

“Towards a global compact on refugees”

Formal consultation four:

Agenda item 1: Introduction (Part I)

8 May 2018

Room XVII, Palais des Nations

**Oral Statement, Office of the United Nations High Commissioner for Human Rights
(OHCHR)**

The Office of the High Commissioner for Human Rights (OHCHR) welcomes the second draft of the Global Compact on Refugees and the opportunity to provide our contributions on the revised “Introduction” to Draft 2:

- OHCHR is pleased that the second draft contains strengthened language on the protection of refugees’ core human rights and fundamental freedoms, including on age, gender and diversity mainstreaming; a new standalone section on the rights of children; as well as inclusion of the principle of *non-refoulement*.
- OHCHR welcomes the standalone paragraph in the Introduction on “Guiding Principles” and its reference to binding international human rights instruments. This addition reflects calls from a significant number of States for more robust inclusion and mainstreaming of human rights protections in the GCR.
- However, the language in paragraph 5 should be strengthened to more fully and accurately reflect the applicability of other bodies of international law. To this end, OHCHR suggests a new, separate standalone paragraph 5bis to better articulate the complementary nature of International Humanitarian Law (IHL) and International Human Rights Law (IHRL).

- As UNHCR itself has previously noted, there is no hierarchical relationship between international refugee, humanitarian and human rights law. These bodies of law are interconnected, complementary, mutually reinforcing, and require simultaneous application.¹ Refugees do not forfeit their rights and protection under one legal regime by virtue of claiming their rights and protection under another.
- In this regard, a new paragraph 5bis should remove the qualification that the refugee protection regime “draws, [only] *where applicable*, from *relevant* international human rights instruments.”² While refugees indeed enjoy the specific protections of refugee law, all people at all times, including refugees, are entitled to respect, protection and fulfilment of their international human rights, including civil, political, economic, social and cultural rights.
- Yet, the current text mentions only a limited number of international human rights instruments, noticeably missing the two Covenants. A simple language addition could be inserted to reference all of the nine, core international human rights instruments.
- This is more than a semantic exercise. Although it has been stated in earlier negotiations that the human rights foundation of the GCR is “to be taken for granted”, OHCHR strongly believes that such rights cannot be taken for granted, especially in the current climate where we routinely see refugee’s rights being denied or violated.
- In this regard, we also call for greater focus on complementarity between the two Global Compacts to ensure that no one falls through unintended protection gaps. This is imperative if the central commitment of the New York Declaration, to “ensure full respect and protection” for human rights and fundamental freedoms is to be more than

¹ UN High Commissioner for Refugees (UNHCR), Expert Meeting on Complementarities between International Refugee Law, International Criminal Law and International Human Rights Law: Summary Conclusions, July 2011.

² Draft 2, section iii on Guiding Principles, paragraph 5.

a mere aspiration (NYD, para 22).

- OHCHR continues to support the important process of developing a Global Compact on Refugees and maintains that the robust inclusion of international human rights is a critical crosscutting issue that must be mainstreamed across both Compacts. We remain ready to provide technical support on how to best ensure such genuine mainstreaming.

I thank you.