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Implementation of the Global Compacts on Refugees (GCR)

ASYLUM



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Ask the Expert Policy Brief

Implementation of the Global Compacts on Refugees (GCR)

By Marina D'Odorico & Erika Colombo

Two Global Compacts

As part of the New York Declaration on Refugees and Migrants, in 2016, UN Member States agreed to negotiate two global compacts to be adopted by the UN General Assembly, one on refugees, the other on safe, orderly and regular migration. The adoption of these two agreements – even if they are not legally binding - reveals a sincere desire on the part of States to cooperate better and to make collective responses to future situations more predictable (Durieux, 2019).

Therefore, researchers are increasingly focusing on what the Compacts need to do to achieve some results and on the understanding of how the documents will lead to change in the behaviour of States (Betts, 2018).

The *Global Compact on Refugees* (GCR) has been adopted on 17 December 2018, with the aim to find a sustainable solution to refugee situations. It provides a model and guidelines for governments, international organizations, and other stakeholders to ensure that host communities get the support they need and that refugees

can lead productive lives. It could be considered as the reference framework for planning and monitoring governmental policy and practice on refugees and asylum at the international level.

Since its launch, the Global Compact on Refugees has been commented by stakeholders and scholars across the globe.

Non-legally binding nature

Scholars individuate the relevance of the Global Compacts in the circumstance that they represent instruments to seek more effective and humane ways to manage migration (Duncan, 2019). Although their non-legally binding nature on signatories led the doctrine to reflect if their nature could be considered as a weakness or as an expression of cooperation and goodwill of the UN members states.

According to some comments, non-binding status does not mean that the Global Compacts cannot play a role in the ongoing normative development of international refugee law (Gammeltoft-Hansen, 2019). In fact,

Durieux (2019) illustrates GCR's potentiality, pointing out how this instrument may lead to find collective responses to future situations more predictable, and, at the same time, it may encourage a reassessment of national laws. Moreover, the GCR could represent a significant incentive to renew local legislative frameworks, stimulating regional, rather than international, agreements. Indeed, as explained by Akram (2019), this is what happened in the Middle East area, where agreements such as the Arab Charter on Human Rights, the Organization of the Islamic Conference's (OIC) Covenant on the Rights of the Child in Islam, and the Protocol for the Treatment of Palestinians in Arab States (Casablanca Protocol), have been re-thought in view of the Global Compact's guidelines, while most of the parallel international treaties continued to lack credibility in the region.

On the contrary, some researchers consider the Refugee Compact as a flawed text and not as an instrument which could really help to promote international cooperation in dealing with the global refugee crisis (Chimni, 2019). In particular, according to this doctrine, the text avoids mention of the principal cause of recent refugee flows; does not take into account fundamental principles of international refugee law; may weaken the protection of children and women; does not provide real mechanisms for responsibility sharing; and leaves to the United

Nations High Commissioner for Refugees (UNHCR) the task of supervision without equipping it with the needed instruments to perform. In this view, what could really be constructive is the replacement of the extended borders of powerful States by permeable borders in a spirit of genuine solidarity with those who suffer the consequences of an inhumane global order.

Durable solutions

Another aspect on which scholars and stakeholders specifically focus is the need for durable solutions that could implement the GCR at the national level, assuring positive outcomes at the international one. The aim is to create an inclusive space for refugees in the international community, adopting strategies and instruments which could provide both humanitarian and development assistance. How reported by Goodwin-Gill (2019), an example of the humanitarian assistance model is represented by the Global Concessional Financing Facility, established by the World Bank, the Islamic Development Bank Group and others in 2016, and by the World Bank's IDA18 replenishment, which provides up to US\$2 billion in grants and concessional loans to low-income countries to help meet the development needs of refugees and host communities. This strategy concerns short-term plans based on life-saving operations, essentially aimed at providing food, water, medication, and shelter. At the same time, Good-

win-Gill (2019) highlights the potentiality of the alternative assistance model, the development one, which entails a long-term approach, supported by national projects and designed to reduce poverty through job creation, education, and the development of health and related infrastructure.

On the other side, some scholars (Githinji and Wood, 2019) consider that the creation of migration and refugee frameworks in Africa could be an essential step towards the implementation of the Global Compacts in the region and that the wealthier African States could play a key role in this legislative renovation process.

However, as explained by Tsourapas (2019), many experiences have also proved how States could take advantage of the broad number of refugees hosted in their territories, treating them as sources of economic rent. We can see an example of this approach in the EU-Turkey deal, an agreement signed in March 2016 and specifically aimed at stopping the flow of irregular migration into the European Union in return for 6 billion euros in economic relief. Another similar practice is represented by the “jobs compact” in Ethiopia, consisting of 500 million dollars programs designed to create 100.000 jobs for both Ethiopians and refugees.

