

**The Secretary-General's Report, In Safety and Dignity: Addressing Large Movements of Refugees and Migrants (SG's report) is intended to inform the UN Summit for Refugees and Migrants on 19 September 2016 and includes a number of recommendations which may be considered in developing the outcome process. These Frequently-asked Questions provide additional insights to the recommendations.**

**11 July 2016**

**1. What are the main recommendations for addressing root causes? What are Member States asked to do?**

There is widespread agreement on the need to address the root causes of refugee flows and the drivers of irregular migration and a recognition that the international community as a whole is failing to address adequately the many and intertwined reasons that people are making dangerous journeys in search of safety and dignity. There are rarely easy solutions. The international community has been struggling for years to find better ways to resolve violent conflicts in many parts of the world and to mitigate the impact of climate change and disasters. Alleviating extreme poverty, food insecurity, lack of decent work, inequality, tackling discrimination and human rights violations and abuses, establishing rule of law, mitigating the impact of disasters and climate change are all massive tasks. Investing in young people by educating, employing and empowering them will help to make migration a matter of choice not necessity.

Rather than making new recommendations, the SG's Report urges member states to implement the many commitments they have already made, including Agenda 2030 and the Sustainable Development Goals (SDGs) which were adopted just a year ago as well as through ratification of, human rights conventions and relevant international labour standards, amongst the many relevant international treaties and instruments. Given the fact that people are often displaced within the borders of their countries before seeking safety elsewhere, the report also calls for enhanced efforts to protect internally displaced persons and to apply the Guiding Principles on Internal Displacement. Also, the outcomes of the World Humanitarian Summit (WHS) may feed into the outcomes of the Summit, including the specific WHS commitments on internal displacement.

**2. What is the content of the SG's call for a global campaign against xenophobia? What will States be asked to do? What will be the engagement of civil society and intergovernmental organizations?**

The current proposal is to organize a campaign to highlight the positive economic, cultural and social contributions that migrants and refugees make to countries of origin, transit and destination, to counter some of the misinformation and misperceptions on refugees and migrants and to foster interpersonal contact between refugees, migrants and those in the destination countries. Today's toxic anti-foreigner narrative seems to be based on unfounded

stereotypes and fears. Data countering such misperceptions, story-telling and strengthening opportunities for personal interactions have the potential to break down barriers. The content and direction of the campaign are being worked out. Member States will be called upon to endorse the proposal for a global campaign and to pledge support for it.

### **3. How might the Summit impact on migrant smuggling? How could States work together more effectively to combat migrant smuggling?**

A common expectation must be that the Summit will bring attention to and spur action on complex issues that are commonly misunderstood and, at best, unevenly addressed.

Migrant smuggling is defined by a UN Protocol under which 142 ratifying Member States agree to criminalise and prosecute specific smuggling acts, and provide protection measures for migrants.

Although smuggled migrants are often victims of crimes, as well as human rights violations, they are rarely recognised as such and are more likely to be prosecuted and/or deported as irregular migrants. The Summit should build understanding of what the crime of smuggling of migrants is, and help States, in implementing the comprehensive response they have signed on to, to focus their efforts on fighting criminal networks, prosecuting perpetrators, and protecting victims instead of penalising migrants. Counter-smuggling responses should additionally be based on international standards related to human rights in law enforcement.

By definition, smuggling is a transnational phenomenon. As with other forms of transnational organised crime, no one country alone can impact on smuggling activities. Isolated responses alter only methodologies and displace routes. This, in turn, can lead to an increase in demand for smuggling services to circumvent enhanced visa regimes and border controls – often at increased risk to the safety and rights of migrants. Efforts to break the business model of smugglers require multilateral action – meaning effective international cooperation to reduce the profits generated by organised crime and increased pathways for safe, fair, regular and responsible migration. The UN Protocol and its parent convention provide a framework for effective multilateral action to combat migrant smuggling – a framework for action that is still too infrequently implemented.

Action at the national level is urgently needed and the Secretary-General's report calls on Member States to review their national legislation and criminal justice provisions to ensure that they are in line with international standards on smuggling, trafficking, maritime safety and border management.

