, the declaration **should endorse the outcomes of the World Humanitarian Summit, in particular the Grand Bargain and the commitment to channel at least 25 percent of all humanitarian funding to local actors as directly as possible by 2020. Member States should deliver on their individual commitments made at the Summit to improve responses to displacement.**

We suggest the following changes:

6.xviii bis We will guarantee that refugees and displaced communities can be self sufficient by granting them the right to work and enabling them to access livelihoods

6.xix We will develop national strategies for the protection of refugees within the framework of national social safety nets. Welcoming the positive steps taken by individual Member States, we commit to encourage host governments to open our their labour markets to refugees and grant them the right to work.

6.xx We will develop improved data collection systems to identify and monitor the needs of refugees and host communities (particularly in urban areas) and ensure that questions on gender and gender based violence risks from the start in all assessments, continuously disaggregate data and act on information in programme responses.

6. xxii To meet the challenge posed by large movements of refugees, close coordination will be required between a range of humanitarian and development actors, *including local organisations*. Host Governments and communities will require support from relevant UN agencies, international financial institutions, regional development banks, bilateral donors, the private sector and civil society. We strongly encourage joined-up responses involving all such players, *with specific attention to representatives of women and vulnerable groups*, which would strengthen the nexus between the humanitarian and development dimensions. ~~and lay a basis, accordingly, for longer-term sustainable solutions. Joint planning for displacement including needs assessment and gender analysis should be institutionalized and lay the ground for multi-year and sustained responses to displacement.~~

6.xxiii We note with concern a significant gap between the needs of refugees and the available resources. Building on discussions at the World Humanitarian Summit, ~~which sought, inter alia, we commit to include displaced persons within development planning national development plans and development finance and to forge new partnerships in that regard with the private sector and civil society, and we encourage support from a broad range of donors, both traditional and new. UN agencies such as UNHCR and UNRWA must have sufficient funding to be able to carry out their mandates effectively and this must be provided in a predictable manner. 25% of humanitarian funding should go to local organizations by 2020 and engaging local women's groups in humanitarian assistance and protection should be prioritized.~~ We welcome the increasing engagement of the World Bank and multilateral development banks and improvements in access to concessional development financing for affected communities. It is clear also that private sector investment in support of refugee communities and host countries will be critical importance over the coming years. Civil society will also be a key partner in every region of the world in responding to large movements of refugees and migrants.

Strengthen commitments to climate-displaced persons

Oxfam calls for the UN Summit to **elaborate on the ways that the international community will support people at risk of climate displacement**, particularly through support for safe and dignified migration.

We recommend the following changes:

4 iv Adverse impacts of natural disasters and climate change are among these factors. We will support efforts by Member States at risk to *adapt to the effects of climate change and avert and minimize displacement. We will ensure that people at risk of climate displacement are able to migrate in safety and dignity, including by providing support for planned relocation and education and labour migration opportunities. And, where necessary, to plan for migration, including planned relocation, as a means of preventing and minimizing forced displacement. Migration will also help in meeting the challenges of adaptation.*

4 xviii We will develop more opportunities for safe, orderly and regular migration, including labour mobility at all skill levels, family reunification and education-related opportunities. In developing such opportunities, we will pay special attention to the needs of fragile states and countries and areas which are in crisis *and people at risk of climate displacement*. In line with our commitments in the Addis Ababa Action Agenda, we will pay particular attention to the ethical recruitment of migrants, the reduction of recruitment and other migration-related costs, the facilitation of remittance flows and enhanced transfer of skills and knowledge

Increasing safety and human rights for all people on the move

The declaration must ensure that **all people on the move are safe and able to enjoy their human rights**. The zero draft includes useful reference and commitment to existing norms and standards regarding refugees, displaced people more broadly and migrants.

Oxfam's approach to protection is about keeping people safe; whether from violence and coercion or from being deprived of the assistance they need. This is independent from the legal status or categories. Oxfam understands protection risks as a combination of the threat faced, their vulnerability to that threat in that situation and the time they are exposed to the threat. **Based on our programme experience, we support the expansion of institutional protection for vulnerable migrants.**

In addition, as over 40 million displaced people (IDPs) remain within the borders of their own country, **it is absolutely critical for the declaration to address the needs and rights of IDPs.**

We recommend retaining the following language:

4.x Reaffirming the importance of a strong normative framework to support migrants, we call upon States that have not done so to consider ratifying, or acceding to, the 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. We call also on States that have not done so to consider acceding to relevant ILO conventions, as appropriate. We note, in addition, that migrants enjoy rights and protection under various branches of international law.

