

Asylum Access's Response to the First Draft of Global Compact on Refugees April 2018

About Asylum Access:

Asylum Access is a global non-governmental organization dedicated to refugees' human rights and economic empowerment. With national organizations in Africa, Asia and Latin America and a global hub in Oakland, California, USA, Asylum Access is committed to challenging barriers that keep refugees from living safely, moving freely, working and attending school. At the national level, Asylum Access organizations provide legal empowerment to refugees and advocate for policy changes that improve refugees' access to rights. Globally, Asylum Access supports other organizations to develop similar programs, and advocates for systemic changes regionally and globally that advance refugees' power to rebuild their lives. The organization uses a range of rights-based tools to secure concrete change in refugee-hosting countries so refugees can meaningfully participate in their new economies and communities.

1. Asylum Access reiterates the significance of international human rights law in protecting refugees

International human rights law must be used as a basis to ensure refugees enjoy fundamental freedoms as well as access to justice. International humanitarian law and other instruments can supplement this, but subsequent drafts of the Global Compact on Refugees should strengthen its references to international human rights law. The final Global Compact must be founded the full body of Human Rights law, which includes the Universal Declaration of Human Rights, the ICCPR and the ICESCR as well as a number of other instruments in addition to humanitarian law and instruments for protection of stateless persons.

Women's rights (eg CEDAW), children's rights (eg CRC), protections against discrimination (eg CERD) all fall under international human rights law. By contrast, international humanitarian law is designed to protect aid workers and negotiators, and to protect civilians as the beneficiaries of aid and peace-building efforts (usually within countries in conflict) —rather than focusing on individuals' agency as well as political, economic and social participation. While international humanitarian law is a useful body of law, international human rights law more directly protects refugees, who are outside the country of conflict.

2. Asylum Access welcomes the GCR's inclusion of national legal frameworks

A state's laws, policies, and practices—collectively known as governance frameworks—

protect refugees living in countries of first refuge. To rebuild their lives and achieve self-reliance, refugees need the ability to safely move freely, gain employment and access state and private services on an equitable basis with others. Such abilities are exclusively granted to refugees by host governments through their governance framework. Regardless of a refugee's eventual destination, host states should create avenues for refugees' self-reliance through national policy frameworks granting fundamental rights of economic, social, civic, and cultural participation necessary to rebuild lives and livelihoods. Where strong governance frameworks in favor of refugees do not exist, states sacrifice refugees' economic independence and force them to rely on unsustainable assistance provided by the states or humanitarian agencies. As a result, refugees endure isolation, loss of confidence and erosion of skills. As refugees spend an average of over 20 years in exile, access to full economic, social, civic and cultural participation in host countries is essential regardless of their eventual destination or current establishment. Sustainable solutions require national policies that ensure robust access to economic, social, civil, and cultural opportunity and the full protection of the law.

3. Asylum Access prompts that Global Compact to re-examine the section on solutions

Sustainable solutions require national policies that ensure robust access to economic opportunity and the full protection of the law. Asylum Access is concerned that the language on voluntary repatriation allows for misinterpretation that could potentially undermine refugee rights and protections. For example, acts to "encourage" so-called voluntary repatriation might be seen to include pressure tactics like cutting rations, such as what happened in Tanzania in 2009 when rations were cut to 980 calories, which is near-starvation for some groups such as pregnant women and teens. Asylum Access fears that language urging States to locally integrate "certain refugees" has the potential to condone discriminatory behavior and undercut the contributions refugees make to host states.

Given the reality of long-term stays in countries of first asylum, we suggest it be made explicit that creating solutions, including access to rights and participation, is a normative expectation and must apply to all refugee regardless of situation. Access to full economic, social, civic and cultural participation in host countries is essential for refugees during their stay in those countries, regardless of their eventual destination.