### **4. What about the obligations of refugees and migrants? They are barely mentioned in the document. What about state sovereignty and States' legitimate security concerns about who enters their territory?**

Refugees and migrants have the same responsibilities and obligations as all individuals – to respect the laws in the countries they are in. Support will therefore be needed for host community members to encourage understanding and acceptance on both sides.

States have the right to determine who can enter and stay within their territory. Governments have always had security concerns about those who enter their countries, and have a responsibility to prevent criminals and people with an intention to harm others from accessing their territories. Even the 1951 Refugee Convention contains an exclusion provision by which governments can exclude some individuals because they have committed serious (non-political) crimes. However, measures to address security concerns must be based in law and proportionate, ensuring they do not override the human rights of those crossing borders.

#### **5. What does the SG's report say about returns and readmission agreements?**

The report acknowledges that governments have a right – in accordance with due process guarantees and in accordance with the prohibition of refoulement and arbitrary and collective expulsions -- to return those whose asylum claims have been rejected and those who are found to be in the country without proper authorization. Similarly governments have an obligation to accept back their nationals when they are returned. But the report notes that due process and human rights standards should be respected, and best practice is to ensure that returns are voluntary. Efforts should be taken to ensure that return is sustainable for the individual concerned, which may include support to returnees and respective community members with reintegration. This support allows transfer of knowledge and technology that migrants may have gathered during the course of their stay in receiving countries. Such support may include access to livelihoods opportunities and the labour market, access to basic services and social aspects of reintegration.

#### **6. The report calls for two Global Compacts -- one on Responsibility-Sharing for Refugees and one on Safe, Orderly and Regular Migration. Why are two Global Compacts proposed?**

First of all, the SG's report sets out three pillars of global commitments. The first pillar reflects commitments that address the risks faced by refugees and migrants alike, focusing on the human rights protection needs common to all persons in large movements. The second and third pillars are Global Compacts that contain commitments to address the specificities of large movements of refugees and migrants respectively, in a comprehensive manner. Taken together, these three pillars of commitments provide for an overall approach to responding to large movements of refugees and migrants. The two Global Compacts are not legally binding documents but rather commitments to work together to address specific issues related to refugees and migration.

#### **7. What might be included in a Compact on Safe, Orderly and Regular migration? What process is needed?**

The SG's report calls for the development of a global compact on migration as a means of implementing the commitments States made in 2015 in the Sustainable Development Goals to "facilitate safe, regular and orderly migration." It is envisioned that the global compact promotes international cooperation through a plan of action. This would be grounded in the wide array of existing international instruments relating to migration - from human rights to the law of the sea to labour standards. International standards on migration exist, but they are scattered in

different international instruments and should be brought into a common framework. This would include practical measures needed to strengthen international cooperation for migration across a number of fields: human rights, economic development, social development, and governance, for example.

Given the broad scope of this compact - which would likely be of a length comparable at least to that of the Addis Ababa Action Agenda - it would be reasonable to plan a significant preparatory process, including regional consultations, multi-stakeholder consultations involving civil society, migrants, and the private sector, and drafting sessions. In previous UN practice, such processes generally took 18-24 months. If the GA decides on holding this conference, there would be a separate discussion on the modalities for the event. But again this is up to the Member States to decide.

### **8. What kinds of specific measures could be included in a Global Compact on Safe, Orderly and Regular Migration? What will be expected of Member States who sign on to it? Will there be periodic reviews of its implementation?**

While the specific measures to be included in a Global Compact on Safe, Orderly and Regular Migration would have to be worked out by Member States, the following are examples of the kinds of measures which might be considered:

#### *Upholding the rights of migrants*

- Adopting effective measures that address the human rights protection gaps migrants face, in particular those who move in large movements;
- Ensuring migrants have fair and non-discriminatory access to the labour market, and integration into their new communities. This requires strong, results-focused and community oriented integration and social cohesion programmes, including for returning migrants who often need reintegration assistance;
- Promoting and protecting the right of access of all migrants to basic services, including:
  - access to education, regardless of gender, age or other prohibited grounds of discrimination;
  - adequate standard of living, including in respect of their right to housing, regardless of gender, age or other prohibited grounds of discrimination in both rural and urban areas of destination;
  - access to social protection and social benefits – including pensions, health and other benefits;
  - access to justice and to effective remedies, including for land and property claims as well as in cases of violence, abuse and/or exploitation, whether inflicted by officials or by private individuals, groups or institutions;
- Ensuring migrants have access to the highest attainable standard of physical and mental health, including through non-discriminatory access to health care, psychosocial support, social services, regardless of gender, age or other prohibited grounds of discrimination;

