

## **Statement by Ms. Gillian Triggs, Assistant High Commissioner for Protection, to the 71st session of the Executive Committee of the High Commissioner's Programme**

By Gillian Triggs, Assistant High Commissioner for Protection | 07 October 2020

Madam Chair, distinguished delegates, ladies and gentlemen,

I am pleased to have this opportunity to add to the High Commissioner's earlier statements to the Executive Committee by focussing on the protection work of UNHCR.

I have also had the benefit of listening to statements by Member States that inform our priorities and they have been very well summarised by the Chair of the ExCom meeting.

Many Member States have begun their interventions by congratulating UNHCR for its 70th birthday. Next year we also celebrate the 70<sup>th</sup> anniversary of the Refugee Convention itself. It is a time for reflection upon two fundamental principles of refugee law:

- the right to seek and enjoy asylum from persecution, and
- the prohibition of refoulement, including removal of people to a place where they would face a risk of persecution or human rights violations.

Over the decades, these principles have been honoured by nations in difficult situations around the world and non-refoulement is now well recognized as customary international law.

Of course, times have changed. In 1951, the international community hoped to create a legal regime to protect about two million displaced people in Europe.

This year, UNHCR has reported nearly 80 million refugees and others forcibly displaced - a number that is unprecedented and rising, a number that does not include unknown millions of those who are stateless - all within UNHCR's protection mandate.

In this contemporary interconnected world, we now understand that unilateral actions are no longer enough to find sustainable solutions for so many millions. The Global Compact on Refugees has provided us with a vision and with strategies. Agreed two years ago by 181 States, the Compact adopts the principle of solidarity so that all nations will enjoy equitably the responsibility to protect refugees and those forcibly displaced. These words are not just words on a page. Last year in December, at the Global Refugee Forum, governments, parliamentarians, civil society, NGOs, UN partners, faith-based groups, academics, city mayors, the business community and refugees themselves made 1,400 pledges to give life to the vision of responsibility sharing.

And just a few weeks later, as many of you have noted, the spirit and optimism built upon the Compact and the Forum were to be profoundly tested by the COVID-19 pandemic. This reporting year is thus dominated by the impact of this global emergency on the fundamental principles of refugee protection and solidarity.

Just as the pandemic has had an impact on asylum practices of individual nations, so too it has challenged all of us at UNHCR to adjust and to think flexibly about protection and solutions now and for the future.

I am encouraged, having listened to so many speeches and statements over the last three days, that you have all agreed that the pandemic demonstrates the enduring relevance of the Global Compact on Refugees and of the commitment to responsibility sharing.

The virus does not distinguish between legal status or nationality. Access to health services does not depend on citizenship or visa conditions. COVID-19 has shown us how fragile many national health services are, and how vulnerable displaced people are to the vagaries of the informal economy. We now understand better how important it is to include all those forcibly displaced in education and to allow non-discriminatory access to employment, social services and safety nets. The inclusion of refugees in a host country of course means that they too must be supported by the international community, especially where returns of refugees are unsafe in protracted conflicts.

When we look at the COVID-19 related measures adopted by governments over the last few months we see varied and mixed practices that range from some of the world's best and most humanitarian responses through to blanket denials of access to territory to seek asylum and credible evidence of forced returns or pushbacks to danger and persecution.

Particularly shocking, as the High Commissioner has pointed out, has been the denial of disembarkation of boats carrying asylum seekers adrift in the Mediterranean and Andaman Sea – contrary, of course, to that maritime tradition of rescue of those at peril. Indonesia showed true solidarity, in the spirit of the Compact, by allowing 300 Rohingya refugees to disembark in Aceh.

### **COVID-19 Protection Dashboard**

While such events move us to compassion, it is vital that UNHCR documents its practices to provide accurate evidence, to measure the impact the pandemic has had on the forcibly displaced and to demonstrate generally the effectiveness of our work in the field. UNHCR has made available a COVID-19 Protection Dashboard,[\[1\]](#) with data to inform policy and decision-making during the crisis. It records that:

- At the height of the pandemic, 168 countries fully or partially closed their borders, with about 90 making no exception for people seeking asylum, seriously limiting access to international protection.
- Today, 113 countries have shown that there are ways to resume their asylum systems are now fully (63) or partially (50) operational.