6. Xiii We welcome the initiatives taken by some Member States in providing certain vulnerable migrants who are not refugees with temporary protection against return.

We recommend the following changes

1.3 While the treatment of these categories of persons may be governed by separate legal frameworks, refugees, *internally displaced people* and migrants face many common challenges, including in the context of large movements. The definition of "large movements" depends primarily on the geographical context on a receiving State's capacity to respond and on the impact of a movement which is sudden or prolonged. Large movements often involve mixed flows of various categories of people moving for different reasons, using similar routes and irregular channels. The pressures of a mass influx of arrivals can fundamentally stretch the capacities of a receiving State and can pose serious challenges to its own economic and social cohesion as well as to its development and security.

3.iii We agree to ensure that the treatment of refugees, asylum-seekers, *displaced people* and migrants is at all times humane and dignified; that all persons in these categories are protected from physical or psychological harm and abuse; and that their human rights are fully respected in accordance with international law.

3.xiv We recognize the very large number of people who are displaced within national borders, and the potential for such persons to seek protection and assistance in other countries as migrants or refugees. Noting the need for effective strategies to ensure adequate protection and assistance for internally displaced persons, we believe that a review of the support currently available, building on the existing work done within the UN system on this subject and on the proposals in the Secretary General's Report Agenda for Humanity, would be useful and timely. ~~We note that welcome the 1998 Guiding Principles on Internal Displacement that provide a useful normative framework in this regard; we note also as well as the value of the Kampala Convention as an important regional instrument. We urge all governments to incorporate the Guiding Principles into their domestic law and practice.~~

6. xvi We commit to providing quality primary and secondary education for all refugee and *displaced* children and to do so within a few months of the initial displacement. We recognize that access to education gives fundamental protection to children and youth in displacement contexts, particularly in situations of conflict and crisis.

6.xviii We will ensure that the health needs of refugee and *displaced* communities are met; we will support, for example, community-based projects and will reinforce local health systems so as to ensure that they have the capacity to respond to large influxes.

4.xiv *By September 2017, we will develop guidelines, in accordance with the existing rules of international law, on the treatment of vulnerable migrants who have not qualified for refugee status and*

who may need protection and assistance. These *should* be developed *with consistent involvement of civil society and representatives of migrants* using a process similar to that employed by the Nansen Initiative and the MICIC guidelines.

Setting the scene for a Global Compact for Safe, Regular and Orderly Migration

The declaration **should confirm that the negotiation process for the Global Compact on Migration includes clear benchmarks and substantive civil society input, participation, and observation throughout the process.**

We recommend the following changes:

4.2 We commit to the adoption of a Global Compact for Safe, Regular and Orderly Migration. This Global Compact, which will make an important contribution to global governance of migration, will be rooted in the 2030 Agenda. It will reflect the commitments we are making today and will take account also of other proposals and recommendations, including from civil society and other relevant stakeholders. It will be negotiated and agreed in an intergovernmental process *with consistent and meaningful involvement of civil society*. ~~which w~~ We are launching this process today. This will culminate in an intergovernmental conference in 2018 at which the Global Compact on Safe, Regular and Orderly Migration will be adopted. It will be developed and negotiated with close reference to the Global Compact on Responsibility-Sharing for Refugees, which we are adopting today. This will enable the deep interconnections between both sets of issues to be reflected. Both Global Compacts have equal status and will be complementary to each other.

ⁱ UNHCR (1996) Handbook Voluntary Repatriation International Protection. Available at: <http://www.unhcr.org/publ/PUBL/3bfe68d32.pdf>

ⁱⁱ According to the latest UNHCR data, developing regions continue to receive refugees disproportionately, with most hosted by low- and middle-income countries. In particular, the Least Developed Countries provided asylum to over 4 million refugees. When Oxfam refers to countries other than low- and middle income countries to welcome more refugees, the World Bank's list of high-income economies should serve as guidance. (UNHCR 2016 Global Trends Forced Displacement in 2015)