- Protecting and promoting the human rights of all children in the context of migration, ensuring that child protection rather than immigration enforcement authorities are responsible for their situation, and expeditiously ceasing the immigration detention of all children on the basis of their or their parents' migration status.
- Making targeted efforts to end immigration detention and implement non-custodial, community-based alternatives to detention as a matter of priority.
- Taking action against private actors that charge fees for migration services to migrant workers and regulating recruiters and recruitment agencies;
- Regulating employers and inspecting labour conditions so that employers of migrants fulfil their obligations to migrant employees, including in the agricultural sector where workers can often be more exposed to violation of legal, occupational safety and health, and labour rights;

#### *Facilitating Safe, Orderly and Regular Migration and Integration*

- Mainstreaming of migration as a central aspect of development planning and strategy development;
- Adopting labour migration policies, on the basis of social dialogue with employers, trade unions and other stakeholders, that support employment opportunities, including through permanent and temporary migration opportunities, for migrants at all skill levels;
- Facilitating international student migration and family unification;
- Supporting skills development and facilitating the recognition of skills, competencies and qualifications;
- Offering pre-departure training;
- Facilitating low-cost channels for remittances and supporting opportunities for investment in home communities, in both rural and urban areas;
- Strengthening overseas consular services to serve both new immigrants and established diasporas;

#### *Strengthening systems of governance*

- Ensuring accessible and effective accountability mechanisms as part of rights-based migration governance systems;
- Investing in data capacity-building and communication of disaggregated migration data to track and monitor population movement, the cause and patterns of their migration to inform migration laws, policies and operational responses, programming, and advocacy;
- Establishing stronger public-private partnerships to make use of "big data" and new technologies.
- Preparing national migration reports on a regular basis to assess and raise awareness about the impact of migration and contribute to improving policy coherence;

### **9. How does the proposed inter-governmental conference on migration relate to the high-level dialogue (HLD) on migration? How does it relate to the GFMD? Who will fund the proposed conference?**

An international conference is seen as of a higher level than an HLD as it is usually held at the ministerial level. The General Assembly in resolution 69/229 decided to hold its third High Level

Dialogue on International Migration and Development by no later than 2019. It will be up to the Member States to determine the relationship between the proposed international conference and the HLD. Options include the HLD being elevated to an international conference or the HLD taking place after the international conference as a review event or it might be preferable to hold the third HLD before-- rather than after -- the conference so that it could function as a preparatory conference for the 2018 conference, avoiding duplication and overlap.

The Global Forum on Migration and Development (GFMD) is a State-led, voluntary platform for informal dialogue and cooperation, outside the United Nations. While the Forum does not produce formally negotiated resolutions, it does produce a summary of discussions and promotes partnerships. It has proved useful in building trust among Member States on migration issues over the years.

### **10. What steps can be taken now on migration? What is the process to develop a Global Compact on Safe, Orderly and Regular Migration?**

Member States can increase the number of safe and legal migration pathways, address the root causes of distress migration and invest in balanced and sustainable development (i.e. reducing income disparity between rural and urban, male and female, ensuring educational and employment opportunities, especially to youth, building resilience of most vulnerable populations) so that people have opportunities to genuinely choose to migrate, provide humanitarian assistance to all people on the move where required, and incorporate into national policies the principles and practices highlighted in initiatives such as the Migrants in Countries in Crisis and the Platform on Disaster Displacement (which will build on the work of the Nansen Initiative). Efforts to forge a closer relationship between IOM and the UN are already underway and should be encouraged.

The implementation of migration targets should be a central part of the SDG roll out plans at national and local level – honouring the Agenda 2030 overall commitment to leave no one behind. UNDP and IOM may lead this process.

Migrant needs, capacities and vulnerabilities can and should be recognised and addressed appropriately in humanitarian and development response and planning, including measures to achieve the SDGs. Ratification and implementation of relevant international treaties and standards also can and should take place now, including those relating to migrant smuggling, human trafficking, and maritime safety.