When monitoring protection practices UNHCR has observed many mixed practices:

- 27 countries have returned asylum seekers to their country of origin, risking refoulement.
- 31 countries have sought to derogate from their treaty-based human rights obligations and many others have adopted emergency measures that impose severe and unreasonable limits on liberties.
- There is a growing use by some countries of immigration detention for asylum seeker families and their children for disproportionate periods that have become arbitrary, contrary to human rights. By contrast, countries such as Bulgaria, Malaysia and Mexico who have adopted special procedures to care for unaccompanied children and children separated from their families.
- 107 countries have been creative in enabling asylum claims by adopting remote digital technologies for registration, interviews, submission of documents, and flexible timelines for documentation that are so vital and for visa extensions.
- Other nations as we know have shown great generosity in welcoming refugees. 100,000 Nicaraguans have fled to neighbouring countries over the last two years and have been welcomed, notably by Costa Rica. Turkey has continued to provide protection to about four million refugees, mostly from Syria, a conflict that is now in its tenth year; and Bangladesh hosts 860,000 Rohingyas, including over 700,000 who arrived three years ago.

While States have a sovereign duty to protect public health, measures that restrict access to asylum should be temporary, necessary and proportionate and should respect the prohibition on returns to persecution and danger. UNHCR has been clear: it is possible both to protect against the pandemic and to ensure access to fair and speedy asylum processes. One does not exclude the other. While it is encouraging to see so many countries finding space for asylum seekers despite COVID-19, we urge that all States follow their lead and do so as well.

### **Returns of those not in need of international protection**

I have recently returned from missions in Malta and Greece, joined in Greece by my colleague the Assistant High Commissioner for Operations, Raouf Mazou. A point raised repeatedly on these Missions has been the obstacles to returning people who are not in need of international protection to

their country of origin where this can be done in safety and with dignity. It is important to the credibility of the entire asylum system that such returns continue to be possible in this time of COVID.

While on these missions I have learned about the complex challenges for countries on the front line that receive and host thousands of asylum seekers, placing severe stress on local communities. In the absence of solidarity, some nations are resorting to pushbacks and other inhumane policies of deterrence, contrary both to their international obligations and to the spirit of the Compact.

The despair and frustration of refugees held for months, sometimes years, in substandard conditions awaiting solutions can lead to desperation. Following the fire at the Moria camp on Lesbos, UNHCR has acted promptly, offering support to Greek authorities to help protect and assist asylum seekers affected by the fires, mobilizing resources and aid. Let us avoid exposing refugees and those internally displaced to such inhumane conditions by finding solutions more swiftly through responsibility sharing.

### **Externalization**

In my report to the ExCom Standing Committee in July this year, I cautioned against efforts by some countries to externalize their asylum processes to third, typically poor countries, or countries that are already protecting thousands of refugees. Externalization can amount to warehousing asylum seekers indefinitely in isolated places, 'out of sight and out of mind', exposing them to danger and chain refoulement. The abdication of responsibility in this way presents a threat to the global asylum system and should be challenged.

UNHCR welcomes the European Commission's continued support for the right to seek asylum, its rejection of pushbacks at borders and efforts to promote responsibility sharing among its members through the recently released Pact. While still a draft proposal, the Pact is largely in line with UNHCR's recommendations made six years ago for an accelerated and simplified process for refugee status determination, for sharing relocation needs, for cooperation on disembarkations and for an efficient system for returns. UNHCR supports these efforts by the Commission to uphold both European and international refugee obligations.

### **Socio-economic impact and inclusion**

While stressing the fundamental right to seek asylum and the prohibition on refoulement, the pandemic, as so many of you have mentioned, has also threatened social and economic rights of the most vulnerable throughout the world. As refugees and those displaced often depend upon the informal economy, they have been among the first to feel the economic impact of lockdowns. Many have lost their jobs, been evicted from their homes and their children have been out of school for many months.

- Save the Children estimates that 9.7 million children, about 40 per cent of them refugees or displaced, may never return to school post-COVID. It is feared that many young people, especially girls, are likely to drop out for good, rolling back progress made over recent years in ensuring that girls everywhere have an education. The economic impact of the virus is also expected, as several of you have pointed out, to increase the incidence of child marriage and adolescent pregnancy is already rising among girls.
- Lockdowns and increased family tensions have led to spikes in gender-based violence across the world, with some UNHCR offices receiving ten times the number of usual calls for protection.
- UNHCR offices also report increasing incidents of discrimination, stigmatization and xenophobia against refugees and displaced people, further exacerbating tensions with local communities.