The role of the involved actors

Many comments have nonetheless underlined how the GCR’s success necessarily calls for the engagement of a wide range of actors, who could support local communities, providing them the essential instruments to receive and integrate refugees.

First, as highlighted by Türk (2019), a pivotal role may be played by the private sector, which could grant benefits for host countries to stimulate job creation and economic growth. In this perspective, what Türk individuates as priority is the renovation of national and local infrastructures, to assure that refugees and host communities could live together in dignity, and, at the same time, the achievement of economic inclusion of refugees, to encourage their contribution to implement the social and economic well-being of the host communities.

Therefore, some experts (Dick and Kuhnt, 2019) focus their attention on the broad potentiality of the local level, pointing out the supporting function that could be performed by cities and municipalities. In fact, the GCR suggests improving the refugees’ perspective by integrating them into local societies and promoting their self-reliance, considering the potential that integrating refugees has from an economic and social point of view. Indeed, refugees’ integration paths could receive the essential assistance and protection from urban networks.

Thus, scholars (Dick and Kuhnt, 2019) remark the need both to increase the participation of mayors and urban networks in global policymaking and to implement their powers to make policy and financial decisions at the national level.

Finally, scholars have gladly welcomed the proposal to create a global academic network on refugee, in order to provide inputs to face the global refugee challenge in the best way. According to Chimni (2019), considering that integration is a two-way process asking migrants and receiving societies to collaborate to develop social cohesion, the priority concern should be individuating the complex factors that underlie the hostility towards asylum seekers. The same view emerges from Mason-Bish and Trickett's opinion (2019), that especially underline this need at a time of increasingly uncertain global politics, whereby concerns about hate crime and prejudice are a pressing social and political issue.

In conclusion, as explained by Beths (2018), despite the context of major political constraint, with growing populist nationalism accompanied by widespread anti-immigration politics, the Refugee Compact is based on a whole-of-society approach, which engages new actors and new processes like innovative financial mechanisms.

The European Union's role

Now that the Refugee Global Compact have been adopted, it is important to move the discussion on these instruments to a European context. The literature is debating on the engagement of the European Union in the perspective of a successfully implementation of these agreements, trying to figure out how the Member States could become relevant players on international cooperation on migration.

The European Union played a significant role during the negotiations before the approval of the definitive texts, being directly involved in the two years of consultations and giving an indirect contribution deriving from the use of EU cooperative models as a source of inspiration for the solutions adopted in the Global Compacts, both for formal and substantial aspects (Vitiello, 2018). Also, the EU and its Member States could play a key role in ensuring that the Compacts will make a difference in contrast to the current state of play in responsibility-sharing arrangements.

Nevertheless, it is important to remind that during summer 2018, some Member States, including Italy, decided to deviate from the approach maintained until that moment, to not participate to Marrakech Conference and to not sign the accord. The position of these governments may appear surreal and it has been probably based on an unjustified association of the

Global Compact on Migration with concepts that are unrelated to it, such as threats to sovereignty, the human right to migration, or the lack of distinction between regular and irregular migration (Gatti, 2018). This turnaround has questioned the unity and effectiveness of the EU's external policy and has represented a step back in the perspective of realizing protection and implementation of immigrants' rights (Carrera, Lannoo, Stefan and Vossliūtė, 2018).

Focusing on the Refugee Compact, between its key objectives, there is the establishment of expanding mobility and admission channels for people in search of international protection through resettlement and "complementary" pathways of admission. In this perspective the Refugee Compact provides a reference framework to assess European Union policies in relation to two main issues: first, the role and contribution of the EU and its Member States towards the implementation of the GCR in ways that are loyal to the Compact and EU Treaties guiding principles; second, and more specifically, the main gaps and contested

issues of existing resettlement and complementary admission instruments for refugees and would-be refugees implemented at the EU and Member State levels (Carrera and Cortinovis, 2019).

EU Member States should refrain from undermining the effective implementation of the UN GCR, otherwise they would be infringing their obligation of sincere and loyal cooperation as established in Article 4.3 TEU. A coordinated EU position in the Refugee Compact implementation would be the most welcome way forward. Therefore, the "contained mobility" approach, used by the EU States to draw policies in the field of asylum and migration (ex.: 2016 EU-Turkey Statement; Ziebritzki, 2018), should be replaced by one that places refugee rights and agency at the center through facilitated resettlement and other complementary pathways driven by a fundamental rights and international protection logic (Guild and Grant, 2017).

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