It is imperative that we immediately work toward practical and concrete migration outcomes. For instance, States can encourage the Global Migration Group (GMG) Working Group on Human Rights and Gender Equality to continue to develop through a multi-stakeholder and expert process, a set of principles and practical guidelines on the protection of the human rights of migrants in vulnerable situations within large and/or mixed movements. The work of other GMG working groups and taskforces can also contribute to such outcomes. For example, the GMG Working Group on Mainstreaming Migration into Development Planning is finalizing a Guidance

Note on Integrating Migration and Displacement in United Nations Development Assistance Frameworks (UNDAFs).

## **11. How will IOM join the UN?**

IOM's Member States in Geneva are continuing to discuss how to strengthen the relationship between the UN and IOM. The UN SG -- through the GA agenda item on Cooperation between IOM and the UN -- has been given a GA mandate to negotiate a related agency status agreement with IOM. On 30 June 2016, the IOM Member States, in a Special Session of the IOM Council, will make a final decision on this relationship. If they agree to the proposed relationship agreement with the UN, IOM's Director General will communicate this to the UN Secretary General. When concluded, it will be brought to the GA for adoption in the 70th session.

## **12. What is a State-led, consultative process on migrants in vulnerable situations? What kind of process is envisaged? What kind of outcome?**

One example of such a State-led process is the MICIC Initiative. Co-led by the US and the Philippines, along with a small working group of governments from each region and IOM serving as its Secretariat, MICIC held a series of regional consultations with Member States and stakeholders from civil society, the private sector and partner international organizations to contribute to the development of non-binding, voluntary guidelines to address the protection and assistance needs of migrants in countries in crisis. The guidelines address the pre-crisis preparedness, emergency response, and post-crisis recovery phases, and identify practical measures that can be taken by countries of origin, transit and destination, private sector employers and recruiters of migrants as well as providers of emergency services to them and intergovernmental, civil society, migrant and diaspora organizations to better protect and assist migrants caught in countries experiencing conflicts or natural disasters. A second model is provided in the example of the development of the Guiding Principles on Internal Displacement which were initially developed by a group of legal experts under the direction of the Representative of the UN Secretary-General and then widely disseminated through a consultative, multi-stakeholder process. The Nansen Initiative was a three-year state-led, bottom up process in which regional consultations with governments and other stakeholders provided the input for the development of the Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change. The Platform on Disaster Displacement has emerged as another State-led initiative to build on the work of the Nansen Initiative.

It may be helpful to note that there is a multi-stakeholder, expert process ongoing on the development of Principles and Practical Guidance on the human rights protection of migrants in vulnerable situations within mixed and/or large movements, led by OHCHR as co-chair of the Global Migration Group Working Group on Human Rights and Gender Equality. The initiative reflects the Global Migration Group's primary stated purpose, which is "to promote the wider application of all relevant international and regional instruments and norms relating to migration" and "to encourage the adoption of more coherent, comprehensive ...approaches to the issue of international migration." The process of developing this initiative is structured in accordance with a human rights-based approach, which takes its starting point in the values and principles

underpinning the UN human rights framework; i.e. non-discrimination, participation, accountability, transparency and universality of rights. The process of development of these Principles is accordingly of a multi-stakeholder and expert character, in order to ensure the involvement of all relevant actors in a transparent process, including the rights-holders and their advocates, in accordance with the principles noted above. Following the completion of the expert process of development, there are a range of options for the formal engagement of States (and other stakeholders) with the Principles, as demonstrated by the diverse examples cited above.

### **13. What is the Global Compact on Responsibility-sharing for Refugees, is it legally binding and how does it relate to the Comprehensive Refugee Response?**

The Global Compact is a commitment by States to address the need for greater responsibility-sharing for refugees and host communities, in an agreed-upon manner. It does not seek new legal commitments, but rather is based on existing legal obligations of States under international refugee, human rights, labour and humanitarian law; standards promoted in resolutions of the UN General Assembly (GA) and UNHCR's Executive Committee; as well as on past best practices. The Comprehensive Refugee Response (CRR) is part of the Global Compact and is the vehicle by which Member States' commitments to a Global Compact are taken forward in a given situation. When a large-scale movement of refugees occurs, UNHCR would initiate a CRR, pursuant to its mandate and working in close cooperation with Member States, UN agencies and other stakeholders.