- The desperation among the displaced in these declining social and economic circumstances has led to unpredictable pendular movements of displaced people leaving and returning to their country of origin or to a host state. Some nations have thousands of internally displaced people while also hosting refugees from other countries and being a source of refugees to other countries.

What then have been the effects of the pandemic on the protection work and priorities of UNHCR?

### **Resettlement program**

COVID-19 has had a significant effect on the resettlement of refugees as many have noted. The numbers resettled this year have been severely reduced, with the limited numbers of places made available further impacted of course by the pandemic, including disruptions to international flights and closed borders. For the first time in its history, UNHCR and IOM have had to pause their global resettlement departures.

2020 is expected to be a record low. So far this year, only 11,899 refugees have been resettled by 17 States. Last year, 107,000 or more were accepted for resettlement, 64,000 of them referred by UNHCR.

It is nonetheless a tribute to IOM and our other partners, and to all my colleagues at UNHCR who have continued to process and counsel refugees, ensuring that scores of emergency cases have resettled despite COVID.

- Finding sustainable solutions for refugees is our priority. And many of you have mentioned the importance and your support for *The Three-year Strategy (2019-2021) on Resettlement and Complementary Pathways*.<sup>[2]</sup> This offers regular pathways to safety through labour mobility, education, community sponsorship and family reunions.

UNHCR colleagues are exploring every possibility to expand resettlement and other regular means of finding solutions.

### **Voluntary repatriation**

While most refugees want to return to their home countries, voluntary repatriation may not be possible in safety and dignity in protracted conflicts in countries such as Afghanistan, a conflict now in its 40<sup>th</sup> year, Syria after ten years and Myanmar over many, many years.

Repatriation will not become safe until the root causes of flight are addressed – armed conflict and the failure of peace processes, poverty, inequality, environmental degradation and climate related disasters, the denial of property rights, and overstretched medical and social services. In this time of COVID-19, some States have even been reluctant to receive back their own nationals despite the right of citizens to return to their country; a right that should be respected.

### **Inclusion**

As voluntary repatriation and resettlement opportunities in fact produce very few durable solutions in practice, a more realistic focus turns to inclusion, or more concretely, social inclusion in the host nation and access to education, health and employment. Inclusion is now a top priority and one that can enrich the local community. Many refugees and displaced people have been seen on the frontlines in health services in this COVID crisis. They have made personal protective equipment, soap and hygiene products; journalists have gathered to provide information; and local groups have provided support to their communities.

While inclusion is a humane response to the pandemic, it is also one reflected in international law. The Refugee Convention, the Statelessness Conventions and The Guiding Principles on Internal Displacement<sup>[3]</sup> call for “*the widest possible exercise of... fundamental rights and freedoms*” for persons of concern. These include rights such as health, decent work, social security, education, adequate housing, food and water.

The progressive realisation of these rights depends on financial resources, good governance and infrastructure.<sup>[4]</sup> As many of you have noted, 85 per cent of the world’s refugees are actually hosted

in developing countries, presenting a challenge to meaningful realization. This is where the work of the International Financial Institutions has become so important. UNHCR has been working with the World Bank and other regional development bodies to ensure that funds are available for development investment that can address the root causes of displacement and ensure that poverty, inequality and conflict are mitigated.

Also contributing to the imperative of inclusion are many of the Forum pledges.

### **Global Refugee Forum pledges**

It is now nearly ten months since the Global Refugee Forum was held in December. While the pandemic has impeded action on some of the 1,400 pledges, for the most part, the momentum for implementation has been maintained. I have read the Statement to ExCom by the co-convenors Costa Rica, Ethiopia, Germany, Pakistan, Switzerland and Turkey. They express:

*“...great satisfaction that -according to the first round of updates (...) for more than 300 of the pledges (...), 70 per cent (...) are already in implementation progress and 22 per cent are in the planning mode.”*

45 pledges are reported to have been completely fulfilled, painting a very encouraging, I think optimistic, picture of progress over the coming months.

Most pledges relate to protection and solutions, with a strong emphasis on education and social inclusion, including pledges for *pro bono* legal assistance. Moreover, the implementation of some pledges has been accelerated by the pandemic and oriented to urgent health needs.

There are some wonderful and inspiring examples:

- The International Chamber of Commerce has a pilot on providing solar power to Cox’s Bazaar.
- The Sesame Street workshop provides Arabic education for Syrian and Rohingya refugees.
- There’s a program, DAFI, to ensure that more refugees have access to higher education. As you know only three per cent of refugees have access to education beyond secondary school.
- Costa Rica’s pledge to provide health insurance for 6,000 refugees has been 90 per cent fulfilled.

The technique of matching pledges with a partner has proved to be successful, creating a dynamic means of finding new partners and implementing projects. Over 50 States have, for example, pledged to strengthen their asylum systems and to support other States in doing so, again, clearly consistent with the spirit of sharing.

The Asylum Capacity Support Group Secretariat in the Division of International Protection has published a “Guide to the Asylum Capacity Support Group”[\[5\]](#) to help match these pledges. Best practice models include collaboration between Canada and Mexico; France and Chad and France and Niger on support for asylum capacity.

In addition to the pledges, as many of you have mentioned, the new initiatives that were recommended through the Global Compact on Refugees include new initiatives for responsibility sharing.

- There has been significant interest in developing the **regional Support Platforms**: the SSAR for Afghan Refugees, IGAD for the East and Horn of Africa and MIRPS in North of Central America and Mexico. They are proving very effective in strengthening global support and we think they have great potential for the future.
- The **Clean Energy Challenge**, which has been taken up by many of you, helping to ensure that those forcibly displaced have access to energy planning, that they are included in the planning and that we have better data and expanded investment.

- As all organisations will know, if you have a Secretariat, you have a much better chance of success and I am really pleased to say that the [Global Academic Interdisciplinary Network\[6\]](#) – **GAIN** – set up through the Compact now has a Secretariat hosted by the University of Essex that will promote research and collaboration importantly among scholars from the Global South with those of the Global North and they will bring teaching and good practices to protection.
- UNHCR has also significantly stepped up its **collaboration with partners**, and many of you have urged us to do so. We have been working with the Inter Parliamentary Union, with local government and refugee-led and refugee women-led organisations and NGOs. But one that I particularly wanted to mention is the role of faith-based groups and faith leaders. They make a vital contribution in tackling humanitarian needs as they are close to their communities: they too, stay and deliver. In recognition of their role in serving and advocating for the displaced, the High Commissioner has agreed with Religions for Peace to form a [Multi-Religious Council of Leaders](#) to support peacebuilding, inclusion and reconciliation efforts.

### **Statelessness**

I would like to turn to the statelessness issue that many of you have raised. We have an ambitious “I belong” campaign to end statelessness by 2024 and that campaign has now passed its mid-way point. While the High-Level Segment on Statelessness and the GRF have stimulated about 400 pledges to end statelessness, we still have a long way to go to meet our goal. Many pledges have been implemented and we have examples:

- Cote d’Ivoire has adopted a new Statelessness Determination Procedure and a National Action Plan;
- Colombia has granted nationality to some 20,000 children born to Venezuelans on its territory who would otherwise be stateless or at risk of statelessness;
- Kazakhstan has adopted a new law to ensure that the birth of every child is registered, regardless of the legal status of its parents. Kyrgyzstan is the first country to resolve known cases of statelessness on its territory;

And there are many other examples that many of you have spoken of today.

Statelessness is notably different from other protection needs: it is resolvable with relatively simple changes in law and practice. The solution and our ambitious goal can be within our grasp, and we must act to ensure that everyone is granted citizenship.

### **UNHCR’s policy work in response to the pandemic**

In addition to advocating for more resettlement places, for safe and voluntary repatriation and for social inclusion, UNHCR has issued many forms of guidance to support the activities of UNHCR colleagues in our operations.

- One lesson we have learned among many from the COVID emergency has been the importance of local communities as first responders. They are often best placed to provide emergency support to those forcibly displaced. UNHCR has issued a *Guidance on Accountability to Affected People* – perhaps not entirely clear in its title but one means real inclusion of those we serve in all our protection work and being answerable to them and to

local communities for implementation of policies on age, gender and diversity. Can I say in particular how much we have appreciated Finland's support for inclusion of those with disabilities and Finland will provide a Junior Protection Officer to support this initiative next year.