### **14. What would a CRR look like and how is it different from what happens now?**

Rather than being a one-size fits all framework, a CRR would be developed for a specific context and would encompass the range of actions required for a holistic response, taking into account root causes of flight, and would likely include measures to:

- establish or maintain adequate reception arrangements;
- ensure fair and efficient procedures to determine refugee status and to address specific protection needs;
- provide humanitarian and development funding to address refugee needs and support host communities affected by refugee influxes;
- provide access to sustainable solutions through: expanded third country admissions; local solutions, as appropriate; and, when conditions in the State of origin are conducive to return, support for safe, sustainable return, including through reconstruction and development funding;
- support authorities, including municipalities, to provide adequate access to basic services relating in particular to social protection, health, education and support for livelihood opportunities (including access to the labour market) for both refugees and host communities. This may require support to mainstream displacement aspects into development planning and strategy development.
- adopt a new approach to strategic planning through joint development-humanitarian assessments and multi-year planning and programming for collective outcomes.



- reinforce capacities of refugees, their hosts and the national and local institutions that support them. T
- promote flexible, additional and multi-year financing in support of durable solutions to displacement.
- Support policy and legal frameworks to protect and foster inclusion of displaced people.

### **15. What would be the role of Member States in the Comprehensive Refugee Response (CRR)?**

Member States, in particular those directly affected by the refugee movement, would play a central role in the development of such comprehensive refugee responses. Such CRRs would be designed to support not just refugees but also States (their institutions and communities-national, regional and local levels) affected by large flows of refugees. As it has in the past, UNHCR would facilitate discussions and consultations between Member States and other stakeholders, help coordinate the development of detailed response plans and funding appeals, and provide any needed operational support and technical guidance. Similarly, UNDP has provided substantial support to local and national government partners to help mainstream displacement (and migration) into development planning as well as relevant policy and strategy development.

### **16. Do CRRs apply only to future large-scale movements of refugees?**

CRRs can be applied to any large movement of refugees, be it past, present or future. Many countries have generously hosted large numbers of refugees for years, having opened their borders to tens, if not hundreds, of thousands of people fleeing conflict and persecution. For many of these situations, greater engagement and support by the international community is needed. The CRR provides a framework for revitalising the international response to these situations and identifying where greater cooperation and support is needed and can be found.

### **17. Which standards should be used to define what is fair responsibility-sharing?**

The Global Compact for Responsibility-sharing for Refugees does not foresee fixed standards in defining a State's contribution, which would depend both on the needs that are present and the State's own capacities to respond. Contributions to an international response can take different forms, including, for example, financial and in-kind support, technical assistance, or increased pathways for admission, including through resettlement. Differentiated responses are envisioned. What the Global Compact seeks to achieve is a commitment by States to support an international response and to help shoulder some of the responsibility in resolving a given large-scale refugee situation.

### **18. Is it realistic to provide resettlement spaces to at least 10 percent of the global refugee population annually?**

The Global Compact calls for providing resettlement spaces or other legal pathways for admission to at least 10 per cent of the global refugee population annually.

UNHCR is ready to work towards this target with States and some Member States have already moved to expand the number of refugees resettled in their countries.

### **19. What is the US President's Leaders' Summit on Refugees?**

United States President Obama is convening a Leaders' Summit on Refugees, to be held in New York on 20 September. Co-hosted by Canada, Ethiopia, Germany, Jordan and Sweden, the Leaders' Summit on Refugees will be distinct from, but complementary to, the General Assembly's High-Level Plenary Meeting on addressing large movements of refugees and migrants. Participants will include States that have made new and significant commitments in support of refugees during 2016. The goals of the Summit are to secure:

- broader and deeper commitments to funding international humanitarian organizations and UN appeals;
- expanded opportunities for resettlement and other forms of humanitarian admissions for refugees; and
- enhanced opportunities for refugee inclusion and self-reliance, particularly through access to education, legal employment and livelihoods.

Following the General Assembly High-Level Plenary Meeting on 19 September, the US President's Leaders' Summit on Refugees will provide interested States with an opportunity to showcase some of their tangible commitments and actions in the areas above.