- Many countries at this Executive Committee meeting have noted the shocking rise in gender-based violence during lockdowns imposed during the pandemic. Refugees and those displaced have been particularly vulnerable and women and girls have been forced into survival sex or child marriages. LGBTI and transgender women among the refugee and displaced populations are also at heightened risks of GBV during the pandemic. UNHCR will shortly issue its first ever policy on Gender Based Violence, we hope a timely response to the global spikes in GBV stimulated by the social and economic impacts of the pandemic.
- The renewed global debate about systemic racism and prejudice, stimulated by the death of George Floyd, reminds us that racism in all its forms is a root cause of forced displacement and persecution. UNHCR has now issued a Guidance on addressing racism and xenophobia, providing practical examples and best practices for our operations throughout the world.
- UNHCR has also issued guidance on the legal considerations regarding claims for international protection of people displaced by the adverse effects of climate change and disasters. May I, in particular, call attention to the very strong and powerful words of the Prime Minister of Fiji who talked about the impact of sea level rises on the Pacific Island.
- Another lesson learned from COVID-19 has been to give us a little more confidence in digital technologies. We are now much better using Teams, Webex and Zoom and of course here we are today. We have all learned to find, for the most part at least, the mute button. They have proved to be highly successful in promoting remote access to asylum systems and referral and counseling services.[\[7\]](#) Indeed we have been able to have access to people through these remote technologies and scaling them up in a way that we have not been able to achieve before. There will be no going back. At UNHCR we hope to develop these technologies, to scale them up and to provide wider coverage and more effective international protection, including through more, and thus far, very successful call centres.[\[8\]](#)

## **Conclusions**

As the pandemic subsides – and it surely will in time – a priority continues to be to reinstate fully functioning asylum systems and access to territory for all asylum seekers. Measures restricting access to asylum must not be allowed to become entrenched under the guise of public health. Efforts by some countries to avoid protection obligations by passing them to third countries, should be resisted. Policies of returns in violation of the principle of non-refoulement must be firmly rejected. UNHCR stands ready to assist nations in building fair and fast asylum capacities.

2020 has been a year where international standards of refugee protection have been severely tested. The Global Compact on Refugees provides the vision and the strategies to meet these challenges. With the very tragic deaths of over a million people and 35 million cases, the pandemic has shown us the importance of working together, of shared responsibilities, and of the need to ensure that health and other services meet the needs of us all, not just a few.

The pandemic has taught us that with political will, we can find a way to respond to future emergencies, and there will be of course future emergencies, especially the impact of climate change. We can do this in creative and collaborative ways.

Another lesson learned over these last few months, is that we know that the pandemic will affect all of us. We can no longer exclude people on the basis of their legal status. The future must be one of inclusion and shared responsibilities where social and economic rights and refugee rights can be enjoyed by all those forcibly displaced throughout the world.

Thank you.

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[1] COVID-19 Platform (dashboard) Temporary Measures and Impact on Protection, available at: [https://im.unhcr.org/covid19\\_platform/](https://im.unhcr.org/covid19_platform/).

[2] The [Three-Year Strategy on Resettlement and Complementary Pathways](#) and CRISP: <https://globalcompactrefugees.org/article/three-year-strategy-and-crisp>.

[3] UN Commission on Human Rights, *Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39. Addendum: Guiding Principles on Internal Displacement*, 11 February 1998, E/CN.4/1998/53/Add.2, available at: <https://www.refworld.org/docid/3d4f95e11.html>.

[4] The International Covenant on Economic, Social and Cultural Rights (ICESCR) refers to resources (Article 2(1), the economy of the country (Article 2(3)) and the welfare of society (Article 4). See UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <https://www.refworld.org/docid/3ae6b36c0.html>.

[5] The Asylum Capacity Support Group: <https://globalcompactrefugees.org/article/asylum-capacity-support-group>.

[6] The Global Academic Interdisciplinary Network: <https://globalcompactrefugees.org/article/global-academic-interdisciplinary-network>.

[7] The role of the Global Compact on Refugees in the international response to the COVID-19 pandemic, available at: <https://globalcompactrefugees.org/article/role-global-compact-refugees-international-response-covid-19-pandemic>.

[8] UN Secretary-General's policy brief: The impact of COVID-19 on women: <https://www.unwomen.org/en/digital-library/publications/2020/04/policy-brief-the-impact-of-covid-19-on-women>.